

MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL

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November 12, 2002

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Hon. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Dear Ms. Dortch:

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RE: MB Docket No. 02-277 (Biennial Review of Broadcast Ownership Rules)

MM Docket No. 01-235 (Broadcast/ Newspaper Crossownership)

MM Docket No. 01-317 (Local Radio Ownership)

MM Docket No. 00-240 (Definition of Radio Markets)

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Pursuant to 47 CFR 51.1206, this will disclose that in connection with these permit-but-disclose proceedings, the Minority Media and Telecommunications Council ("MMTC") convened a meeting at the U.S. Department of Commerce on November 6, 2002. At least one decisionmaking FCC official was present throughout the meeting; during most of the meeting a number of decisionmaking FCC personnel were present, variously including Hon. Michael Copps; Hon. Kevin Martin; Alexis Johns, Esq., Legal Assistant to Commissioner Copps; Michele Ellison, Esq., Deputy General Counsel; Louis Peraertz, Esq., Counsel; Paul Gallant, Esq., Special Advisor, Media Ownership Working Group, Media Bureau; and Carolyn Fleming Williams, Director of the Office of Communications Business Opportunities

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Hon. Marlene Dortch
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Other individuals in attendance at the meeting are listed in Exhibit 1 to this letter. Documents in the record that were supplied to those at the meeting included the MMTC/NABOB "Motion for Revision of Procedural Dates, Expansion of the Scope of the Proceeding, and Inclusion of Additional Studies in the Record" filed October 10, 2002, the "Background Materials: Omnibus Media Ownership Proceeding Stakeholders Meeting" dated November 6, 2002, the Commission's November 5, 2002 Order granting an extension of time, and the Commission's November 5, 2002 Protective Order. Additional documents distributed at the meeting were a revised Agenda (Exhibit 2), a list of preregistrants as of November 4, 2002 (Exhibit 3), "The FCC's Last Field Hearings on Broadcasting" (Exhibit 4), and the American Advertising Foundation/American Advertising Federation's "Principles & Recommended Practices for Effective Advertising in the American Multicultural Marketplace" (Exhibit 5).

The purposes of the meeting were to allow stakeholders in this proceeding to have a dialogue aimed at determining whether there were any issues on which everyone could agree; to better understand the research studies already in the record and to determine whether additional research could be conducted collaboratively by various parties; and to discuss means of advancing minority ownership of media properties.

The meeting began at 9:15 **AM** and concluded at 2:45 **PM**

Opening remarks were provided by Commissioner Copps and Commissioner Martin. Commissioner Copps spoke of the importance of the issue of diversity of voices and ownership. He emphasized that it is essential for the parties to conduct as much research as possible to provide the Commission with a full record. He indicated that he preferred giving the parties additional time to conduct research and submit comments, with as many organizations participating as possible. Commissioner Martin reiterated the importance of the proceeding, and urged the parties to reach common ground and help the Commission develop sound policies. He added that the parties should focus on changes in technology and how they impact diversity of voices and ownership.

I served as the moderator for the morning session, explaining at the outset that we hoped that the parties would come to know one another better, that research might be performed by coalitions of groups that might disagree with one another on the merits, and that a followup effort might evolve to produce additional benefits for minority ownership.

Eric Menge of the SBA's Office of Advocacy spoke. He explained that the Office of Advocacy interfaces with other agencies to identify small business needs. The Office has taken an interest in media ownership because of its concern with local businesses' ability to advertise. The Office is also concerned about the effects of consolidation on small business owners.

Among the questions initially explored by those in attendance following Mr. Menge's presentation were:

1. Whether the level of diversity that the public enjoys varies among different demographic **or** income groups (particularly among the poor);
2. Whether the issue of minority ownership can be given greater emphasis in this proceeding; in particular, whether the Commission can not only ask whether minority ownership is important, but how the rules can be designed to promote minority ownership;
3. Whether the NPRM erred by omitting any discussion of whether Spanish language broadcasting is a separate market for consumer or advertising purposes;
4. Why it is that employees of Spanish language stations are paid substantially less than employees of similarly situated English language stations;
5. Whether the FCC should declare, and urge the Justice Department in merger/spinoff reviews to concur, that minority owners and minority formats should be presumed to be as competitive as majority owners or formats;
6. What impact consolidation has on labor and the labor pool; and
7. Whether, instead of considering what minimum amount of competition is necessary, the Commission should instead be asking whether the amount of competition should be increased over time,

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Paul Gallant explained the findings of each of the twelve studies performed by or for the Media Bureau, and he fielded several methodological questions. He emphasized that the authors of the studies are each available for comments and suggestions, and to discuss how to expand on the studies and use the data sets to answer additional research questions.

It was suggested that the Commission might either perform additional research or facilitate new analysis of data sets from the Commission's original twelve studies.

I suggested that any new research studies be designed to break down the data sets according to five critical variables: race, language, gender, income and geography (rural/urban).

One research issue that was discussed was whether awards won by media outlets can be interpreted as a measure of quality. Awards can reflect the fact that some companies can afford more experienced talent, irrespective of whether the station winning the award has provided more local community service than other stations. Further, some awards are given by national groups; others, given by local groups to stations that address issues not commonly seen or heard on radio or television, might better illuminate the value of ownership diversity and localism.

An issue addressed by a number of public interest and civil rights organization participants was the lack of financial support to conduct extensive (or in many cases any) research in a short time.

After discussion of specific research needs, we reached consensus on this means of followup: anyone with a specific research proposal who wishes to solicit sponsors may e-mail all, or some, of those in attendance at this meeting; and those doing so are encouraged to include those not typically aligned with them on the issues, since research with philosophically opposing cosponsors will have greater credibility than research sponsored by a single organization.

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James Winston, Executive Director of NABOB, moderated the afternoon session, which was primarily devoted to minority ownership. He expressed NABOB's longstanding interest in new entrant opportunities that would enable small business owners to be given the opportunity to grow and not simply get into the business and ultimately be bought out.

A basic concern is lack of access to capital, with a closely related concern being the very high rates of return (e.g. 35%) that many investors require before underwriting a transaction. MMTC has considered developing an "Angel Fund" with a 25% expected rate of return, and with investors who have or soon will retire from the industry and who would contribute their own time to help incubate companies receiving investments.

There are two paradigms for minority ownership initiatives: (1) industrywide efforts of which the Commission can take note when evaluating the extent to which voluntary initiatives might lessen the need for continued regulation; and (2) steps a particular licensee could take which would justify a waiver of one of the multiple ownership rules. MMTC presented a list of twelve possible steps (Tab 10 to the Background Materials).

Robert Fisher and Paul Martino from Senator McCain's staff attended the afternoon session and discussed the Telecommunications Ownership Diversification Act of 2002, which Senator McCain introduced on October 15, 2002. It is a free market incentive designed to secure more ownership by socially and economically disadvantaged businesses. A principal objective of the bill is to address the strong incentive for companies to do stock-to-stock tax-free exchanges rather than sell to new entrants; the tax-free exchange mechanism results in a disincentive for a seller to do a sale for cash.

Messrs. Fisher and Martino fielded several questions about the proposed legislation, including the cost to the Treasury, who is an eligible purchaser, the availability of a prequalification or certification procedure, and size standards.

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An original and two copies of this letter are being filed with the Secretary.

Sincerely,


David Honig
Executive Director

Attachments

cc: Hon. Michael Copps
Hon. Kevin Martin
Alexis Johns, Esq.
Michele Ellison, Esq.
Louis Peraertz, **Esq.**
Paul Gallant, **Esq.**
Carolyn Fleming Williams, **Esq**

/dh

EXHIBIT 1

**Participants in the Omnibus Multiple Ownership
Stakeholders Meeting. November 6, 2002**

<u>Name</u>	<u>Affiliation</u>	<u>E-Mail</u>
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* * * * *

EXHIBIT 2

AGENDA

OMNIBUS MEDIA OWNERSHIP STAKEHOLDERS MEETING

Room 6800, U.S. Department of Commerce, November 6, 2002

- 8:30-9:00 Registration and breakfast
- 9:00-9:15 Greetings: Maureen Lewis. **Esq.**, Director, Minority Telecommunications Development Program, National Telecommunications and Information Administration
- 9:15-9:45 Introductions of participants: remarks from dignitaries
- 9:45-10:30 Are there areas of general agreement, such that the scope of comments might be narrowed or focused?
- 10:30-11:45 Understanding the research studies already in the record: Discussion with Paul Gallant. **Esq.**, Special Advisor, Media Ownership Working Group. FCC Media Bureau
- 11:45- 12:15 What additional research should be performed to build a complete record?
- 12:15-1:15 Lunch (Commerce Department Cafeteria)
- 1:15-2:00 Can additional research be performed by stakeholders pooling their resources?
- 2:00-3:45 Can regulations, or voluntary steps, be designed to foster minority ownership? Discussion led by James Winston, **Esq.**, Executive Director, National Association of Black Owned Broadcasters
- 3:45-4:00 Next steps

* * * * *

EXHIBIT 3

Pre-registrants: Omnibus Multiple Ownership Stakeholders Meeting
November 6, 2002 (preregistrants as of 6:30 PM 11/4/02)

<u>Name</u>	<u>Affiliation</u>	<u>E-Mail</u>
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Richard Bodorff	Wiley Rein & Fielding	rbodorff@wrf.com
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Susan Fox	ABC	susan.rox@abc.com
Paul Gallant	FCC (Media Bureau)	pgallant@fcc.gov
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Donna Joe	Radio One	djoe@radio-one.com
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Melodie Virtue	AWRT	mvirtue@gsblaw.com

Pre-registrants (continued)

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James Winston	NABOB	jwInston@nvdhc.com
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Lois Wright	Inner City Broadcasting	loisesq@aol.com
Richard Zaragoza	Shaw Plttman	richard.zaragoza@shawplttman.com

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EXHIBIT 4

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Leo Hindery
Reginald Hollinger
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The FCC's Last Field Hearings on Broadcasting */

Inquiry into Local Television Programming in Chicago, Illinois (Notice of Inquiry), 22 RR 1021 (1962)

Inquiry into Local Television Programming in Chicago, Illinois (Summary of Findings), 23 RR 1951 (1963)

***/ See also Inquiry into Local Television Programming in Omaha, Nebraska (Notice of Inquiry), 24 RR 601 (1962).**



FCC 62-224
16233

In the Matter of)
)
Inquiry Into Local Television)
Programming in Chicago, Illinois)

Docket No. 14546

[¶10:403, ¶53:24] Inquiry into local television programming in Chicago ordered.

Investigatory hearing will be held to inquire into efforts made by Chicago television stations to determine the needs and interests of residents of Chicago in the area of local live programming, the effectiveness with which Chicago television stations have met the needs and interests of Chicago residents by broadcasting local live programs, and the extent of public demand, if any, for additional or different types of local live television programs than those now broadcast.

NOTICE OF INQUIRY

1. In our en banc Programming Inquiry Report (20 Pike & Fischer RR 1902) we stated that:

"In the fulfillment of his obligation the broadcaster should consider the tastes, needs and desires of the public he is licensed to serve in developing his programming and should exercise conscientious efforts not only to ascertain them but also to carry them out as well as he reasonably can. He should reasonably attempt to meet all such needs and interests on an equitable basis. Particular areas of interest and types of appropriate service may, of course, differ from community to community, and from time to time. However, the Commission does expect its broadcast licensees to take the necessary steps to inform themselves of the real needs and interests of the areas they serve, and to provide programming which in fact constitutes a diligent effort, in good faith, to provide for those needs and interests." (Emphasis supplied)

2. In the past, with the exception of individual hearing cases, we have relied in the most part on information contained in individual broadcast applications to assess whether the needs and interests of the public are being met. We believe it would be most helpful at this time to broaden the base of our knowledge on this question by holding a public inquiry in a specific community. Accordingly, we have decided to institute an inquiry addressed to this question in the City of Chicago. This inquiry will provide a forum where civic leaders and responsible and knowledgeable organizations and residents may have the opportunity to submit information and data on community needs and to submit their views on whether these needs and interests are being met by broadcast licensees. Obviously, participation in such a forum by community broadcast licensees is both necessary and appropriate.



3. We have selected the City of Chicago as the subject for this inquiry for two reasons: First, a large city presents an extremely complex challenge to a broadcast licensee. We believe it is of great importance to obtain the views of community leaders and organizations on how this challenge is being met in a large city. With the increasing urbanization of our country this question is of high importance. Chicago, as one of the largest cities in our country, as an important center for Agriculture, Industry, Education and the Arts, is a most appropriate place for such an inquiry. Second, we have had a number of requests for such a hearing in the Chicago area. 1/

4. Because radio and television present somewhat differing problems, we have decided to confine ourselves in this inquiry to television. We will consider the appropriateness of a similar inquiry in the radio field at a later time. Further, since we have recently concluded hearings on the network program selection process, our main area of inquiry in this proceeding will be addressed to the local television programs offered by the Chicago stations.

5. In scheduling this informal inquiry, we emphasize the fact that this is a new and novel procedure; indeed, the first of its kind in recent Commission history. For this reason, we propose to hold just this one hearing until such time as we are able to determine its desirability and efficacy for use in selected future situations.

6. In light of the above, and on the Commission's own motion pursuant to the authority provided in Section 403 of the Communications Act of 1934, as amended, it is ordered that a hearing be held before Commissioner Robert E. Lee on March 19, 1962, in Chicago, Illinois, at a place to be designated by further order, for the purpose of inquiring into, and obtaining full information concerning:

(a) The efforts made by Chicago television stations to determine the needs and interests of the residents of Chicago in the area of local live programming.

(b) The effectiveness with which television stations in Chicago have met the needs and interests of Chicago residents by broadcasting local live programs.

(c) The extent of public demand, if any, for additional or different types of local live television programs, than those now broadcast by Chicago television stations.

7. It is further ordered that interested parties and organizations desiring to appear and testify at the above hearing shall notify the Commission in writing of such intentions not later than March 12, 1962, and shall set forth in their notifications identifying information concerning the proposed witnesses, including home and business addresses and telephone numbers.

1/ Such requests have been submitted by a local organization representing various religious groups; a local educational organization; local labor organizations; and individual members of said labor organizations.



8. It is further ordered that **the** licensees of Television Stations WNBQ, WTTW, WBBM-TV, WBKB and WGN-TV are made parties to this hearing **for** the purpose of presenting testimony relating to **the** subject of the inquiry.

Adopted: February 21, 1962

Released: February 23, 1962



In the Matter of)	
)	
Inquiry into Local Television)	Docket No. 14546
Programming in Chicago, Illinois)	

[¶10:403, ¶53:24] Summary of Chicago local television programming hearing.

The presiding Commissioner (Robert E. Lee) summarizes the findings in the inquiry into local television programming in Chicago, and makes recommendations for further Commission action,

[The inquiry in Docket No. 14546 was instituted by the Commission on February 2], 1962. For text of the Notice of Inquiry see 22 RR 1021. Hearings were held with Commissioner Robert E. Lee presiding. Commissioner Lee subsequently submitted a report to the Commission. Commissioner Lee's summary of the report was made public on June 18, 1962, and is set out below. Full text of the 134-page report may be consulted at the Commission's Washington office.]

Summary

1. **As to** issue (a) in this proceeding:

“The efforts made by Chicago television stations to determine the needs and interests of the residents of Chicago in the area of local live programming.”

It is evident that all of the Chicago television stations make varying efforts to determine the needs and interests of the residents of Chicago in the area of local live programming. In general, these efforts are effected by the station executives and higher echelon personnel through their membership in many community organizations. Great reliance is placed upon the contacts so achieved as a means of garnering “intelligence” concerning community problems, needs and desires. When community organizations or representative individuals seek out the station management to suggest desirable local programming, the suggestions are generally sympathetically reviewed and considered, but not always utilized. The judgments involved are necessarily complex and difficult. In the nature of things, not all suggestions are necessarily sound; and, even though sound, may not always be accommodated because of strong countervailing considerations. It appears to the Presiding Commissioner that the Chicago television stations, in varying degree, do make a genuine, and, in general, reasonable and adequate effort to determine the needs and interests of the local residents in the area of local live programming.

2. **As to** issue (b):

“The effectiveness with which television stations in Chicago have met the needs and interests of Chicago residents by broadcasting local live programs.”



A more difficult problem is posed. Granted that the station licensees are reasonably aware, through their local and resident management echelon, of the needs and interests of the local community as to local live programming, it is evident that the judgment as to the effectiveness of their meeting those needs and interests (measured by a weighing of the testimony of the public witnesses against that of the station licensees) brings us into areas of controversy. ^{82/} In general, the civic and charitable organizations are happy with the treatment they receive, as are the educators, and local, state, and Federal Government organizations. The areas of controversy center, in the main, about the treatment accorded local religious groups, racial and social problems, and local talent.

3. The leaders of the three major faith groups who appeared in this proceeding expressed general dissatisfaction with the treatment accorded them by Station WNBQ, in respect to time made available, facilities made available, and technical assistance afforded. The reply of the station indicated an unawareness of the dissatisfaction expressed, and a confident belief that the facilities and technical assistance afforded were adequate and satisfactory. Additionally, the representative of the Catholic faith expressed dissatisfaction with the local live programming afforded in behalf of his faith by Station WBKB. The station's reply indicated the view that the subject matter of religious programs (as to each faith) was universal, and that there was no need for specific local live programming when appropriate religious network originations were carried instead of local originations. We do not express any opinion as to the merits of these observations. Suffice to say that all the interested parties are now fully apprised and, in the natural course of events, we would expect a better mutual understanding to ensue. It is our view that any misunderstandings that heretofore existed were the result of inadequate communication between the parties.

4. Chicago is the situs of a significantly large Negro population (about 15% of the population being Negro). Representative spokesman for the Negro citizens were critical of the stations' programming in terms of their alleged failure to deal with the racial program sympathetically, continuously, and in depth. Here, again, the stations replied, indicating the manner and extent to which they had given this matter treatment, and indicating their confidence in the adequacy of their treatment. As in the case of the religious complaints, we express no view as to the merits of this complaint; it being our purpose, in this proceeding, to expose problems to the light of day, not to adjudicate.

5. There is little local live programming in Chicago which affords an opportunity for the development of local talent outside the areas of news, discussion and talks. In other words, except for musical talents who may appear on WNBQ's "Artists Showcase" program, and dramatic talents participating in WBBM-TV's "Repertoire Theatre", there is little opportunity for entertainer, writer or producer talents to exercise their abilities and to develop. This subject was the focus of discussion by several public witnesses, including the

^{82/} No significant criticism has been directed against the educational station, WTTW, or against the non-network independent commercial station, WGN-TV. Hence, our remarks herein are directed solely toward the 3 network owned stations (WNBQ, WBBM-TV and WBKB).

CHICAGO LOCAL TELEVISION PROGRAMMING INQUIRY



unions (AFTRA and NABET). The fact of life is that such talent, today, is generally resident in either New York City or Hollywood (most, apparently, being at the latter site). The reasons for this are many and fairly obvious. Thus, budding new entrants into these professions generally migrate to the east or west coast production centers as soon as they are able to do so. None the less, this is not a complete excuse for a failure to provide some reasonable local live program medium to develop local talent. Indeed, the Commission's Program Policy Statement of July 1960 expressly states, in part:

"The major elements usually necessary to meet the public interest, needs and desires of the community in which the station is located as developed by the industry, and recognized by the Commission, have included: (1) Opportunity for Local Self-Expression, (2) The Development and Use of Local Talent, (3) Programs for Children, (4) Religious Programs, (5) Educational Programs, (6) Public Affairs Programs, (7) Editorialization by Licensees, (8) Political Broadcasts, (9) Agricultural Programs, (10) New Programs, (11) Weather and Market Reports, (12) Sports Programs, (13) Service to Minority Groups, (14) Entertainment Programming."

Examination of FCC Exhibit 28 will show that the percentages of the local live programming of the 4 commercial TV stations, related to total hours of operation, are as follows (for the month of January 1962):

WGN	23.5%	(129:32 hours and minutes out of 551 hours)		
WBKB	21.9%	(122:05 " " " " 556:45 hours & minutes)		
WBBM	16.0%	(100:20 " " " " 626:43 " ")		
WNBQ	11.7%	(70:11 " " " " 600:37 " ")		

Further reference to this Exhibit, reflecting a breakdown of local live by categories, shows hours and minutes of operation as follows:

	<u>WBKB</u>	<u>WBBM</u>	<u>WNBQ</u>	<u>WCN</u>
<u>"Local Live" by Categories:</u>				
Religion	2:00	3:20	8:08	8:50
Agriculture	0	5:45	15:11	5:30
Educational	3:10	15:00	2:45	11:30
News <u>1/</u>	24:10	42:55	30:45	33:14
Discussion	9:25	15:50	6:30	3:00
Talks	15:40	6:55	4:40	15:03
	(Includes sports)			(Includes sports)
Other	<u>67:40</u>	<u>10:35</u>	<u>2:12</u>	<u>52:25</u>
Total "Local Live" (including children's programs)	122:05	100:20	70:11	129:32
"Local Live" Children's Programs:	46:00	15:00	2:00	51:45

1/ Includes weather reports for all stations except WNBQ which includes such programs under Agriculture.



Thus, it will be observed that the major effort of Stations WNBQ and WBBM, in the local live programming field, is in the categories of news and agriculture (which, for WNBQ, is mostly weather forecasting). Similarly, it will be observed that the aggregate of the categories educational, agriculture, news, discussion and talks, comprises the major portion of local live programming of Station WBBM (86%), WNRQ (85.7%), and WGN (53%), and they comprise about 43% of WBKB's local live. It is in the time devoted to "Other" that talent, in the larger sense of the word (meaning entertainers, comics, dramatic, writing, producing, etc.,) probably would find an opportunity for development and expression. We are not proposing to decide how much time is enough. The facts here speak for themselves.

6. It is necessary and appropriate to comment on the nature and extent of the public participation in this proceeding. We were impressed that the public witnesses were sincere and thoughtful people who generally carefully prepared themselves for their presentations in this proceeding. Most of their testimony was succinct and in keeping with the issues under review. Some, however, despite our efforts to channel them in advance to addressing our issues, wandered from the point and discussed such problems as sex, violence, the tenor of network programs in relation to matters outside the scope of this hearing, etc. The unions (AFTRA and NABET) addressed themselves, in substantial measure, to a consideration of the lack of more network program originations in Chicago, and not to the more specific issue of the need, if any, for more local live originations. To the extent that any public witnesses have dealt with what we regard as irrelevant matters in the context of this proceeding, we have not otherwise commented thereon.

7. It is our opinion that this hearing served a good and useful purpose and was well worthwhile. It proved to be of mutual benefit to the public, to the broadcasters, and to the Commission. While only one licensee (WTTW) acknowledged this on the record, the public witnesses generally were complimentary as to the proceeding and appreciative of the opportunity to "sound off." We are confident that the other station licensees, complimented or criticized, on reflection, have discovered the merit in this proceeding - an avenue of communication, between themselves and that segment of the public that chose to be vocal, was established - the public and the industry looked each other in the face and exchanged views. The air is now much clearer. The public, the industry, and the Commission have each learned much, and must, therefore, have greater respect, each for the others problems and views.

8. On careful reflection, we are persuaded that this kind of hearing is constructive, necessary and desirable, and that the Commission should, on a limited basis, from time to time engage in further such inquiries in typical test markets of different kinds, e. g., two station markets, intermixed UHF and VHF markets, non-network affiliate areas, etc. We have learned from the experience of our first effort in Chicago that such hearings can be sustained in a manner less costly of time and money to all participants. The more efficient method of handling such a proceeding requires that a longer time be provided between the issuance of the hearing order and the convening of the hearing. In the interim, interested members of the public should be required to submit written advice of their desire to appear, and they should be required to submit, in advance of the hearing, written sworn statements which they propose to put in evidence. These can be studied. From those submitted, a selection can be made of those regarded as sufficiently provocative or controversial as to warrant cross-



examination. The witnesses so identified would then be called to testify in person. The other sworn statements would be merely received as exhibits. Copies of all statements would be furnished, in advance of hearing, to the affected broadcasters and they, in turn, would submit their proposed presentations in advance of the hearing. At the hearing, the presentation of the broadcasters would follow immediately upon completion of the public testimony, and they would, of course, be afforded leave to supplement their direct testimony (submitted earlier) by such material as they deem necessary to meet any new matters developed on Commission cross-examination of the public witnesses. In this way, we believe, a similar proceeding could be completed (in the hearing phase) in a week or less.

9. In respect to the problem of local live programming, one perplexing problem seems to emerge clearly in the case of the network owned stations. The same problem probably would relate to a station of a multiple owner, or even a single station owned by a corporation with non-resident top management. We refer to the question of local autonomy in the resident executive or official of the licensee corporate entity. This problem came into sharp focus in this hearing; it being evident, from the record, that the local "owned and operated" station executive in each of the network stations was the person upon whom devolved the knowledge and basic responsibility for ascertaining the local needs to be served - yet his authority to act in this regard is limited by the top management policy requiring, basically, that he carry the full network fare, as a general proposition. Even in circumstances where he theoretically has authority to pass up network programs in favor of local programming, it seems clear that he seeks advice and guidance, if not clearance, from the New York headquarters. Whether he seeks an O.K. from New York either because he has to, or because he wants reassurance on a voluntary proposal, it is equally clear that New York management, as often as not, turns down local programming in favor of its network programs. The joinder, in one organization, of network program production and sales, and owned and operated stations, with their conflicting interests and desires resolved by a top level management echelon, it seems, raises a basic conflict in interest problem. Generally, to carry a network program on an owned and operated station means (1) lower program production costs to the local station (in comparison to its production of a quality local live show) and (2) concomitant higher profits to both local station and network. In addition, as the network station witnesses made clear, there is the "prestige" necessity for an owned and operated station to carry its own network fare since, if they refuse a network show, it is difficult to keep the sponsor sold on it (the O & O stations being in major markets), and it is difficult to hold the affiliates in line on the program (they would point to the O & O defection and argue that they (the affiliate) should have no greater loyalty, etc., than the O & O station). We commented on this problem at TR. 1774-1775, as follows:

"If a problem has been highlighted in this area, it is one of local autonomy in the programming area. As a practical matter, the New York headquarters requires that the O and O stations carry substantially the entire network schedule.

"The problem if it exists is inherent in multiple licensee and to an extent even corporate ownership. The Commission holds the licensee responsible for the operation of its station. In this case, the licensees of three stations are in New York City.



"At the same time, in the programming area, the Commission has been insisting that the licensee be expert in the needs of his community. The interesting question here, is how can the licensee in New York really be expert in the needs of Chicago and if he delegates complete autonomy to a local official, is he delegating his responsibility as a licensee? If the Commission considers this a dilemma, and I do, it should spell out the answer so that industry will know how to comply."

We regard this problem as one which requires further thought and resolution.

10. Finally, we suggest that the Commission's Broadcast Bureau give its careful attention and consideration to the record herein, and to this Report, with a view to bringing before the Commission for consideration such specific recommendations and proposals as it thinks warranted.

11. This report should not conclude without noting the fine, efficient and judicious performance of the staff members, Messrs. Arthur A. Gladstone, James O. Juntilla and Martin E. Firestone, assigned to this project. Their unstinting efforts and sound planning enabled us to achieve an orderly and complete record in this proceeding.

Robert E. Lee
Presiding Commissioner

EXHIBIT 5

PRINCIPLES
& RECOMMENDED PRACTICES
FOR EFFECTIVE ADVERTISING
IN THE AMERICAN MULTICULTURAL
MARKETPLACE

*Published by the American Advertising Foundation &
the American Advertising Federation*



Advertising Industry Consensus on Tough Issues

The Principles for Effective *Advertising in the American Multicultural Marketplace* and its companion Recommended Practices embody the consensus of over 30 committee members who represent national advertisers, general market advertising agencies, minority-owned and focused agencies and minority-owned and focused media outlets. Under the auspices of The AAF Foundation and the AAF Board of Directors Multicultural Task Force, the Business Practices Review Committee (BPRC) deliberated for almost a full year and addressed many difficult issues.

The content of the documents reflects the group's answers to these kinds of questions, which are significant for all industry companies, large and small:

- How can we maximize the benefits of diversity and inclusion throughout our operating processes — from strategic planning and decision-making to creative executions and media buying?
- How can companies ensure that advertising and marketing decision-makers are well-informed about multicultural consumers in the United States? What questions should we ask?
- How can companies ensure that advertising and marketing efforts demonstrate respect for all consumers?
- How can we foster a business culture that encourages openness to new information and minority marketing communications resources?

PRINCIPLES FOR EFFECTIVE ADVERTISING IN
THE AMERICAN MULTICULTURAL
MARKETPLACE

PREAMBLE

Diversity and inclusion are priorities for the advertising, marketing and media industry because they are essential to our collective ability to achieve our objectives for growth and profitability. Our commitment to diversity starts at the top of our organizations and is a crucial part of everyone's daily work. Multicultural consumer segments are valued as Amcna's "emerging growth market." Effectively reaching these customers and contributing to the well-being of their communities are business imperatives in this increasingly multicultural nation.

Advertisers benefit from collaboration with general market and multicultural advertising agencies to develop world-class advertising that both delights and informs consumers. Development of such advertising requires that racially and culturally diverse decision-makers for marketers and all advertising agencies take advantage of a wide range of expertise and resources. The doors of competition must be open to multicultural and minority-owned agencies, production and music houses and media options. Opportunities to compete and compensation must be fair for all.

PRINCIPLES

Accordingly, the following principles should guide our business practices to increase prosperity for all involved in the advertising, marketing and media industry.

Commit to identify and take advantage of growth opportunities in multicultural markets

In the advertising, marketing and media industries, we seek first to understand our market and the communities we serve. We value a racially and culturally holistic approach to advertising and marketing. We make fully informed decisions by researching and evaluating consumer buying habits, current contributions to sales and/or profitability as well as growth potential. Our commitment includes investing sufficient financial resources commensurate with opportunities in all market segments and necessary to bring about the desired results.

Generate ideas and profits by practicing inclusiveness and fairness

We seek to promote the highest levels of creativity and success by promoting inclusiveness and fairness throughout the marketing and advertising processes — from employment and career advancement within our organizations to competition and compensation for creative services and media buys. Collaboration between the general market agency, multicultural specialist agency and client team at the beginning of the overall planning process enhances our effectiveness and the likelihood of achieving goals.

Require accountability and measurable results

We require compliance with these principles in service to our clients, our customers, our employees and their communities, both as individual companies, and as an industry. By measuring and reporting on the effectiveness of our efforts, we can better target resources, increase return on investment and identify what works. By sharing what works, we stimulate innovation in our organizations and industries.

ADDENDUM:
RECOMMENDED PRACTICES FOR EFFECTIVE
ADVERTISING IN THE
AMERICAN MULTICULTURAL MARKETPLACE

Having agreed on the *Principles for Effective Advertising in the American Multicultural Marketplace*, the American Advertising Federation and AAF Foundation Business Practices Review Committee (BPRC) identified practical methods that can help companies achieve their unique goals.

The BPRC arrived at consensus on these broad strategic recommendations for executives to consider as they look for ways to manage against the business and ethical paradigms established in the Principles:

**Principle 1:
Commit to identify and take advantage of growth opportunities
in multicultural markets**

Recommendations for thorough research and market evaluations

- Conduct annual brand consumer audits to determine effectiveness in reaching and selling to all audiences. Include specialists in multicultural markets in the review team which would include the client and general market agencies. Variables to be examined should include actual sales volume and market share by consumer segment as well as measures like awareness and recall. Comparisons and contrasts with competitors' performance also are recommended.
- In addition to traditional demographic specifications for age and income, advertisers and advertising agencies should include criteria such as category consumption performance (CDI), actual purchase behavior (BDI), psycho-graphic disposition and geographic dispersion.
- Commission additional customized consumer research from multicultural and traditional research companies.
- Participate in cooperative research projects and invest in the development of shared technology and analytic capabilities.
- Publicize research findings and success stories within your organization and in the media.

Recommendations for planning and execution of integrated communications strategies

- Require training on emerging multicultural growth markets from qualified experts and on targeting these consumer groups for brand manager development, for appropriate general market agency account management and for media planning staff.
- Require a focus on emerging growth market business as a key strategy for growing total business during the planning process.
- Weigh multicultural market contributions to revenue, sales and market share — as well as their potential — in the planning and budgeting process.
- Budget adequate resources for emerging multicultural growth market efforts to fund the highest quality, effective research, planning, creative development and media buys.

Principle 2:
Generate ideas and profits by practicing inclusiveness and fairness

Recommendations for human resources diversity practices

- Establish goals and accountability systems tied to the upward mobility of people of color. Tie executive compensation to achievement of diversity goals.
- Train, retain, develop and *promote* more multicultural professionals.
- Support and participate in industry-wide recruitment, professional development and retention efforts.
- Encourage business partners, vendors and suppliers to implement multicultural recruitment and human resource development initiatives.

Recommendations for inclusive advertising and marketing planning and execution

- At the outset of the brand planning process involve all parties including multicultural agencies of record.
- Utilize the expertise of multicultural specialists. Ensure they are given the opportunity to perform the **work** and are compensated fairly for it

Recommendations for implementation of fair business practices

- Identify qualified multicultural staff: ensure they are considered for advancement opportunities and ensure they are evaluated using the same criteria as non-minority colleagues.
- Provide smaller minority-owned multicultural agencies with direct opportunities to compete.
- Measure and compensate performance using the same yardsticks for minority and general market agencies, minority-formatted and general market media, minority-owned and traditional vendors.
- Ban "no urban/Spanish" dictates: hold agencies accountable
- Mass general media companies should use moral, ethical and responsible sales tactics in competing with minority-owned and formatted media, multicultural consumers should not be disparaged or undervalued.

Principle 3:
Require accountability and measurable results

Recommendations for chief executive officer and senior executive leadership

- Commit to measurable steps and goals: monitor implementation and establish performance incentives.
 - **Assign** senior-level line staff to be responsible. support with accountability, recognition and prestige for senior executives and other line staff.
 - Participate in institutionalized mechanisms for information sharing on "no ethnic dictates" and for problem solving.
 - Establish segment-specific revenue goals with corresponding incentives for growing emerging growth market business: tie these goals to growing total business.
 - Communicate the commitment to these principles, practices and goals throughout the organization on a regular and continuing basis.
-