Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	DA 08-752
Review of the Commission's Broadcast	)	
and Cable Equal Employment Opportunity	)	MM Docket No. 98-204
Rules and Policies	)	

REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS

The National Association of Broadcasters ("NAB")[1] submits reply comments in response to the above-captioned Public Notice, seeking comment on possible changes to the Commission's annual reporting forms that request employee data from broadcasters (FCC Form 395-B) and multichannel video programming distributors ("MVPDs") (FCC Form 395-A).[2]

NAB reiterates its position that collection of the data on Form 395-B should be conducted on an anonymous basis to protect employer-broadcasters from unlawful pressure imposed by the Commission or third parties to adopt race or gender-based hiring policies.[3] Specifically, we encouraged the Commission to collect the data under a pledge of confidentiality, pursuant to the Confidential Information Protection and Statistical Efficiency Act of 2003 ("CIPSEA").[4]

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[1] NAB is a nonprofit, trade association that advocates on behalf of more than 8,300 free, local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission, the Courts, and other federal agencies.

[2] Public Notice, *Media Bureau Seeks Comment on Possible Changes to FCC Forms 395-A and 395-B*, MM Docket No. 98-204, DA 08-752 (April 11, 2008).

[3] Comments of National Association of Broadcasters at 2 (May 22, 2008).

[4] Pub. L. 107-347, 116 Stat 2962, Dec. 17, 2002, codified in 44 U.S.C. § 3501 note.

NAB would also endorse the suggestion of the State Associations that a reputable third party be engaged to collect the data, on a confidential basis, and collate it and provide the Commission with non-station attributed, aggregated data.[5] This process also protects the integrity of the data, while enabling the Commission to use the data as it has repeatedly promised, namely, to determine industry hiring trends and make reports to Congress.[6]

Finally, we recognize that collecting the annual employment reports pursuant to CIPSEA may raise concerns that attributed broadcaster employee data could become public if the Commission later withdrew its pledge of confidentiality. NAB respectfully requests that, if the Commission decides to employ CIPSEA for this purpose, it also adopt any recommendations the State Associations may offer for alleviating these concerns.

Respectfully submitted,

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June 6, 2008

[5] Comments of Joint State Broadcasters Associations at 8-9 (May 22, 2008).

[6] *See, e.g.*, Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, 15 FCC Rcd 22548, ¶ 40 (2000).