

TO: Federal Communications Commission

RE: Late Comment on GN Docket No. 10-25
Public Notice Dated January 21, 2010
Future of Media

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We, members of the Howard Media Group (HMG) at Howard University, represent the voices of underserved and underrepresented populations. Howard University is a historically Black Institution (HBI) of higher learning with a long history at the vanguard of social justice. This legacy is part of HMG's charge and informs this memorandum in response to your Public Notice pertaining to the Future of our Media.

We are aware that the official deadline for submitting comments on the Future of Media initiative has passed. We ask that the Commission enter our remarks, contained in the memorandum, so that we may contribute to the deliberations still to come in some constructive way.

The HMG, like the FCC, understands that the "future of media is a topic of great consequences to all Americans. . . ." Thus, the HMG views this FCC examination of the future media as both timely and necessary. Importantly, we see an opportunity for the FCC to closely examine its previous policies and ensure a framework for future policy that advances America's democracy and America's continued belief in equality, diversity, fairness, and access to all.

The Past and the Present

We take liberty to cite part of a report by the Knight Commission that you also cited in your public notice concerning the future media dated January 21, 2010:

America is at a critical juncture in the history of communications. Information technology is changing our lives in ways that we cannot easily foresee.

The digital age is creating an information and communications renaissance. But it is not serving all Americans and their local communities equally. It is not yet serving democracy fully.

We agree with the statement above. Both traditional and new media continue to fail in representing Americans equally. Bearing the brunt are minority and female populations that are both underrepresented and underserved by both the nation's media and by the regulatory bodies given the responsibility to ensure the interest of ALL the public. Several studies have reported this media service failure across several decades and the gaps in service that exacerbated after the Telecommunications Act of 1996. Recent studies (e.g. Byerly, 2006; Beresteanu & Ellickson, 2007; Turner & Cooper, 2006) note that minorities and females continue to be underrepresented in ownership across the three major media – newspapers, radio, and television.

The same trend shows up in studies of new media such as the Internet. The gateway to the Internet is presently controlled by only a few powerful ISPs, none with significant minority ownership interest or demonstrated commitment to under-served communities. These few companies not only own the gateway but dominate user time according to Cooper (2008). For instance, AOL controls 30% of user time in a market where the total number of major ISPs fell by more than 50% in the last 10 years (Spooner & Rainie, 2000).

Importantly, while most of America is moving into the digital age, African American access to digital media has lagged behind that of White America. Spooner and Rainie's (2000) report shows that only 36% of African American adults have access and a significant part of that number comes from those whose only access to the internet is at the workplace. The report also shows that only 12% of African Americans have Internet access after 9pm (i.e., at home after work).

These reports clearly point to far reaching problems in the areas of media diversity and access. Most of the problems, we strongly believe, arise from regulatory failures to ensure media diversity and to hold the media to standards of *public interest* that is meaningful to America's democratic values. We acknowledge difficulty in agreeing to a universal definition of public interest. However, this difficulty should not mean that the concept be abandoned. Instead, the

FCC should consider informed interpretations of public interest. In this regard, there is a logical argument for returning to the Supreme Court ruling on *Red Lion Broadcasting Company v FCC* (1969) as a starting point in solidifying what public interest represents. In that decision, the Court stated:

It is the right of the viewers (citizens), not the right of the broadcasters, which is paramount.

Additionally, the US Court of Appeals for the Third Circuit in Philadelphia recently recognized that public access to independent and diverse media outlets are essential to America's democracy. Therefore, we continue to suggest that the FCC re-adopt its 14 major elements that identify public interest. Those elements, adopted by the FCC in 1960, remain relevant today and they are listed below:

1. Opportunity for local expression	8. Political broadcasts
2. Development and use of local talent	9. Agricultural programs
3. Programs for children	10. News programs
4. Religious programs	11. Weather and market reports
5. Educational programs	12. Sports programs
6. Public affairs programs	13. Service to minority groups
7. Editorials by licensees	14. Entertainment programming

Key Principles for Future Media

We strongly believe that problems we mentioned are rectifiable through FCC regulation. Such a regulatory regime should be based on at least these four principles:

- Ownership diversity
- Accessibility
- Affordability
- Localism

Those principles should be an integral part of any vision advanced for the future of media in the United States. Each principle is expanded upon below.

Ownership Diversity: Today's media are almost wholly owned by White, male owners. Some scholars argue that the market place provides opportunities for diversifying access but the courts have recognized that it is ownership rules that assure diversity. The relevance of minority ownership in media has historically been recognized by other oversight bodies as well. For instance, the Kerner Commission's report (1968) pointed to the influence that Black-owned media had in helping secure equal rights in the 1960s. The Kerner Commission recommended

that both print and broadcast newsrooms involve Black editors in setting their news agendas so that all Americans would be more likely to get more complete coverage of race relations and other news. Studies by Oberholzer-Gee and Waldfoegel (2005, 2006) found that Black and Spanish-owned media have effectively mobilized African-Americans and Hispanics respectively for several civic activities.

We cannot ignore such findings and we recommend that the FCC use such documentation as a roadmap for designing regulation for future media.

Accessibility: So far, the marketplace has produced few ISPs that control the gateway to the internet. More troubling, the behavior of these ISPs point to silencing of voices. For instance, the recent Comcast's secret blocking of *BitTorrent* provides an example of how discriminatory access can be extended to the new media. Content and applications on the internet must be available in an open platform devoid of corporate control.

The FCC must represent public interest by assuring access to all. Accessibility is fundamental to the exercise of First Amendment rights of free speech. Without guarantee of such access, the ISP – not citizens -- will determine whose voice is heard or excluded.

Affordability: Accessibility is linked to affordability. The present disparity in access to the internet is related to cost issues pertaining to broadband access. This also explains why a significant percentage of minorities who have access do so only at their work place. While the data showed improvement in home broadband adoption for minority groups, the disproportionate impact of being poorer critically stifled access to broadband (Joint Center report, 2010). In essence, the issue of cost remains an impediment and is likely to prevent several Americans, particularly minorities, from participating in the future media. FCC in the past has introduced rules, such as emergency number calling and common carriers, to assure universal access to important public services. Similar policies should be considered as the FCC reviews future media.

Local Content: One of the major casualties of the Telecommunications Act of 1996 was localism. The media consolidations and losses in minority ownership that followed the Act are widely documented by scholars who note that minority and women media ownership has slipped to single digits (Byerly, 2006; Sandoval, 2009). The result is that communities are left without media that had long been part of their social and political lives. Local media has historically created the sense of community, as well as a source of local information, in the United States. Studies (e.g., Yan & Napoli, 2006; Yan & Park, 2009) have shown that financial benefits from bigger media outlets – whether the combined duopoly or Big Four affiliates – have not translated into types of programming that may be beneficial to local communities.

The information function has been particularly crucial in providing the first line of information dissemination pertaining to emergencies such as natural disasters. As media scholars who study media-audience relations, we recognize that localism is essential in future media policy. However, we urge a clearer definition of how this function should be measured. We point to recommendations offered in McDowell and Lee (2007) and Lloyd and Napoli (2007). McDowell and Lee suggested an index including the following elements:

1. Multiple criteria
2. Narrowly focused objectives
3. Application to small portion of the total broadcast schedule
4. Participation in the production process
5. Broader institutional and cultural context.

Lloyd and Napoli (2007) added the following four elements:

6. Diversity of ethnic sources
7. Content includes local news/public affairs
8. The potential of each source is localized
9. News workers demonstrate gender and ethnic diversity

The United States is increasingly multi-racial and multi-cultural. That same nation comprises a population slightly more than half female. Policy makers are thus challenged to uphold their responsibilities to assure our future media systems serve this diverse nation responsibly.

We appreciate your attention to our recommendations and background details and remain prepared to discuss these at greater length, should that be helpful.

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