

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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| In the Matter of  | ) |                      |
|   | ) |                      |
| Promoting Diversification of Ownership<br>In the Broadcasting Services  | ) | MB Docket No. 07-294 |
|   | ) |                      |
| 2006 Quadrennial Regulatory Review –<br>Review of the Commission’s Broadcast<br>Ownership Rules and Other Rules<br>Adopted Pursuant to Section 202 of the<br>Telecommunications Act of 1996 | ) | MB Docket No. 06-121 |
|   | ) |                      |
| 2002 Biennial Regulatory Review –<br>Review of the Commission’s Broadcast<br>Ownership Rules and Other Rules<br>Adopted Pursuant to Section 202 of the<br>Telecommunications Act of 1996    | ) | MB Docket No. 02-277 |
|   | ) |                      |
| Cross-Ownership of Broadcast Stations<br>And Newspapers   | ) | MB Docket No. 01-235 |
|   | ) |                      |
| Rules and Policies Concerning Multiple<br>Ownership of Radio Broadcast Stations<br>In Local Markets   | ) | MB Docket No. 01-317 |
|   | ) |                      |
| Definition of Radio Markets   | ) | MB Docket No. 00-244 |
|   | ) |                      |
| Ways to Further Section 257 Mandate<br>And To Build on Earlier Studies  | ) | MB Docket No. 04-228 |
|   | ) |                      |

**REPLY COMMENTS OF  
THE ASSOCIATION OF PUBLIC TELEVISION STATIONS,  
THE CORPORATION FOR PUBLIC BROADCASTING, NATIONAL PUBLIC RADIO,  
AND THE PUBLIC BROADCASTING SERVICE**

The Association of Public Television Stations (“APTS”)<sup>1</sup>, the Corporation for Public Broadcasting (“CPB”)<sup>2</sup>, National Public Radio (“NPR”)<sup>3</sup> and the Public Broadcasting Service

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<sup>1</sup> APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation’s CPB-qualified noncommercial educational television stations. The APTS mission is

(“PBS”)<sup>4</sup>, (collectively referred to as “Public Broadcasting”), hereby submit these reply comments in the above-captioned proceeding.

Those commenters who favor the collection of gender and ethnicity “ownership” information from noncommercial educational broadcasters assert that such a collection would enhance the examination of diversity in broadcast ownership.<sup>5</sup> Public Broadcasting constantly strives to broaden the diversity of our leadership and personnel, and our stations are willing to provide gender and ethnicity information about the individuals they list on their Forms 323-E. However, we again must emphasize that because “ownership” is an inapposite concept in the

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to support the continued growth and development of a strong and financially sound noncommercial television service for the American public.

<sup>2</sup> CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming. *See* 47 U.S.C. § 390 *et seq.*

<sup>3</sup> NPR is a non-profit membership corporation that produces and distributes noncommercial educational (“NCE”) radio programs through more than 800 NCE radio stations nationwide. In addition to broadcasting award-winning NPR programming, including *All Things Considered*®, *Morning Edition*®, and *Talk of the Nation*®, NPR’s member stations are significant producers of local, regional, and national news, information and cultural programming. NPR also operates the Public Radio Satellite Interconnection System and provides representation and other services to its member station licensees.

<sup>4</sup> PBS is a media enterprise that serves 355 public noncommercial television stations and reaches nearly 73 million people each week through on-air and online content. A trusted community resource, PBS uses the power of noncommercial television, the Internet and other media to enrich the lives of all Americans through quality programs and education services.

<sup>5</sup> *See* Comments of the Office of Communication of the United Church of Christ, Inc., National Organization for Women Foundation, Media Alliance, Common Cause, and Benton Foundation at 2 (June 26, 2009) (“UCC *et al.* Comments”) (“UCC *et al.* believe that race and gender reporting requirements should encompass all broadcast radio and television station licensees to ensure that both the public and the Commission have an accurate and comprehensive picture of the state of broadcast media diversity.”); Comments of Native Public Media at 3 (June 26, 2009) (“Native Public Media Comments”) (“[D]ata from the entire universe of NCE stations are necessary to provide a comprehensive picture of broadcast ownership, including ownership by women and minorities in the broadcast industry.”).

context of public broadcasting, such a data collection would muddle rather than clarify the overall picture of broadcast ownership. This is particularly significant insofar as the Commission and other parties intend this data to form a proper and legally defensible basis for the development of policies to expand diversity in station ownership.

It is clear that commenters intend that data from noncommercial stations should be aggregated with that from commercial stations. The Office of Communication of the United Church of Christ et al. opines that this data collection is “consistent” with requirements for commercial broadcasters and that “[t]he collection of analogous information from noncommercial stations would have the attendant benefit of being comparable to the information collection from commercial broadcasters and would facilitate use of the information for research and policy purposes.”<sup>6</sup> Catherine J.K. Sandoval asserts that the exemption for noncommercial educational stations from submitting gender and ethnicity information on Form 323-E is a “data flaw” that “impede[s] the FCC’s ability to achieve the statutory goals” of promoting women and minorities in broadcasting.<sup>7</sup> On the contrary, given the wholesale differences in ownership between noncommercial and commercial stations, the collection and aggregation of data from noncommercial entities actually *compromises* the integrity of the data received from commercial entities, which on its own would form a valid and defensible basis for the development of policies to enhance diversity.

As discussed at length in our initial filing, all public television and radio licensees are either non-profit, non-stock entities, including community foundations and universities;

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<sup>6</sup> UCC et al. Comments at 4.

<sup>7</sup> Comments of Catherine J.K. Sandoval, Assistant Professor, Santa Clara University School of Law and Vice President, Broadband Institute of California at 2 (June 26, 2009) (“Sandoval Comments”).

municipalities; or political subdivisions of a state. The selection of governing board members varies by licensee, but in many cases these individuals are elected officials, political appointees or serve by virtue of their role in the governance of a larger institution, such as a university. Except in the case of some officers, who are station employees, the board members are volunteers and are not compensated for their service. In no case do individual persons, including the individuals listed on stations' Forms 323-E, hold investment or equity interests in public television and radio stations. Thus, a collection of information on these or any individuals would not shed light on the "ownership" of public broadcasting stations.<sup>8</sup> This is in stark contrast to commercial broadcasters, for which many individuals and entities listed on stations' Forms 323 are attributable interest holders by way of their financial interests in the stations.

Furthermore, the examination of the genders and ethnicities of governing board members of public broadcasting stations would not provide a meaningful representation of the role minorities and women play in shaping the programming and services the stations offer. While the governing boards of trustees of stations have responsibility for overall station affairs, they do not, and should not, involve themselves in day-to-day operations, including, the selection of programming to air on the station. Public television and radio stations, as the term "public" would indicate, represent a broad collaboration of influences, from staff members to station managers to members of the community. Thus, Public Broadcasting questions whether data on the genders and ethnicities of board members would meaningfully expand the Commission's information, or form a proper basis for the development of policies to expand diversity.

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<sup>8</sup> Comments of the Association of Public Television Stations, the Corporation for Public Broadcasting, National Public Radio, and the Public Broadcasting Service at 6-12 (June 26, 2009) ("APTS Comments"); *see also* Joint Comments of Public Television and Radio Licensees at 7-8 (June 26, 2009) ("Joint Comments").

Public Broadcasting strongly supports the Commission’s goals to ensure that our nation’s media outlets “reflect[] the diversity of America.”<sup>9</sup> We are proud of, and happy to share information on, our efforts in expanding opportunities for minorities and women. However, we have concerns, which have been intensified by comments submitted in this proceeding, that concepts of “ownership” will be improperly applied to public broadcasting stations through the proposed rules in ways that would be harmful to stations<sup>10</sup> and— because there are no individual human “owners” of noncommercial stations—would not serve the Commission’s aims. Thus, we reiterate that, in the interest of focusing on the collection of accurate and complete data about ownership of commercial stations, the Commission may wish to refrain at this time from complicating its efforts by collecting data from public broadcasters that is not analogous.

Respectfully submitted,

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<sup>9</sup> *In re Promoting Diversification of Ownership in the Broadcasting Services; 2006 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; 2002 Biennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; Cross-Ownership of Broadcast Stations and Newspapers; Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets; Definition of Radio Markets; Ways to Further Section 257 Mandate and To Build Upon Earlier Studies*, Report and Order and Fourth Further Notice of Proposed Rulemaking, Statement of Acting Chairman Michael J. Copps, MB Docket Nos. 07-294, 06-121, 02-277, 01-235, 01-317, 00-244, 04-228, FCC 09-33 (rel. May 5, 2009), at p. 32.

<sup>10</sup> See APTS Comments at 12-13; Joint Comments at 8-11.

/s/

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