

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

In the Matter of:	)	
	)	
Promoting Diversification in the	)	MB Docket No. 07-294
Broadcasting Services	)	
	)	
2006 Quadrennial Regulatory Review –	)	MB Docket No. 06-121
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 –	)	MB Docket No. 02-277
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	)	MB Docket No. 01-235
Newspapers	)	
	)	
Rules and Policies Concerning Multiple	)	MB Docket No. 01-317
Ownership of Radio Broadcast Stations in	)	
Local Markets	)	
	)	
Definition of Radio Markets	)	MB Docket No. 00-244
	)	
Ways to Further Section 257 Mandate and To	)	MB Docket No. 04-228
Build on Earlier Studies	)	

**COMMENTS OF FREE PRESS**

Free Press is a national, nonpartisan organization promoting diverse and independent media ownership, strong public media, and universal access to communications through education, organizing and advocacy. Launched in late 2002, Free Press is now the largest media reform organization in the United States, with nearly

half-a-million activists and members and a full-time staff of more than 30 based in Washington, D.C., and Florence, Massachusetts.

Free Press supports changes to Form 323-E that will require all NCE and LPFM stations to submit the gender, race and ethnic make up of all members serving on the governing boards for these outlets. This data could be helpful for policy-making and should be available to the public. So long as the FCC analyze the NCE board data separately from the commercial station ownership data, with an understanding of the differences between board membership and ownership, collecting this information will further the FCC's diversity goals.

Last April, the FCC adopted new rules to ensure the accuracy of the data collected on the ethnic, racial and gender make up of commercial broadcast owners. These changes will pave the way for the FCC to conduct an accurate count – for the first time -- on the number of broadcast stations owned by people of color. It will also assist the FCC in fulfilling sections 257 and 309(j) of the Communications Act which calls on the commission to identify and eliminate “market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services” that favors diversity of media voices” and to disseminate “licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.”

We support the commission's effort in this proceeding to require all NCE license holders to submit the gender, ethnic and racial make up of their governing boards on the 323-E forms.<sup>1</sup> NCE outlets have never been required to supply this information on their

---

<sup>1</sup> FCC docket (See pages 15-16 and further rulemaking on Form 323-E: [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-09-33A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-33A1.pdf)

323-Es. But we believe the collection of this information serves as a useful tool to determine the influence that people of color and women have in public broadcasting, including the likelihood that a board of diverse membership will have varied experiences.

Low Power FM stations, which have provided women and people of color with greater access to the public airwaves, have never been required to fill out 323-E forms. But we believe that should change. All LPFM stations should now be required to submit a 323-E form as well.

Collecting the race, ethnicity and gender make up of the governing board for all non-commercial stations, including LPFM outlets, will be critical to understanding whether non-commercial stations are more likely to be serving the news and informational needs of women and people of color.

### **Make Up of Board**

The commission has proposed using the make up of the governing board for NCE and LPFM stations to determine whether an outlet is owned by people of color or a woman.

We believe collecting the racial, ethnic and gender make up of board members or trustees for non-commercial stations, while imperfect, is a reasonable way to determine whether these outlets are substantially controlled by women and people of color.

We are sympathetic with the arguments made by the CPB, NPR, PBS who oppose any effort to compare ownership of non-commercial stations with commercial outlets.

They noted that board members and trustees of non-commercial stations are often volunteers who hold no financial stake in the outlets they serve on.<sup>2</sup>

The Public Broadcasting Licensees also stated that efforts to “define” ownership in the “NCE context is a fruitless endeavor and should be abandoned. One cannot meaningfully define something that does not exist.”<sup>3</sup>

Though we agree that board constitution and ownership should not be conflated, that does not mean that the race and gender of board members is irrelevant to the policy question of diversity in the operation of broadcast stations. Collecting this data will help shed light on whether public broadcasting is likely to be serving a diverse audience. Board members play an instrumental role in determining how stations are governed and operated. They hire the station’s key personnel to implement board policy which has a direct impact on the programs that are produced and the staff that are hired by an outlet.

The CPB annual report on services to Minorities and Diverse Audiences has clearly demonstrated the direct correlation between board diversity and diversity of staff and programming at public broadcasting stations. The CPB considers a public broadcasting station to be a minority controlled outlet if at least 50 percent of its full-time employees and 50 percent of its governing board are members of a racial or ethnic minority group. The 2008 CPB report found a total of 71 public radio stations and five TV stations were minority-controlled outlets. But it also found that these outlets are responsible for a disproportionate amount of programming and work force diversity in the public media system.

---

<sup>2</sup> CPB, NPR and PBS comments:  
[http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native\\_or\\_pdf=pdf&id\\_document=6520223365](http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6520223365)

<sup>3</sup> Public Broadcasting Licenses:  
[http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native\\_or\\_pdf=pdf&id\\_document=6520223304](http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6520223304)

In 2008, minority-controlled radio stations were responsible for 59.4 percent of the total programming hours produced by people of color. In addition, these stations were responsible for 40 percent of all minority employees working in the public radio system.<sup>4</sup>

This data suggests that Commission should reject the claims made by the CPB, PBS and NPR that this information has no meaning. The gathering of this race and gender data is an important step to bring greater understanding on the state of diversity in public broadcasting. We do not see evidence that the board composition provides no meaningful information about programming diversity. On the contrary, the CPB's annual reports contradict that statement. The CPB report clearly makes the case that board diversity is a significant factor in determining the diversity of programming and employment.

### **Revamping the form**

We support NFCB and Prometheus call for making sure filling out Form 323-E is not burdensome to smaller non-commercial outlets and LPFM stations. We also support their calls for creating a simple on-line account to allow non-commercial stations to fill-out their 323-E forms, to revamp the FCC's current CDBS system and to not make fines punitive for small non-commercial outlets that operate on a shoestring budget

We also support Native Public Media's request to include a separate designation on the 323-E form for Tribal entities. Collecting this information will promote the commission's goal of ensuring that Native American tribes have access to communication services.

---

<sup>4</sup> CPB Report (See pages 30-36) : <http://www.cpb.org/aboutcpb/reports/diversity/08diversity.pdf>

## **Conclusion**

Understanding the diversity of media ownership is crucial for the Commission to fulfill its public interest mandates. There is no reason to exclude non-commercial broadcast stations from the FCC's view. While collecting the racial, ethnic, and gender makeup of board members is an imperfect method of determining influence in a non-commercial organization, collecting this data will add to public understanding of diversity in broadcasting.

Respectfully submitted,

Joseph Torres  
Kate Aishton  
Free Press

July 13, 2009

---