

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

In the Matter of)	
)	
Review of Technical Policies and Rules)	RM-11565
Presenting Obstacles to Implementation)	
of Section 307(b) of the Communications)	
Act and to the Promotion of Diversity)	
and Localism)	

**COMMENTS OF THE MINORITY MEDIA
AND TELECOMMUNICATIONS COUNCIL**

The Minority Media and Telecommunications Council (“MMTC”)¹ respectfully submits the following Comments to reiterate and further support the statements made in our Petition for Rulemaking.² In light of the distressed state of the radio industry,³ we urge the Commission to take action and revise or delete certain outdated and ineffective rules for the purpose of improving the general state of the radio broadcasting industry. Revising these rules would promote public service, public safety, minority entrepreneurship and democracy. These rule

¹ MMTC is a nonprofit organization dedicated to promoting equal opportunity and civil rights in the mass media and telecommunications industries. These Comments reflect the institutional view of MMTC and are not intended to reflect the view of individual MMTC officers, directors, or advisors.

² See MMTC Radio Rescue Petition for Rulemaking, In the Matter of Review of Technical Policies and Rules Presenting Obstacles to Implementation of Section 307(b) of the Communications Act and to the Promotion of Diversity and Localism, MB 09-52, RM-11565 (July 19, 2009) (“MMTC Radio Rescue Petition”).

³ See Radio Industry Revenues Continue to Slide Downward in 2008; BIA Expects- 7% Growth, Moving Lower in 2009, BIA Kelsey (December 2, 2008) available at http://www.bia.com/081202_2008IIRadio4thEdition.asp (last visited October 20, 2009) (BIA estimated that, in 2008, radio station revenues will reach their lowest point in more than five years. This downward spiral in radio revenue will continue into 2009.).

revisions will also provide the American public with the opportunity to benefit from the education and experience of listening to a diverse array of viewpoints and perspectives.

The broadcasting industry, as a whole, is suffering an economic paralysis,⁴ leaving minority broadcasters grasping for life support.⁵ The current financial crisis has all but destroyed the broadcasting industry's equity value,⁶ while competition from new technologies and the Internet challenge radio broadcasters' economic stability.⁷ Recent reports indicate that the radio industry will continue to struggle as many of the country's largest national broadcasters remain on the verge of bankruptcy.⁸ According to the Radio Advertising Bureau, the first quarter of 2009 was the industry's worst quarter ever in terms of advertising spending.⁹

⁴ See id. (“The already low forecasts for growth in radio coupled with a generally dismal economic climate have also placed a particular strain on the valuations radio stations need to maintain their financing or to be sold,” said Mark R. Fratrik, Ph.D., Vice President, BIA Advisory Services”).

⁵ See Letter from 14 minority broadcasters to U.S. Treasury Secretary Timothy Geithner (July 13, 2009), available at http://www.huffingtonpost.com/2009/07/13/minority-broadcasters-in_n_230890.html (last visited October 19, 2009) (“The recession and current credit crisis are having disastrous impacts in all economic sectors, but minority-owned broadcasters are close to becoming an extinct species”).

⁶ See generally Radio Industry Revenues Continue to Slide Downward in 2008; BIA Expects-7% Growth, Moving Lower in 2009, BIA Kelsey, available at http://www.bia.com/081202_2008IIRadio4thEdition.asp (last visited October 20, 2009).

⁷ See generally Christine Makris, The Boston Globe, On Demand Killed the Radio Star: How Satellite Radio, the Internet, Podcasting and MP3 Players Are Changing the Terrestrial Radio Landscape—and New Advertising Strategies to Cope with Change (2005), available at http://www.bostonglobe.com/uploadedFiles/advertiser/Data_Center/Marketing_Solutions/White_papers/on_demand_white_paper.pdf (last visited October 19, 2009).

⁸ See Research and Markets: Internet Radio Makes Waves Report: Internet Radio Stations Are Positioning Themselves to Take Advantage of the Shift in Dollars, Reuters (October 15, 2009), available at <http://www.reuters.com/article/pressRelease/idUS149159+15-Oct-2009+BW20091015> (last visited October 20, 2009).

⁹ See id.

The economic problems in the radio industry are compounded by the fact that certain archaic broadcast engineering rules operate as market entry barriers, effectively stifling diversity and impeding competition.¹⁰ These rules are even more detrimental to minority broadcasters, who typically own stations with inferior technical parameters and have a difficult time reaching their intended audience because the stations are located far from the centers of the urban markets they generally serve.¹¹ The additional expense of broadcasting a signal from these remote locations and costly burden of complying with outdated technical rules create an even greater challenge for minority broadcasters to survive.

The Commission's outdated radio rules, coupled with the industry's economic crisis, only serve to compound the grim reality of the consistent market entry barriers that challenge minority entrepreneurs. Minority broadcast ownership does not remotely reflect the representation of minorities overall in the population. Despite the fact that minorities comprise over one-third of the population in the United States, minorities own a mere 7.7 percent of full-power commercial

¹⁰ For a complete explanation see MMTC Radio Rescue Petition, supra note 2.

¹¹ See Comments of the Minority Media and Telecommunications Council and the Independent Spanish Broadcasters Association in Response to the Report on Broadcast Localism and Notice of Proposed Rule Making, In the Matter of Broadcast Localism, MB Docket No. 04-233, p. 3 (April 28, 2008) ("MMTC Localism Comments"). "The vast majority of the minority-owned stations are on the AM band, and these stations tend to have inferior facilities...In 2001, 5.9% of AM stations were minority owned; a minority owned station was 43% more likely to be an AM station than was a non-minority owned station. Only 3.9% of the low-band (540 kHz to 800 kHz) stations were minority owned; minorities were 36% less likely than non-minorities to own these desirable facilities. Further, 33.9% of minority owned AM stations operated between 1410-1600 kHz, and minorities were 19% more likely than non-minorities to own these generally less desirable high band facilities." Id. (citing Advisory Committee on Diversity, FM Radio Recommendations, June 11, 2004, pp. 2-4 (citing Kofi Ofori, "Radio Local Market Consolidation and Minority Ownership" (MMTC, March 2002)).

radio stations.¹² Further, many of the large urban markets that are greatly comprised of minority populations are served almost entirely by non-minority owned media.¹³

Deleting outdated radio rules will eliminate market barriers, improve the general state of broadcasting and lessen the burdens to minority broadcasters by allowing stations more flexibility in station location and operations. This flexibility, especially with respect to site location, is instrumental toward allowing minority-owned stations to operate in close proximity to diverse, urban areas.

The revision and deletion of obsolete and ineffective engineering rules is important not only because the radio industry is ready for these rules to change, but also because Congress expects it. Many of the Commission's radio rules conflict with the directive from Congress to eliminate market entry barriers for small businesses and entrepreneurs for the purpose of promoting "...diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity."¹⁴ Congress has also stated its policy favoring deregulation by directing the Commission to repeal or modify structural ownership regulations that are "no longer necessary in the public interest."¹⁵

¹² See S. Derek Turner, Off The Dial, Female and Minority Radio Station Ownership in the United States, Free Press, at 4, 17 (June 2007) ("Free Press Report"), available at http://www.stopbigmedia.com/files/off_the_dial.pdf (last visited October 19, 2009).

¹³ See id. at 7 (stating "23 of the 293 U.S. Arbitron radio markets have "majority-minority" populations. But in these markets, too, the percentage of radio stations owned by people of color is far below the percentage of minority populations.") See also id. at 43 (Spanish, then Religion and Urban formats account for "two-thirds of all minority owned stations but only 15 percent of the stations not owned by minorities").

¹⁴ 47 U.S.C. §257(a)-(b).

¹⁵ 47 U.S.C. §161(b).

The Commission should delete antiquated and unnecessary radio rules that are technical obstacles to competition and diversity. An overhaul of these outdated rules would not only improve the general state of broadcasting, but also promote diversity, localism, and competition, ease the path of entry for minorities, and remedy many of the present effects of past discriminatory policies directed against minorities.

We strongly urge the Commission to adopt our proposals in order to provide assurance to the broadcast industry and the financial markets that the federal government stands behind the survival and sustainability of the radio industry that is so vital to public service, public safety, minority entrepreneurship and democracy.

Respectfully submitted,



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