



December 18, 2008

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: MB Docket Nos. 07-294

Dear Ms. Dortch:

On December 17, 2008, Jane E. Mago and the undersigned of the National Association of Broadcasters (NAB), David Honig and Joseph Miller of the Minority Media and Telecommunications Council (MMTC), Adonis Hoffman of the Association of American Advertising Agencies (AAAA), and Angela Hart-Edwards of Davis Wright Tremaine LLP, pro bono counsel to MMTC, met with Chris Robbins, Royce Sherlock, Mania Baghdadi, and Julie Salovaara of the Media Bureau.

At the meeting, the representatives of AAAA, MMTC and NAB discussed our participation in an informal working group that is seeking to educate relevant industry segments about the Federal Communications Commission's adoption of a policy of nondiscrimination in broadcast advertising, and to identify practical steps towards compliance with the requirement.¹ The informal working group, which is open to any concerned party, consists of the meeting participants as well as several other broadcaster associations, advertising industry representatives, and private practice attorneys representing broadcasters. We explained that AAAA, MMTC, NAB and others in the working group have been and will continue to disseminate information on the requirement through presentations at their respective conferences. The working group also is developing some model language for use in broadcast advertising agreements, a list of "Best Practices" for compliance with the requirement, and a list of frequently asked questions and answers (FAQs). We noted that all members of the

¹ See *Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Third Further Notice of Proposed Rulemaking, 23 FCC Rcd 5922, 5941-42 ¶¶49-50 (2008).

working group wish to ensure that all affected parties have a clear understanding of how to comply with the rule.

We also discussed some of the issues raised by the requirement. Representatives of NAB and MMTC noted that because the FCC's jurisdiction is over broadcasters, not advertisers, the nondiscrimination rule is an imperfect solution to the problem of advertising discrimination. Specifically, we noted that enforcement of the rule could potentially penalize the very parties who are victims of discrimination—broadcast licensees.

AAAA, MMTC and NAB representatives also observed that some products are primarily designed to serve the specific needs of one demographic group, which would make advertising targeted to that group nondiscriminatory. For example, it is our view that that advertisers seeking to target female audiences with a campaign for a new lipstick product would comply with the rule. We also noted that some advertisers wish to target a minority demographic so as to offset low brand awareness or low sales in that demographic. We believe such targeting is not discriminatory. On the other hand, we stated that an advertiser whose purchase of broadcast time is motivated by a decision not to associate its product with minority consumers or to encourage minority consumers to patronize its stores is engaged in discrimination that is prohibited by the rule. AAAA, MMTC and NAB expressed their hope that these issues can be addressed in the working group's materials (*i.e.*, FAQs and Best Practices).

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Erin L. Dozier
Associate General Counsel
Legal and Regulatory Affairs
National Association of Broadcasters

cc: Chris Robbins
Royce Sherlock
Mania Baghdadi
Julie Salovaara
Andrea Hart-Edwards
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David Honig
Joseph Miller