

Minority Media and Telecommunications Council

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August 12, 2009

Hon. Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

RE: Nondiscrimination in Advertising Sales Contracts, MB Docket No. 07-294

MMTC respectfully renews its July 15, 2008 request that the Commission promptly designate a senior Compliance Officer to enforce the Broadcast Advertising Nondiscrimination Rule adopted in the Broadcast Diversity R&O and Third Further NPRM, 23 FCC Rcd 5922, 5941-42 ¶¶49-50 (2008).¹

The rule seeks to eliminate “no urban/no Spanish dictates” (NUDs and NSDs), which “are intended to minimize the proportion of African American or Hispanic customers patronizing an advertiser’s venue – or that presume that African Americans or Hispanics cannot be persuaded to buy an advertiser’s product or service.” Id. MMTC has calculated that minority broadcasters lose at least \$200 million a year to NUDs and NSDs, compounding the financial difficulties these broadcasters face in the current economic climate. Minority broadcasters earned these revenues but they never collect them.

This travesty has gone on for decades. It took 24 years for the Commission to adopt this rule even though it was unopposed. No wonder some advertisers think they can discriminate and get away with it. Although the practice mostly occurs under the cover of whispered oral instructions, last week Mini Cooper’s agency issued a four-market written NUD.²

The rule requires broadcasters renewing their licenses to certify on Form 303-S that their advertising contracts do not discriminate on the basis of race or gender and that they contain nondiscrimination clauses. Id. Therefore, to remain in compliance with the rule, *every* radio station in the Boston, Houston, Baltimore and Washington markets should decline to broadcast Mini Cooper spots.³

If the Broadcast Nondiscrimination Rule remains unenforced, NUDs and NSDs will continue to compromise minority broadcasters’ ability to serve their communities. Designating a Compliance Officer will advance your administration’s efforts to protect and empower all Americans.

Sincerely,

David Honig

David Honig
President and Executive Director

¹ See attached Letter from MMTC re: Nondiscrimination in Advertising Sales Contracts, MB Docket No. 07-294 (filed July 17, 2008 (reference in the letter to 2007 is a typo). The letter has gone unanswered for over a year.

² See attached e-mail from Palisades Media, re: Mini-Cooper-Flight (August 5, 2009) (recipients redacted by MMTC).

³ In this letter we are not seeking adjudicative relief; rather, the Commission should afford Mini Cooper an opportunity to act quickly to stop placing its broadcast partners in noncompliance with the rule.