

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

In the Matter of)	
)	
2010 Quadrennial Regulatory Review -)	MB Docket No. 09-182
Review of the Commission's Broadcast)	
Ownership Rules and Other Rules Adopted)	
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
)	
Promoting Diversification of Ownership In)	MB Docket No. 07-294
the Broadcasting Services)	

**COMMENTS OF
NATIONAL HISPANIC MEDIA COALITION (NHMC)
CENTER FOR RURAL STRATEGIES
CENTER FOR MEDIA JUSTICE**

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SUMMARY

NHMC *et al.*, as a collection of organizations that give voice to women, people of color and people in rural areas on media and telecommunications policies, respectfully comments in this proceeding to ensure that the FCC fulfills its statutory mandate to promote broadcast ownership by women and people of color. Geographically, racially, and ethnically, American culture is more diverse than ever before – but that diversity is not accurately reflected in our broadcast media. People of color, who comprise about a third of the U.S. population, account for only about five percent of broadcast owners. People living in rural areas rarely receive broadcast coverage of events happening in their communities. Television news, radio programs and newspaper stories inadequately represent the concerns, culture, and knowledge of people of color and rural people. Further, some stations, like Clear Channel Radio’s KFI-AM 640, actively harm the very communities that they are licensed to serve, spewing hate speech on their airwaves.

The way that the public views issues – and whether or not the public is even aware of certain issues like fair housing, quality education and full employment – is directly related to the way that broadcast stations and newspapers cover them. And broadcasters’ and newspapers’ coverage of these issues is directly related to their employment ranks – the reporters, anchors, editors, producers and executives who tell and green light the stories. Owners play a central role in determining their employment ranks. At the same time, who owns the media is directly related to FCC policies, such as the ones being discussed in this very proceeding, that determine who gets a license to operate. In each of these instances, our communities need equitable rules that keep media platforms *accessible, affordable, and accountable*. With increased consolidation and a lack of strong broadcast ownership rules and enforcement, our communities are subject to

a distribution of media and telecommunications rights, access, and influence that continues to create significant inequities in public debate and public policy.

Thus, it would be most prudent for the FCC to strengthen media ownership limits, especially those pertaining to radio, which is often a broadcast ownership entry point for women and people of color. Such action would also help ensure that broadcasters better serve local communities, particularly rural communities. At the very least, the FCC should not – and indeed cannot – relax broadcast ownership limits based on the record in this proceeding. To relax the limits without first collecting cohesive data on broadcast ownership diversity would violate the Third Circuit’s order in *Prometheus Radio Project v. FCC* and would constitute arbitrary and capricious rulemaking.

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The National Hispanic Media Coalition (NHMC),¹ the Center for Rural Strategies² and the Center for Media Justice (CMJ)³ (collectively, NHMC *et al.*) respectfully respond to the Federal Communication Commission's (FCC or Commission) request for comment in the above-

¹ The **National Hispanic Media Coalition** (NHMC) is a non-partisan, non-profit, media advocacy and civil rights organization established in 1986 in Los Angeles, California. Its mission is to educate and influence media corporations on the importance of including U.S. Latinos at all levels of employment, challenge media that carelessly exploit negative Latino stereotypes, and scrutinize and opine on media and telecommunications policy issues before the Federal Communications Commission and in Congress.

² The **Center for Media Justice** is a national movement building intermediary to strengthen the communications effectiveness of grassroots racial justice sectors, and sustain a powerful local-to-local movement for media rights and access. Our mission is to create media and cultural conditions that strengthen movements for racial justice, economic equity, and human rights.

³ The **Center for Rural Strategies** seeks to improve economic and social conditions for communities in the countryside and around the world through the creative and innovative use of media and communications. By presenting accurate and compelling portraits of rural lives and cultures, we hope to deepen public debate and create a national environment in which positive change for rural communities can occur.

captioned proceeding.⁴ NHMC *et al.*, as a collection of organizations that give voice to women, people of color and people in rural areas on media and telecommunications policies, is particularly focused on ensuring that that the FCC fulfills its mandate to promote broadcast ownership diversity by women and people of color.⁵ The courts, Congress and the FCC itself have long recognized that there is “a nexus between minority ownership and broadcasting diversity.”⁶ Extensive evidence from the broadcasting field corroborates that conclusion.⁷

All communities – and especially rural communities and communities of color – hold knowledge that distinguishes one community from another. This knowledge reflects a community's interests, and often is particularized, or 'place-based' knowledge that is derived from centuries of living within certain geographies – it is more than just ‘important information,’ it is holistic wisdom that cannot be separated from the people, lands and natural resources.

Geographically, racially, and ethnically, American culture is more diverse than ever before – but that diversity is not accurately reflected in our media. Television news, radio programs and newspaper stories inadequately represent the concerns, culture, and knowledge of people of color and rural people. The way the public looks at issues – and whether or not the

⁴ 2010 *Quadrennial Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, MB Dkt No. 09-182, FCC 11-186 (Dec. 22, 2011) (2011 NPRM).

⁵ 47 U.S.C. § 309(j)(3)(B) (2012) (requiring the FCC to ensure competition and innovation by disseminating licenses to “businesses owned by members of minority groups and women”); *see* 2011 NPRM, 26 FCC Rcd at 17544-5, ¶ 148 (stating that “expanding opportunities for minorities and women to participate in the broadcast industry are important parts of our mission”).

⁶ *Prometheus Radio Project v. Federal Communications Commission*, 652 F.3d 431, 471 (3d Cir. 2011) (“*Prometheus II*”) (stating that “the conclusion that there is a nexus between minority ownership and broadcasting diversity...is corroborated by a host of empirical evidence.” (quoting *Metro Broadcasting Inc. v. FCC*, 497 U.S. 547, 567, 110 S. Ct. 2997, 111 L. Ed. 2d 445 (1990) (overruled on other grounds, use of intermediate scrutiny, in *Adarand v. Peña*, 515 U.S. 200 (1995))).

⁷ *See, e.g.*, Comments of Free Press, MB Dkt. Nos. 09-182, 07-184 (filed Mar. 5, 2012); *See also, infra* at Section I.

public is even aware of certain issues like fair housing, quality education and full employment – is directly related to the way these issues are covered by media. The way that media covers these issues is directly related to who is employed by the media – the reporters, anchors, editors, producers and executives who tell and green light the stories. Who is employed by the media is directly related to who *owns* the media.⁸ And who owns the media is directly related to policies that determine who gets a license to operate. In each of these instances, our communities need equitable media rules that keep media platforms *accessible, affordable, and accountable*.⁹ With increased consolidation and a lack of strong media ownership rules, our communities are subject to a distribution of media and telecommunications rights, access, and influence that continues to create significant inequities in public debate and public policy.

NHMC *et al.* thus urge the Commission to tighten existing media ownership limits as a means by which to open doors for diverse owners in local communities across the country. Certainly, based on the Third Circuit’s order in *Prometheus Radio Project v. FCC (Prometheus II)*¹⁰ and the record in this proceeding, the FCC is barred from relaxing any of its media ownership limits without first gathering and analyzing the appropriate data on how such

⁸ Catherine J. K. Sandoval, *Minority Commercial Radio Ownership in 2009: FCC Licensing and Consolidation Policies, Entry Windows, and the Nexus Between Ownership, Diversity and Service in the Public Interest* 4 (2009), <http://www.radiodailynews.com/mmtcreport.pdf>.

⁹ At the Peoples Movement Assembly at the US Social Forum in Detroit – CMJ, SmartMeme, Praxis Project and the Progressive Communicators Network created A Movement Agenda for Narrative Power. The resolutions drafted by the Assembly serve as a statement expressing what communities of color want from a healthy media ownership system. One resolution read as follows: “We call for full and equal access, rights and power to create and use all forms of media, communications and technology to democratize the production and distribution of information, culture and knowledge—and to use these tools in furtherance of our own collectively determined liberation.” Resolution, *A Movement Agenda for Narrative Power*, U.S. Social Forum, People’s Movement Assemblies (2010), Attached at App. D.

¹⁰ *Prometheus II*, 652 F.3d at 471 (ordering the FCC to “get the data and conduct up-to-date studies” and to “act with diligence to synthesize and release existing data such that studies will be available for public review in time for completion of the 2010 Quadrennial Review”).

relaxation would impact broadcast ownership by women and people of color. Indeed, the FCC concedes in the Notice of Proposed Rulemaking (NPRM) that it does not have sufficient data to satisfy the Third Circuit’s mandate.¹¹ For the FCC to nonetheless move forward with relaxing any of its media ownership limits would violate the Third Circuit’s order and would otherwise constitute arbitrary and capricious rulemaking.

I. THE FCC SHOULD TIGHTEN BROADCAST OWNERSHIP LIMITS TO OPEN DOORS FOR DIVERSE OWNERS IN LOCAL COMMUNITIES

In the NPRM, the FCC seeks comment on whether it should relax the newspaper-broadcast cross-ownership (NBCO) rule and eliminate the radio/television cross-ownership rule.¹² These would be monumental mistakes. Even with the current rules in place, media consolidation is rampant across the United States, and is causing concrete harms in local communities. In particular, media consolidation squeezes out and minimizes diverse and local voices.¹³

The FCC should heed this opportunity to tighten – not relax – broadcast ownership limits, especially as they pertain to radio ownership. In *Prometheus I*, the Third Circuit held that Section 202(h) of the Telecommunications Act does not operate as a “one-way ratchet” and that it may be used to make broadcast ownership limits more or less stringent as necessary in the public

¹¹ 2011 NPRM, 26 FCC Rcd at 17550, ¶ 158 (stating that “[w]e recognize that the data currently in the record of this proceeding are not complete and are likely insufficient either to address the concerns raised in *Prometheus II* or to support race- or gender-based actions by the Commission”).

¹² *Id.* at 17493-4, ¶ 8.

¹³ See S. DEREK TURNER & MARK COOPER, FREE PRESS, OUT OF THE PICTURE: MINORITY & FEMALE TV STATION OWNERSHIP IN THE UNITED STATES 3 (Oct. 2006), http://www.stopbigmedia.com/files/out_of_the_picture.pdf, (determining that media consolidation and concentration crowds out stations owned by people of color and concluding “markets with minority owners are *significantly* less concentrated than markets without minority owners” (emphasis in original); and that in 2007, people of color owned a mere thirteen of the 847 “big four” network-affiliated broadcast stations).

interest.¹⁴ Strengthening broadcast ownership limits appears to be the soundest, race- and gender-neutral way by which to increase broadcast station ownership by women and people of color, as other race- and gender-specific remedies raise constitutional concerns. Indeed, before completing its 2010 review, the Commission should conduct analyses on how it could strengthen broadcast ownership limits to foster diverse owners. Absent such analyses, the Commission is not really fulfilling its statutory obligations under Sections 202(h), 309(j) and 257 to modify the media ownership limits as necessary in the public interest while looking for opportunities to increase ownership diversity.¹⁵

To supplement the Commission’s record on the impacts of media consolidation on diverse and local owners, NHMC *et al.* has examined two very different media markets: Los Angeles and Harlingen-Weslaco-Brownsville-McAllen in southern Texas. Los Angeles is the second largest market in the country, in both television and radio, and the largest Latino market; forty-five percent of the residents in the Designated Market Area (DMA) are Latino and two-thirds of the residents are people of color.¹⁶ The Harlingen-Weslaco-Brownsville-McAllen DMA, otherwise known as the Rio Grande Valley, or just “the Valley,” serves a largely rural area. The Valley is the eighty-seventh largest television DMA and the fifty-eighth largest radio market in the country, however it is the tenth largest Latino DMA for television, and the eleventh

¹⁴ *Prometheus v. Federal Communications Commission*, 373 F.3d 372, 394, 432 (3d Cir. 2004) (“*Prometheus I*”) (“...§202(h) is not a one-way ratchet. The Commission is free to regulate or deregulate as long as its regulations are in the public interest and are supported by a reasoned analysis.”).

¹⁵ Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111–12 (1996); 47 U.S.C. § 309(j)(4)(D) (2012); 47 U.S.C. § 257 (2012).

¹⁶ U.S. Census 2010, available at <http://quickfacts.census.gov/qfd/states/06/06037.html>. Los Angeles County itself is approximately forty-eight percent Latino. That number drops to forty-five percent when factoring in the surrounding counties that comprise the Los Angeles DMA.

largest Latino market for radio; nearly ninety percent of its population is Latino.¹⁷ Examination of these markets reveals that broadcast consolidation has negatively impacted locals', women and people of color's access to broadcast station ownership and employment.

A. The Los Angeles DMA Seriously Lacks Diverse Owners

Los Angeles is renowned, not only as the home of the studios that produce the majority of film and television entertainment programming seen across the country, but also for its rich cultural diversity – two-thirds of its residents are people of color. Of the nearly 18 million people residing within the DMA,¹⁸ forty-five percent of them are Latino, twelve percent are Asian American, and seven percent are African American.¹⁹ Los Angeles is not only the top Latino DMA in the country, but also the top Asian-American DMA.²⁰ Yet broadcast ownership and

¹⁷ *Local Television Market Universe Estimates Comparisons of 2010-11 and 2011-12 Market Ranks*, NIELSEN (2011), <http://www.nielsen.com/content/dam/corporate/us/en/public%20factsheets/tv/nielsen-2012-local-DMA-TV-penetration.pdf>; see *Local Television Market Universe Estimates: Hispanic or Latino TV Homes*, NIELSEN (Sept. 2011), http://www.tvb.org/media/file/TVB_Market_Profiles_Nielsen_Hispanic_DMA_RANKS.pdf; see *Arbitron Radio Market Rankings: Winter 2012*, ARBITRON (Mar. 2012), <http://www.arbitron.com/home/mm001050.asp>.

¹⁸ The Los Angeles DMA includes Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties. See *Hispanic Market Weekly, Market Snapshot: Los Angeles*, LATINO BUSINESS TODAY (Feb. 2012), <http://latinbusinessstoday.com/2012/02/market-snapshot-los-angeles/>; see also *Market Snapshot: Los Angeles DMA*, GEOSCAPE AMERICAN MARKETSCOPE DATASTREAM AND/OR CONSUMER SPENDING DYNAMIX SERIES 2011 (2011) (citing Nielsen), http://www.angelbrokersgroup.com/uploads/6/0/5/6/6056371/111201_geoscape--market_snapshot_los_angeles.pdf.

¹⁹ U.S. Census 2010, <http://factfinder2.census.gov/>; see also U.S. Census 2010, <http://2010.census.gov/2010census/popmap/> (reporting that 17,877,006 people reside in the Los Angeles DMA. Of those, 8,028,831 are Latino; 2,199,186 are Asian; and 1,245,186 are African American).

²⁰ See *TVB Market Profiles, DMA: Los Angeles, CA*, Local Media Marketing Solutions, http://www.tvb.org/market_profiles#!id=116&type=market; see also *Local Television Market Universe Estimates: Asian TV Homes*, NIELSEN (2012), http://www.tvb.org/media/file/TVB_Market_Profiles_Nielsen_Asian_DMA_RANKS.pdf.

employment is overwhelmingly white and the market is dominated by multiple ownerships resulting from a hodgepodge of deregulation and broadcast ownership rule waivers.

1. Los Angeles Is Marred With Excessive Media Consolidation

Even with twenty-seven full power television stations,²¹ the Los Angeles television market is extremely consolidated with a number of duopolies and a newspaper-broadcast cross-ownership involving Los Angeles' largest daily newspaper. CBS Corp. owns KCBS (CBS) and KCAL, Fox Television Holdings owns KTTV (FOX) and KCOP, Comcast/NBCUniversal owns KVEA (Telemundo) and KNBC (NBC), and Univision owns KMEX (Univision) and KFTR (Telefutura).²² Large media companies own a number of other stations, with Disney owning KABC (ABC), the Tribune Company owning KTLA (CW) and *The Los Angeles Times* in violation of the Commission's newspaper-broadcast cross-ownership rule and pursuant to an outdated waiver, Liberman Broadcasting owning KRCA, and Trinity Broadcasting Network owning KTBN.²³ There are also 114 low power and class A licenses within the DMA but the vast majority of them are broadcast relay stations that help the major stations reach all corners of the area.

The radio market in Los Angeles is even more consolidated than television. Over ninety-five percent of the population listens to the radio during the week in the morning to midday hours;²⁴ ninety-eight percent of Latinos and almost ninety-nine percent of Spanish-speaking

²¹ National Hispanic Media Coalition, *Los Angeles, CA Full Power Television Stations, Radio Outlets and Daily Newspapers* (on file with National Hispanic Media Coalition). Attached at App. A.

²² *Id.*

²³ *Id.*

²⁴ Southern California Broadcasters Association, *Los Angeles Metro Report* (2010), <http://rope.zscb.fimc.net/pdfs/LA%20Metro%20Profile.pdf>.

Latinos listen to the radio during that same time.²⁵ However, eighty percent of the seventy-three commercial radio stations in the market are held by multiple owners, and the top stations in the market are owned by the very few. Clear Channel owns the most with eight stations (five FM stations and three AM stations).²⁶ Clear Channel's stations dominate the market. According to January 2012 Arbitron ratings numbers, Clear Channel owns the four top-rated stations in the market and five of the top ten.²⁷ At one point last year, three of four stations in the market that averaged over three million weekly listeners were Clear Channel stations.²⁸ In fact, the top ten stations in the market are owned by only four national entities: Clear Channel (five stations), CBS Corporation (two), Univision (two), and Emmis (one).²⁹ ***People of color own none of these entities.***

Unfortunately, newspaper ownership in the area is similarly consolidated, leading to poor local coverage even in a market that seems to boast a multitude of news options. A number of newspapers serve the Los Angeles market, but only a few entities own all of them. The Tribune Company, which also owns KTLA, owns the *Los Angeles Times*, which is the most widely read daily paper in the market, reaching almost 1.7 million readers each day.³⁰ KTLA anchors are often seen reading stories directly from the *Los Angeles Times*, and they seldom disclose that

²⁵ *Id.*

²⁶ Clear Channel Radio Sales, *Station List 6*, http://www.katz-media.com/uploadedFiles/OUR_COMPANIES/CCRS/Stations/CCRS%20stationlist.pdf (Clear Channel also handles advertising sales for 2 additional stations in the market).

²⁷ *Los Angeles Radio Ranker*, ARBITRON (2012), http://www.arbitron.com/home/ratings_topline.htm.

²⁸ Steve Carney, *KIIS still sits atop L.A.-Orange County radio dial*, L.A. TIMES, June 14, 2011, <http://articles.latimes.com/2011/jun/14/entertainment/la-et-arbitrons-20110614>.

²⁹ *Los Angeles Radio Ranker*, ARBITRON (2012), http://www.arbitron.com/home/ratings_topline.htm.

³⁰ *Tribune Business Units and Websites*, TRIBUNE COMPANY (2011), http://corporate.tribune.com/pressroom/?page_id=2311; *Facts About the Times*, L.A. TIMES, <http://www.latimes.com/about/mediagroup/latimes/>.

KTLA and the *Times* share a parent company. KTLA also has a partnership with Clear Channel,³¹ whereby they showcase two infamous hate talkers from KFI AM's "The John and Ken Show" on daily segment called "Driving It Home With John and Ken." This further demonstrates how consolidated entities exacerbate the ills of media concentration through cross-promotion and other deals that seem to fly in the face of the purpose of media ownership limits, like shared services agreements. The Tribune Company also publishes a number of non-dailies including *Hoy*, *Glendale News-Press*, the *Burbank Leader*, *La Cañada Valley Sun*, the *Pasadena Sun*, the *Huntington Beach Independent*, the *Daily Pilot*, and the *Laguna Beach Coastline Pilot*.

The Los Angeles newspaper market, as a whole, has been hit with a number of layoffs in recent years. For instance, in the past five years the news staff at the *Los Angeles Times* has dropped from 940 employees to just over 600.³² The dwindling newsrooms and increased consolidation in the market have allowed important stories to remain far removed from the public consciousness, sometimes for many years. One such episode was highlighted in the Commission's recent report, *The Information Needs of Communities*:

The consequences of journalistic shortages can be seen in places like Bell, California, a working class suburb, where the city's chief administrative officer was drawing a salary of \$787,637, and the police chief, \$457,000. The *Los Angeles Times*, to its credit, broke the story in June 2010—and won a Pulitzer Prize for its efforts—but the scandal had been unfolding since at least 2005. No reporters regularly covered the Bell city government during that period. Had there

³¹ See *Driving It Home with John & Ken*, KTLA.com, <http://www.ktla.com/news/johnandken/>. The partnership likely came about due to a history of business transactions between Tribune and Clear Channel. For instance, many Clear Channel executives joined former Clear Channel CEO Randy Michaels when he moved on to Tribune in 2007. See Paul Riismandel, *Randy Michaels solidifies the Clear Channelization of Tribune*, RADIO SURVIVOR (2010), <http://www.radiosurvivor.com/2010/05/06/randy-michaels-solidifies-the-clear-channelization-of-tribune/>.

³² *Los Angeles Times Layoffs Announced*, THE HUFFINGTON POST (July 27, 2011), http://www.huffingtonpost.com/2011/07/27/los-angeles-times-layoffs-announce_n_911583.html.

been even a single regular reporter, there is a reasonable chance that taxpayers would have saved much of the \$5.6 million the officials pocketed.³³

This instance not only implicates the reduced newsgathering capabilities of newspapers, but radio and television broadcasters as well.

Indeed, in recent years, as staff has been cut or consolidated at a number of television stations, those owned by multiple owners in particular, local news has suffered.³⁴ According to a 2010 study conducted by the Norman Lear Center at the USC Annenberg School for Communication & Journalism, the stations in the Los Angeles market that offer local news do a woeful job at covering local issues. For instance, the study found that, on average, only about twenty-two seconds of a thirty-minute newscast dealt with local, Los Angeles government issues.³⁵ Business or economic stories about the Los Angeles area only received an average of twenty-nine seconds of coverage.³⁶ The vast majority of news programming was found to be comprised of national news, fluff pieces, and ads.³⁷

³³ Steven Waldman and the Working Group on Information Needs of Communities, *The Information Needs of Communities: The changing media landscape in a broadband age*, FEDERAL COMMUNICATIONS COMMISSION 12 (July 2011), www.fcc.gov/infoneedsreport.

³⁴ See Michael Schneider, *Layoffs at L.A.'s KCBS/KCAL*, VARIETY (Mar. 21, 2010), <http://www.variety.com/article/VR1118016728?refCatId=14>; see James Rainey, *Fox 11's Jillian Reynolds untouched as layoffs lay waste to the TV station's staff*, L.A. TIMES, July 10, 2009, <http://articles.latimes.com/2009/jul/10/entertainment/et-onthemedial10>.

³⁵ MARTIN KAPLAN, PH.D. & MATTHEW HALE, PH.D., THE NORMAN LEAR CENTER, USC ANNENBERG SCH. FOR COMM'N & JOURNALISM, LOCAL TV NEWS IN THE LOS ANGELES MEDIA MARKET: ARE STATIONS SERVING THE PUBLIC INTEREST? 5 (Mar. 11, 2010), <http://www.learcenter.org/pdf/LALocalNews2010.pdf>.

³⁶ *Id.*

³⁷ *Id.* at 2.

2. Broadcast Station Owners Do Not Reflect Los Angeles' Diversity

As mentioned above, people of color account for two-thirds of the Los Angeles DMA's population;³⁸ forty-five percent are Latino, twelve percent Asian American and seven percent African American. But ownership of full power, commercial television and radio stations by people of color does not reflect Los Angeles' diversity. Of the twenty-three full power, commercial television stations, only seven count people of color among their owners. All diverse owners in the market are Latino. This means that people of color own only about thirty percent of the full power, commercial television stations in the market – falling well short of their two-thirds share of the population. There are no full power, commercial television stations in the market owned by Asian Americans, African Americans, or other diverse voices.

Los Angeles' radio market is similarly lacking in diversity. Of the seventy-three commercial radio stations in the market, only twenty-one are owned by people of color. This represents a twenty-nine percent ownership rate. Put differently, majority white owned entities control seventy-one percent of the market's commercial radio stations. As mentioned above, fourteen multiple owners control eighty percent of the commercial stations in the market owning, on average, over four stations each. Of the fourteen multiple owners of radio outlets in Los Angeles, only three are controlled by people of color.

³⁸ U.S. Census 2010, <http://factfinder2.census.gov/>; *see also* <http://2010.census.gov/2010census/popmap/>. The Los Angeles DMA was estimated using the combined Metropolitan Statistical Areas (MSAs) of: Los Angeles-Long Beach-Santa Ana, Riverside-San Bernardino-Ontario, Oxnard-Thousand Oaks-Ventura. The DMA has a total population of 17,877,006 people. Of those, 8,028,831 are Latino; 2,199,186 are Asian; and 1,245,186 are African American.

A limited and unscientific examination of the on-air talent at some of the top broadcast news outlets reveals similarly disappointing numbers,³⁹ calling into question the hiring practices of the market's non-diverse owners. The top broadcast stations have approximately 216 hosts and personalities that work on the air.⁴⁰ Roughly thirty-eight percent of station personalities are people of color. That number jumps slightly to about forty-two percent if broadcast personalities from KMEX, an all-Spanish language station, are included in the totals. Even more disheartening is that although Latinos comprise forty-five percent, nearly *half*, of the audience in the Los Angeles DMA, Latinos account for a mere nineteen percent of on-air personalities. Tally in the fourteen personalities from KMEX, and that number goes up only slightly to twenty-four percent. Not only do people of color lack substantial ownership in this incredibly diverse market, but they are not even given the opportunity to work in the industry.

3. The Clear Channel Radio Conglomerate Has Failed Its Duty Of Localism And Has Harmed Countless Los Angeles Residents With Racism And Calls To Action Against Vulnerable Populations

Clear Channel's stations in the Los Angeles DMA are a perfect example of how media consolidation can negatively impact local communities. With headquarters in San Antonio, Texas, and over 850 radio stations in over 150 cities across the U.S., Clear Channel is out of step

³⁹ Unfortunately, despite years of advocacy from NHMC and countless other organizations, the Commission has yet to reinstate the Form 395-B EEO data collection from broadcasters. *See* Reply Comments of National Hispanic Media Coalition, MB Dkt. No. 10-103, filed Sept. 13, 2010, <http://nhmc.org/sites/default/files/NHMC%20EEO%20Reply%20Comment.pdf>. In order to conduct this analysis, NHMC *et al.* was reduced to visiting individual station websites, guessing at the race or ethnicity of the talent listed, and conducting a hand tally of the data collected. It remains as difficult as ever to evaluate hiring and retention diversity practices of broadcast licensees. The data included above is as complete and accurate as possible with the limited data and resources available.

⁴⁰ The stations examined were KFI-AM, KTLA, KCBS, KCAL, KTTV, KCOP, KNBC, KABC, KMEX.

with the needs of the local communities that it is supposed to be serving, and some of its outlets pollute the airwaves with vicious hate speech targeting many of the groups that make up the Los Angeles community. Because of its vast consolidation and offsite executive team, there is a question as to whether Clear Channel can manage local programming and truly serve the public interest in diversity and localism as expected and mandated per FCC regulations. Clear Channel Radio holds more than the FCC's eight-station local radio ownership limit in at least five DMAs. In Los Angeles, Clear Channel has ties to ten stations, owning eight and representing two others for the purpose of selling advertising.⁴¹

Not only do Clear Channel outlets in Los Angeles fail to serve the local community, but some endlessly bait and antagonize the community while exploiting the multiple ownership rules to insulate their stations from any negative repercussions that would come from traditional accountability mechanisms, such as losing listeners or advertising revenue. Nowhere is this more apparent than in the case of Clear Channel's KFI-AM 640 AM. In just the past few years, more than 240 consumers have filed FCC complaints about KFI's programming; almost every single complaint was filed in reference to KFI DJs' hate speech.⁴² This is not surprising as there has been a lot to complain about. In just the past few months, John Kobylt and Ken Chiampou, of KFI-AM's "The John and Ken Show," have mercilessly targeted Latinos, Koreans and Korean Americans, Native Americans, gay men, and the poor. KFI-AM's Los Angeles studio has been the site of countless community protests, most recently by the African American community, which was outraged when John and Ken called the late Whitney Houston a "crack ho" shortly

⁴¹ Clear Channel Radio Sales Station List, KATZ MEDIA, http://www.katz-media.com/uploadedfiles/OUR_COMPANIES/CCRS/Stations/CCRS%20stationlist.pdf.

⁴² NATIONAL HISPANIC MEDIA COALITION, AMERICAN HATE RADIO: HOW A POWERFUL OUTLET FOR DEMOCRATIC DISCOURSE HAS DETERIORATED INTO HATE, RACISM AND EXTREMISM 5 (Jan. 2012), APPENDIX C, <http://nhmc.org/hateradio>.

after her death.⁴³ In the past, Rush Limbaugh, who also airs on KFI, commented that “some people are just born to be slaves.”⁴⁴ Limbaugh was back in the news just this week for calling a Georgetown Law student a “slut” and a “prostitute.”⁴⁵ The examples of this hate speech on KFI are, unfortunately, endless.

Much of the community outrage directed at Clear Channel and KFI results from their hosts’ calls to action against certain racial or ethnic groups or vulnerable populations following their systematic and sustained dehumanization of those populations on the air. John and Ken are infamous for these stunts. The UCLA Chicano Studies Research Center has documented the regular use of unsubstantiated claims, divisive language, and dehumanizing metaphors on “The John and Ken Show,” which target vulnerable groups.⁴⁶ Listeners have complained that John and Ken often direct this language towards Los Angeles’ Latino community. For instance, John and Ken have discussed wanting to pound a “stupid, illegal alien leafblower guy” to a pulp and decried “[Mexicans] bring[ing] their stupid third world habits [to] foul our life.” As they stoke anger among their listeners with this type of language, John and Ken often offer their audience an outlet for their anger with calls to action, giving out the personal cell phone numbers of various private individuals with whom they disagree. NHMC *et al.* personally know of at least a

⁴³ See Steve Carney & Greg Braxton, *John and Ken meet with black leaders over Whitney Houston comments*, L.A. TIMES, Feb. 28, 2012, <http://latimesblogs.latimes.com/lanow/2012/02/kfi-john-ken-whitney-houston-crack-ho-black-leaders.html>. This rant earned John and Ken only a brief suspension).

⁴⁴ NATIONAL HISPANIC MEDIA COALITION, AMERICAN HATE RADIO: HOW A POWERFUL OUTLET FOR DEMOCRATIC DISCOURSE HAS DETERIORATED INTO HATE, RACISM AND EXTREMISM 6 (Jan. 2012), APPENDIX C, <http://nhmc.org/hateradio>.

⁴⁵ See Limbaugh's Misogynistic Attack On Georgetown Law Student Continues With Increased Vitriol, MEDIA MATTERS FOR AMERICA (Mar. 1, 2012), <http://mediamatters.org/blog/201203010012>.

⁴⁶ CHON A. NORIEGA & FRANCISCO JAVIER IRIBARREN, UCLA CHICANO STUDIES RESEARCH CENTER, QUANTIFYING HATE SPEECH ON COMMERCIAL TALK RADIO (Nov. 2011), <http://www.chicano.ucla.edu/research/documents/WPQuantifyingHateSpeech.pdf>.

half dozen of these instances. One involved UCLA student Nancy Meza and resulted in her receiving more than 300 angry phone calls and death threats.⁴⁷ The disk jockeys also began selling t-shirts online as part of their campaign, with ‘Deport Nancy Meza’ printed on the front and a phone number to Immigration and Customs Enforcement on the back.⁴⁸ Another call to action involved immigrant rights activist Jorge-Mario Cabrera, who received more than 450 calls from John and Ken’s listeners, including the following:

Hi. This message is for Mr. Cabrera. Listen, you pile of garbage. I hope you get fucking cancer tomorrow and start to die. Your fucking motive is so fucked up. You need to pack your shit up and go back to wherever it is you came from. Nobody wants you here. You are invading the legal people that are in this country and ruining this country. I hope you choke on your own vomit. Better yet, I hope you’re hit by a fucking car crossing across the street, you fucking pile of shit.⁴⁹

NHMC, Center for Media Justice and more than forty multicultural civil rights organizations have led a campaign to educate advertisers about the divisive nature of “The John and Ken Show,” resulting in nearly 30 major companies removing their advertisements from the show. But because Clear Channel owns so many stations in the market it is able to buy big chunks of advertising across its station cluster, minimizing competition, and eliminating the ability of market forces to remove even hate programming, which clearly disserves the public interest, especially in a locale as diverse as Los Angeles. For instance, throughout this education campaign, a number of advertisers who had called Clear Channel to explicitly request that their ads not air on “The John and Ken Show” were seemingly shifted to a different time period or

⁴⁷ Nancy Meza, *Suspension For John And Ken Is Not Enough; Their Hate Speech Needs To Be Taken Off The Air*, THE HUFFINGTON POST (Feb. 29, 2012), http://www.huffingtonpost.com/nancy-meza/suspension-for-john-and-ken_b_1307373.html?utm_source=twitterfeed&utm_medium=twitter.

⁴⁸ *Id.*

⁴⁹ NATIONAL HISPANIC MEDIA COALITION, AMERICAN HATE RADIO: HOW A POWERFUL OUTLET FOR DEMOCRATIC DISCOURSE HAS DETERIORATED INTO HATE, RACISM AND EXTREMISM 4 (Jan. 2012), APPENDIX C, <http://nhmc.org/hateradio>.

station. Some were simply removed from the radio but kept on the live online streaming broadcast. Because it owns so many media outlets in the market, Clear Channel was able to ignore the community outcry over its programming, while still continuing to profit. Not only are diverse voices not heard *on* the airwaves, but – as this case illustrates – they are not heard *by* those that use the airwaves for financial gain. Clear Channel has gone beyond a simple failure to serve the local community, and is actively harming it.

B. The Rio Grande Valley Is Another Of Countless Examples Of How Media Consolidation Obstructs Diverse Voices

The Harlingen-Weslaco-Brownsville-McAllen DMA, otherwise known as the Rio Grande Valley, or just “the Valley,” is a unique example of how media consolidation squeezes out or minimizes the voices of people of color and fails to cover the local issues important to a largely rural community. The Valley is situated along the U.S.-Mexico border at the southernmost tip of Texas. Latinos comprise nearly ninety percent of the DMA’s 1.2 million people.⁵⁰ The region is marked by the quality of life discrepancy between the up-and-coming urban areas and the incredibly poor rural areas, known as the “colonias,” which have the highest concentration of people living without basic services in the United States.⁵¹ The Valley is predominantly rural with a long history of agriculture.⁵²

⁵⁰ U.S. Census 2010. Seventy-nine percent of the population age five and older speaks Spanish and forty-seven percent report speaking both Spanish and English “very well.” LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER; Universe: Population 5 years and over; 2006-2010 American Community Survey 5-Year Estimates.

⁵¹ See State Energy Conservation Office, *Colonias Projects*, <http://seco.cpa.state.tx.us/colonias.htm> (reporting that the colonias are “unincorporated, isolated settlements [that] often lack water and sewer systems, electricity, health facilities, paved roads, and safe and sanitary housing.”).

⁵² David M. Vigness & Mark Odintz, Rio Grande Valley, THE HANDBOOK OF TEXAS ONLINE, <http://www.tshaonline.org/handbook/online/articles/ryr01>.

The Valley also ranks second out of all DMAs in the percentage of its households that rely on free, over-the-air broadcast as their only means of television service, with 28.4 percent choosing an antenna over cable or satellite.⁵³ This region boasts at once incredibly strong housing and job markets as one of the fastest growing metropolitan areas in the country, yet also the highest percentage of people living in poverty of any large metropolitan area in the country.⁵⁴

1. Media Consolidation Is Rampant In The Valley

The Valley's media industry is largely concentrated, with national conglomerates owning the majority of major media outlets. It has nineteen operating U.S.-based television stations within the DMA, but only seven full power television stations, five commercial and two non-commercial. The full-power stations are affiliates of ABC, NBC, CBS, Univision, Telemundo, PBS, and Trinity Broadcasting Network. Of the five commercial stations, four are owned by entities based outside of Texas.⁵⁵ Only the local Telemundo affiliate, KTLM, is owned by an entity located within the DMA with the rest of the owners being far removed from the local, rural community. Four of the five owners also own multiple stations across Texas and/or the rest of

⁵³ TVB, ADS and Wired-Cable Penetration by DMA, TVB.com (Nov. 2011), http://www.tvb.org/planning_buying/184839/4729/ads_cable_dma, Aside from the obvious financial reasons, another reason that Valley residents forgo paid services is because there are a number of Spanish-language broadcast options, both from local U.S. stations and Mexican stations just across the border.

⁵⁴ See McAllen Economic Development Corporation, *Rankings*, McAllencdc.org (2012), <http://www.mcallenedc.org/rankings.php>; see Market Watch, 5 best and 5 worst U.S. housing markets, long term, THE WALL STREET JOUR. (Jan. 23, 2012), http://www.marketwatch.com/story/5-best-and-5-worst-us-housing-markets-long-term-2012-01-23?reflink=MW_news_stmp; ALEMAYEHU BISHAW, U.S. CENSUS BUREAU, POVERTY: 2009 AND 2010 – AMERICAN COMMUNITY SURVEY BRIEFS 6, <http://www.census.gov/prod/2011pubs/acsbr10-01.pdf>.

⁵⁵ National Hispanic Media Coalition, *Harlingen-Brownsville-Weslaco-McAllen, TX Full Power Television Stations, Radio Outlets and Daily Newspapers* (on file with National Hispanic Media Coalition). Attached at App. B.

the country.⁵⁶ The market contains a number of television multiple ownerships, with twelve owners controlling the nineteen stations.⁵⁷ Moreover, only a small number of sources create the vast majority of television programming. Many entities share parent companies, like Univision and Telefutera, or NBC and Telemundo. Thus, there are even fewer voices in the market than the number of stations or station owners would suggest.

The consolidation in the market has allowed some of the larger ownership groups to slash staff and decrease local news coverage. In a rural area such as the Valley, these cuts can be particularly devastating as local programming is often replaced with national programming emanating from urban spaces and focused on urban issues. Residents of the colonias, women, low-income individuals, and people of color face less representation in mainstream media and more barriers to ownership. These challenges are exacerbated in rural areas where there is less access to basic infrastructure and less access to media infrastructure like public radio, television, and broadband. The result of these converging challenges is that once local, rural-oriented programming is dropped, it is often not replaced.

The local NBC affiliate, KVEO, which is owned by Communications Corporation of America (ComCorp), is one outlet that completely shuttered its local news operation in the Valley. In January 2010, ComCorp released almost all of its news team, which had been producing live local newscasts, and instead began filming taped “local” newscasts at a ComCorp

⁵⁶ *Id.*

⁵⁷ Entravision Communications Corporation owns the most stations with six: KNVO (Univision); KTIZ-LP (The CW); KVTF-CA (Telefutera); KFTN-CA (Telefutera); KSFE-LP (The CW); and KTFV-CA (Telefutera). Advanced TV Factbook. Entravision also operates the local FOX affiliate, XHRIO, under an agreement with the Mexican conglomerate that owns it.

CBS affiliate in the more urban city of El Paso – over 800 miles away.⁵⁸ One local resident noticed the difference immediately:

I used to watch KVEO local news every morning while I would get ready for work. I remember that, at the time, I had heard something about them letting go a lot of local reporters and changing their newscast. I thought that it was a shame but didn't think much more of it. Then, one morning, I turned on KVEO and everything was different. Different anchors, different set – everything. From that point on, I noticed a complete deterioration of local coverage. Instead of reporting on stories in my community, everything had become general, nationally-focused, features rather than local news.⁵⁹

The Valley community has suffered from an overall shortage of local coverage. Due to the utter failure of local media to cover state legislative sessions in Austin, the community was largely uninformed about proposed legislation that could greatly impact the Valley. State legislators who serve the region were also disappointed, as the lack of community engagement made it more difficult for them to protect the money that had been allotted to the Valley.⁶⁰ At a gathering, one reporter from the local ABC affiliate, owned by Louisiana-based Mobile Video Tapes, Inc., revealed the following:

There are a lot of us within the media community who would love to cover [these stories]. If it were up to me I would have a whole news cast on all these issues. But we have editors. They make the final decisions. There are a lot of us with good hearts in the media who want to cover those [issues] but because we have formats we have to abide by...⁶¹

⁵⁸ Gustavo Reveles, *Ayoub and Bettes now in Brownsville . . . sorta*,” EL PASO TIMES (Jan. 14, 2010), <http://elpasotimes.typepad.com/mediabuzz/2010/01/ayoub-and-bettes-now-in-brownsville-sorta.html>

⁵⁹ Interview with Juan Ozuna, Dir. of Cmty. Programs and Outreach, Llano Grande Center for Research and Dev. (Feb. 15, 2012) (Mr. Ozuna offered this interview as a resident of the Rio Grande Valley and does not speak on behalf of the Llano Grande Center for Research and Development) (“Interview with Juan Ozuna”).

⁶⁰ Steve Taylor & Jesse Bertron, *Questions asked about Valley media coverage of legislative session*, RIO GRANDE GUARDIAN, May 24, 2011, http://www.riograndeguardian.com/tech_story.asp?story_no=2.

⁶¹ *Id.*

Unfortunately, the Valley's thirty-two U.S.-based radio stations – twenty-three FM and nine AM – do not adequately fill this information void, as the majority of them provide only homogenized, non-local programming. Of the thirty-two stations, twenty-six are owned by a multiple-owner in the market. Border Media owns six stations including four FM and two AM.⁶²

The stations in the market operate under a variety of formats such as adult contemporary, news/talk, sports, Spanish variety, Spanish oldies, Mexican regional, Tejano, Spanish hits, religious, and country. However, even given the range of formats that would seem to engage the Latino community, many residents have noticed a dearth of programming that is unique to the local community. In 1999, students from the local Edcouch-Elsa High School received a grant to purchase transmission and radio equipment for their school station so that they could revitalize their community.⁶³ When funding ran out in 2002, the station was turned to the director of the school's music department, Benny Layton.⁶⁴ Layton used the station to educate his students, and the local community, about types of music that they don't typically hear on local radio, such as conjunto music. According to one local resident:

The station that Benny Layton ran out of that high school was the only place on the dial that you could hear culturally relevant, locally produced conjunto music. Under Layton's guidance, the station became enormously popular and appreciated across the community, all while being used as an educational tool for high school

⁶² Including the Mexican stations that Border Media operates brings its total to 10 stations in the market. See Border Media, *Rio Grande Valley Station Lineup*, <http://www.bmpradio.com/>. Entravision, which also owns a number of low power television stations in the market, owns four stations, including three FM and one AM. Clear Channel owns five stations, including four FM and one AM. Univision owns three stations, two FM and one AM. Rounding out the multiple owners of commercial stations is: World Radio Network (two FM); Rio Grande Bible Institute, Inc. (one FM, one AM); and Christian Ministries of the Valley (one FM, one AM).

⁶³ *Youth Radio Team Helps Transform Texas Community*, W.K. Kellogg Foundation (Jan. 23, 2004), <http://www.wkkf.org/news/Articles/2004/01/Youth-Radio-Team-Helps-Transform-Texas-Community.aspx>.

⁶⁴ *Id.*; see also Rebecca Eaddy, *Roland Remembers Benny Layton*, ROLAND CORP. (Mar. 30, 2011), http://www.rolandus.com/corporate/press_releases/article.php?ArticleId=1248.

students. Although resources for the station eventually ran out, the cultural impact of the station was significant.⁶⁵

This demonstrates a demand for community-based programming, and highlights the difficulty that locals face in raising the funds to compete with the conglomerate-owned radio stations.

Finally, the Valley's print market is highly concentrated, exacerbating the lack of competition in this market. Freedom Communications owns four daily newspapers in the market that, combined, reach almost 100,000 subscribers each day.⁶⁶

2. Ownership Of Rio Grande Valley Broadcast Stations Is Disproportionately White

At first glimpse it may seem that the Valley boasts a large number of broadcast owners of color, but upon closer inspection one realizes that broadcast ownership in the Valley is disproportionately white. While the white community represents nine percent of the Valley's population, majority white owned companies possess eighty percent of full power commercial television stations. Incredibly, the radio market, long thought of as an entry point for people of color, exhibits even less diversity. Majority white owned companies own a staggering eighty-six percent of the commercial radio stations in the market, leaving just one FM and two AM outlets

⁶⁵ Interview with Juan Ozuna.

⁶⁶ *Newspapers*, FREEDOM COMMUNICATIONS, INC., <http://www.freedom.com/newspapers/community.html> (Freedom also owns four non-daily papers and publishes 3 magazines in the region). *See also* Steve Fagan, *La Frontera newspaper ceases publication*, THE MONITOR (Oct. 16, 2009), <http://www.themonitor.com/articles/frontera-31637-newspaper-publication.html>, (Facing decreased competition, Freedom has also cut or consolidated many of its properties in the Valley. For example, in October 2009 it stopped publishing the Spanish-language sister paper of The Monitor, La Frontera). *See also* *Island Breeze to become online newspaper*, (Dec. 30, 2009), <http://www.themonitor.com/articles/island-33984-padre-become.html>, (In December 2009, Freedom Communications consolidated Island Breeze with Coastal Currents and made Island Breeze an online only publication). *See also* *Valley Freedom Newspapers: 70*, PAPER CUTS (Aug. 31, 2009), <http://newspaperlayoffs.com/2009/10/valley-freedom-newspapers-70/>. In 2009, Freedom reportedly cut about 70 employees at its local papers as it consolidated a number of departments at The Monitor.

to be owned by people of color. Further, of the five full power commercial stations, only one Spanish-language station, the Telemundo affiliate, is owned by a person of color. The Univision affiliate is owned by Entravision, a publicly traded company in which a Latino owns a forty-two percent voting share and two-thirds of the Board of Directors is comprised of people of color.⁶⁷ Notably, the two stations that count Latinos among their owners employ Latinos at the top operations positions in each station. The three other stations, which happen to be the English-language stations, appear to have white employees in their top station positions.

The white-owned television stations have a poor track record of covering local news, especially positive stories in rural communities or communities of color. According to one resident who used to work at a non-profit that supported the rural colonias areas:

Often, I would reach out to the local media to ask them to cover an event that we were putting on or an issue that we were confronting. I would always contact all the major stations, both Spanish-speaking and English-speaking media. Consistently, it was the Spanish-language stations, Telemundo and Univision, which would not only cover our events, but also cover our issues, revealing the pertinent facts and making all the right connections in their stories. Once in a while I would get a positive reaction from the English-language stations, like the local NBC or CBS affiliate, but only rarely. They would only want to talk to our members if there was a large-scale event, like the mega-marches in support of immigration reform.⁶⁸

II. RELAXING MEDIA OWNERSHIP LIMITS WOULD VIOLATE COURT ORDERS

In *Prometheus I and II*, the Third Circuit instructed the Commission to cure a number of deficiencies of past media ownership reviews during the course of the current, 2010 Quadrennial

⁶⁷ Federal Communications Commission Media Bureau's Consolidated Database System (CDBS) available at http://licensing.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm; Investor Info: Management and Board of Directors, ENTRAVISION.COM, <http://www.entravision.com/>.

⁶⁸ Interview with Olga L. Cardoso-Vasquez, Dir. of Youth Programs, Llano Grande Center for Research and Dev. (Feb. 15, 2012) (Ms. Cardoso-Vasquez offered this interview as a resident of the Rio Grande Valley and does not speak on behalf of the Llano Grande Center for Research and Dev.).

Review. In particular, the Court directed the FCC to *first* gather and analyze the appropriate data on how rule changes would impact media ownership by women and people of color and *only then* move forward with considering its media ownership rules. Yet the FCC has pushed out an NPRM while conceding that it does not have sufficient data to satisfy the Third Circuit’s mandate, stating that **“the data currently in the record in this proceeding are not complete and are likely insufficient either to address the concerns raised in *Prometheus II* or to support race- or gender-based actions.”**⁶⁹

In addition, the Commission has failed to cure any deficiencies that the court found with existing proposals to spur ownership opportunities for women and people of color, such as the socially-disadvantaged business proposal, by not seeking data driven solutions and providing only a cursory discussion of such issues. For the FCC to nonetheless move forward with relaxing any of its media ownership limits would blatantly defy the directives of Third Circuit. Should the FCC hold its current course, the results of the endeavor will surely return to the court and be stricken as arbitrary and capricious rulemaking.

A. The Third Circuit Has Twice Directed The FCC That It May Not Relax Media Ownership Limits Without First Examining How Such Relaxation Would Impact Ownership Diversity

In *Prometheus I*, the Third Circuit remanded the FCC’s relaxation of media ownership limits, instructing the FCC to consider the impact of changes to its rules on ownership by people of color and women.⁷⁰ In *Prometheus II*, the Third Circuit expressed exasperation at the Commission’s seeming indifference to the court’s *Prometheus I* ruling stating, “Despite our prior

⁶⁹ 2011 NPRM 26 FCC Rcd at 17550, ¶ 158 (emphasis added).

⁷⁰ *Prometheus II*, 652 F.3d at 468 (citing Charles B. Goldfarb, Congressional Research Service Report for Congress, *The FCC’s 10 Commissioned Economic Research Studies on Media Ownership: Policy Implications*, at 54 (Dec. 2007)).

remand requiring the Commission to consider the effect of its rules on minority and female ownership ... the Commission has in large part punted yet again on this important issue.”⁷¹ The court went on to state that:

Promoting broadcast ownership by minorities and women is, in the FCC's own words, "a long-standing policy goal of the Commission, and is consistent with [the Commission's] mandate under [§] 309(j) of the Act." We recognize that there are significant challenges involved in meeting this important policy goal that is shared by Congress, the Commission, and the myriad interested parties who have participated in rulemaking proceedings toward this end. **However, the Commission appears yet to have gathered the information required to address these challenges, which it needs to do in the course of its review already underway. As ownership diversity is an important aspect of the overall media ownership regulatory framework we re-emphasize that the actions required on remand should be completed within the course of the Commission's 2010 Quadrennial Review of its media ownership rules.**⁷²

Additionally, in a footnote in *Prometheus II*, the court found that:

The FCC's own failure to collect or analyze data, and lay other necessary groundwork, may help to explain, but does not excuse, its failure to consider the proposals presented over many years. If the Commission requires more and better data to complete the necessary Adarand studies, it must get the data and conduct up-to-date studies, as it began to do in 2000 before largely abandoning the endeavor. We are encouraged that the FCC has taken steps in this direction and we anticipate that it will act with diligence to synthesize and release existing data such that studies will be available for public review in time for the completion of the 2010 Quadrennial Review.⁷³

Despite the clear expectations set by the court, the Commission's NPRM suffers from the same shortcomings with regard to its examination of ownership diversity that have plagued its media ownership proceedings for the better part of the past decade. The Commission concedes that it still lacks the necessary data to complete its review in spite of the fact that it has “actively has sought to improve broadcast ownership information available to it and has gathered

⁷¹ *Id.* at 471.

⁷² *Id.* at 472 (emphasis added and internal citations omitted).

⁷³ *Id.* at 471, n.42.

additional data regarding the current levels of minority ownership of broadcast stations.”⁷⁴ The Commission supports this assertion by highlighting Form 323, which was revised in 2009 to improve the data collection. In the NPRM, the Commission claims that the changes to Form 323 were designed with a goal of making “data reported in the form... reliable, accurate, searchable, and aggregable.”⁷⁵ Yet academics and researchers have stated otherwise.⁷⁶

NHMC *et al.* have experienced the shortcomings of the Commission’s media ownership data firsthand in the preparation of this comment. As non-profit organizations with limited financial resources, NHMC *et al.* were forced to rely on a combination of free, publicly available data to conduct the market analyses contained above, instead of one of the many, expensive media ownership databases provided by countless third parties and often relied upon by the industry. This research included extensive use of the Commission’s Consolidated Database System (CDBS) Ownership Search, owner and station websites, and other, targeted web searches. During its research, NHMC *et al.* noticed many significant flaws in CDBS.

The most glaring flaw in CDBS is that the ownership database cannot be sorted by the relevant television or radio market, such as the Nielsen DMA or the Arbitron market. The Commission relies on the public to alert it to any entities exceeding current ownership limits in their markets, or to challenge any combinations that would violate current rules, yet makes it nearly impossible to conduct a meaningful analysis of the media landscape in any given area. Without being able to explore up-to-date broadcast licenses held on a market-by-market basis, it is incredibly difficult for commenters to produce an accurate replication of the market analysis

⁷⁴ 2011 NPRM, 26 FCC Rcd at 17548, ¶ 154.

⁷⁵ *Id.*

⁷⁶ Comment of The Leadership Conference on Civil and Human Rights, MB Dkt. No. 09-182 (filed Mar. 5, 2012).

method that the Commission uses when evaluating license transfers and market consolidation.⁷⁷ Further, the data is not searchable by race, gender, or ethnicity, making a grueling hand count necessary to glean any useful data from the system. Finally, the database is bogged down by inaccurate and outdated data. With call signs and ownership structures changing frequently, and challenges to license renewals or waivers lacking resolution, it is often very difficult to determine the current status of any license.

Despite recognizing the substantial – perhaps insurmountable – limitations existent in its ownership data, the Commission uses the current NPRM to reveal a halfhearted analysis of some of the data it collected through its revised Form 323.⁷⁸ The analysis was disheartening for both its lack of ambition and its results. Despite having additional data available, the analysis was incredibly narrow as it focused only on ownership of full power commercial television stations by racial and ethnic minorities – putting aside gender diverse ownership and ignoring radio completely. This narrow analysis revealed a predictably dreary snapshot of minority ownership in the United States. Of the 1,394 stations considered, only about sixty-five stations, or 4.7 percent, were found to be owned by a person of color.⁷⁹ Unfortunately, after many decades of inaction, these numbers were to be expected. Less expected, in light of the Commission’s efforts to improve the Form 323 data collection, was that ownership data would be inconclusive or unavailable for almost a quarter of the limited number of stations examined (22.1%).⁸⁰ Put simply, the data that the Commission does have is woefully incomplete. However, if one were to apply the 4.7 percent diverse ownership rate to those stations, that would still leave white owners

⁷⁷ See, e.g., *Shareholders of Univision Communications Inc.*, Memorandum Opinion and Order, 22 FCC Rcd 5842 (2007).

⁷⁸ 2011 NPRM, 26 FCC Rcd at 17548-49, ¶¶ 154-156.

⁷⁹ *Id.* at 17549, ¶ 156.

⁸⁰ *Id.*

with more than 94 percent of the commercial television stations in the country. This was the only analysis of broadcast ownership by people of color offered in the NPRM. Given the state of the available data, it is unlikely that the Commission will meet the strict requirements set forth in *Prometheus I and II* without first making significant progress in its data collection and analysis efforts.

Last month, the Commission attempted to make some of this progress. On February 6, 2012, after this comment period had already commenced, the FCC issued a Request for Quotation (RFQ) for a study examining the critical information needs of Americans.⁸¹ The RFQ seeks to examine the relationship between the critical information needs and barriers to providing content and services addressing those needs.⁸² One of the deliverables set for the study is a summary of “available research and data on women and minority participation in the media content production and distribution industries, including ownership and employment.”⁸³

Although this is an encouraging step, the timing and scope of the RFQ leaves doubts as to how far it can go towards alleviating the concerns of the court. First, this study seems to be limited to a “literature review” of “existing data.”⁸⁴ It does not speak to collecting data and seems like it would fall short of the court’s direction that the FCC gather new data and conduct

⁸¹ Public Notice, Requests for Quotation for Study Examining the Critical Information Needs of the American Public, BO Dkt. No. 12-30 (Feb. 6, 2012).
http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-156A1.pdf. (“RFQ Notice”).

⁸² *Id.*

⁸³ Gary Klaff, *Barrier Study – Review of the Literature Regarding Critical Information Needs of the American Public*, Amendment A03 of Solicitation FCC12Q0009, 3 (Feb. 24, 2012), https://www.fbo.gov/index?s=opportunity&mode=form&id=5d86beeffd0330f52bea28e719baa01e&tab=core&_cvview=1.

⁸⁴ *See id.*; *see also*, Gary Klaff, *Barrier Study – Review of the Literature Regarding Critical Information Needs of the American Public*, Solicitation FCC12Q0009, 4 (Feb. 6, 2012), https://www.fbo.gov/index?s=opportunity&mode=form&id=5d86beeffd0330f52bea28e719baa01e&tab=core&_cvview=1 (stating, “A literature review is a summary and discussion of *published* research, analysis, and information in a particular subject area” (emphasis added)).

new “Adarand studies.” Second, detailed studies like this and others should have been conducted for many years, not just at the tail end of this proceeding. The Commission has had numerous opportunities to renew its interest in gathering and analyzing ownership data, from the directives of *Prometheus I* to the recommendation it received from its Advisory Committee on Diversity for Communications in the Digital Age nearly three years ago.⁸⁵ For this one, seemingly limited study, to be requested after the initiation of the current comment cycle is too little, too late. And although the Office of Communications Business Opportunities and the Media Bureau has solicited proposals for other studies, it is unclear what those studies would entail.⁸⁶

Perhaps the most direct disregard of the Third Circuit’s *Prometheus I and II* decisions is the Commission’s apparent decision not to attempt to explore broadcast ownership diversity during the current 2010 Quadrennial Review – as directed by the court – but during the 2014 Quadrennial Review.⁸⁷ The Commission states that it intends to: (1) continue to improve data collection so it and the public can easily identify the diverse range of broadcast owners, including women and people of color; (2) commission appropriately-tailored research and analysis on diversity of ownership; and (3) conduct workshops on the opportunities and challenges facing diverse populations in broadcast ownership.⁸⁸ While any action by the Commission to confront the issue of media ownership diversity is welcome, the actions proposed here lack specificity. Further, NHMC *et al.* agree whole-heartedly with the Third Circuit that

⁸⁵ FCC ADVISORY COMMITTEE ON DIVERSITY FOR COMMUNICATIONS IN THE DIGITAL AGE, RECOMMENDATION FOR RENEWED ADARAND STUDIES (Sep. 11, 2009), *available at* <http://transition.fcc.gov/DiversityFAC/092209/constitutional-sub-rec-adarand.pdf>.

⁸⁶ RFQ Notice at 1.

⁸⁷ 2011 NPRM, 26 FCC Rcd at 17550, ¶ 158.

⁸⁸ *Id.*

these issues must be confronted now. To allude to the football parlance preferred by the court, the Commission appears to be sending out the punting team yet again.⁸⁹

In the statements released with the current NPRM, diversity champions, Commissioners Cops and Clyburn, derided media consolidation and seemed underwhelmed by the Commission's record in its media ownership proceedings. Commissioner Clyburn observed:

Among other things, this NPRM acknowledges that the Commission needs more data. It admits that the factual information that the Commission currently has is incomplete if developing policies to promote greater female and minority ownership is still a priority.

...

Women, minorities and those who reside in rural areas come into my office painting a bleak picture. They feel disconnected from the public airwaves, and their outlets rarely speak to the needs of their communities. They echo the argument that more relaxed media ownership rules would negatively impact diversity of ownership, but without the proper data, our agency cannot concur or refute that troubling conclusion. Does consolidation harm chances for others to fairly compete? Is female and minority ownership in the broadcast sector particularly lagging as compared to other industries? Is every segment of this country getting the information its residents need? I have been told by those wishing to serve long-neglected communities that female and minority owners have a great record when it comes to diverse hiring, promotion and community service. But stories and anecdotes, no matter how persuasive or discouraging, are not enough. This Commission has a duty to get a firm and informed handle on what is actually happening in our big cities and in our small towns. We need to know how our policies are actually affecting ALL Americans.

The FCC needs to know who owns the media. We have an obligation to more fully understand what impact that ownership has on journalism and the critical information needs of all our communities. The answers to these questions are crucial, and we owe it to the public to implement policies that are informed and forward-looking.⁹⁰

The Commission's history of inaction on this directive is deeply troubling. As Commissioner Cops lamented in his partial dissent of Diversity Order issued in December of

⁸⁹ See *Prometheus II*, 652 F.3d at 471.

⁹⁰ *Statement of Commissioner Mignon L. Clyburn*, 2011 NPRM, 26 FCC Rcd at 17587, http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db1222/FCC-11-186A4.pdf.

2007, the Commission “should have started by getting an accurate count of minority and female ownership. . . [W]e don’t even know how many minority and female owners there are...”⁹¹

Regrettably, Commissioner Copps, in one of his last actions at the FCC, issued a statement with this NPRM in which he seemed no more pleased than he was four years earlier:

Many in Congress have let us know their concerns about an overly consolidated media. Not to mention the fact that the Court has continued to frown upon our inaction on a host of initiatives we should have taken by now, especially when it comes to fulfilling our obligation to provide a more diverse media.

I am of the strong opinion that we should be farther along in correcting the inequities of minority and women ownership of broadcast outlets. While I am pleased to see the proposal for an incubator program teed up for comment in the NPRM before us, I would have preferred us to have already taken action on such proposals as “Overcoming Disadvantages” and any number of other proposals submitted over the past several years to the Commission by our Diversity Advisory Committee. These are the kinds of actions that I believe the Third Circuit has been expecting of us for years and it is why the Court keeps sending back FCC rules that fail to deliver. In a country now nearly one-third minority, it is shocking, and I think embarrassing, that people of color own barely more than 3% of full-power commercial television stations. We must make a prompt and major commitment to ownership diversity. This certainly includes a Commission commitment to fund the necessary studies to build a record essential to satisfying judicial scrutiny so that we can go from the kind of interim steps I have just discussed to the even more aggressive policies that will be needed to bring diversity and justice to our media.⁹²

B. The FCC Has Failed To Adequately Explore Past Proposals To Increase The Number of Diverse Broadcast Owners

In addition to failing to collect the requisite data on the impact of rule relaxation on ownership diversity, the FCC has failed to collect data on means by which to affirmatively expand ownership opportunities for women and people of color. In *Prometheus II*, the court

⁹¹ *Statement of Commissioner Michael J. Copps, Concurring in Part, Dissenting in Part, Diversity Order*, 23 F.C.C.R. at 5983, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-279035A3.pdf.

⁹² *Statement of Commissioner Michael J. Copps, Approving in Part, Dissenting in Part*, 2011 NPRM, 26 FCC Rcd at 17583, http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db1222/FCC-11-186A2.pdf.

examined the FCC’s Diversity Order, which adopted several rules designed to expand ownership opportunities for “eligible entities.”⁹³ The court vacated and remanded those rules because the FCC had failed to provide any data that the “eligible entity” definition would promote diversity in broadcast ownership.⁹⁴ The court also criticized the Commission’s avoidance of considering proposed socially-disadvantaged business (SDB) definitions and remanded the Commission to do so before completion of the 2010 Quadrennial Review.⁹⁵ In *Prometheus I*, the court anticipated “that by the [2006] quadrennial review the Commission will have the benefit of a stable definition of SDBs, as well as several years of implementation experience, to help it reevaluate whether an SDB-based waiver will better promote the Commission’s diversity objectives.”⁹⁶

In *Prometheus II*, the court found the FCC’s examination of proposed SDB definitions unsatisfactory. Even the FCC had acknowledged that “without a definition for SDBs, the Commission cannot effectively evaluate the existing small business cluster transfer policy or its other proposals, as remanded by the *Prometheus* court.”⁹⁷ After the Commission folded the Third Circuit remand from *Prometheus I* into its 2006 Quadrennial Review, the FCC sought comment

⁹³ *Prometheus II*, 652 F.3d at 468 (stating that “[m]ost of the proposals adopted in the Diversity Order are designed to expand opportunities for ‘eligible entities,’ as defined by the SBA standards for industry groupings based on revenue.”).

⁹⁴ *Id.* at 470 (noting “[f]irst and foremost, the Diversity Order does not explain how the eligible entity definition adopted would increase broadcast ownership by minorities and women. . . . Second, it is hard to understand how measures using this definition would achieve the stated goal. . . . Third, the Commission referenced *no* data on television ownership by minorities or women and *no* data regarding commercial radio ownership by women. This is because the Commission has since conceded, it has no accurate data to cite.”)

⁹⁵ *Id.* at 469-71.

⁹⁶ *Prometheus I*, 373 F.3d at 428, n.70.

⁹⁷ *Second Further Notice of Proposed Rulemaking, 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 et al.*, 22 FCC Rcd. 14215, 14218 at ¶ 7 (Aug. 1, 2007) (“2nd 2006 Review NPRM”).

on SDB definitions several times. Despite the Commission’s repeated requests – and commenters repeated recommendations – for SDB definition proposals, the court found the FCC’s failure to adopt a consistent definition of SDBs that could be backed up by available data to be inadequate and directed the Commission to explore the issue further in the current review. The court also stated that just because SDBs may implicate constitutional concerns raised in *Adarand*, it does not justify the Commission’s failure to gather data, conduct studies and consider a new definition.⁹⁸

Nonetheless, in spite of the court’s repeated reprimands, the current NPRM fails to adequately consider SDBs. This time around, the NPRM once again seeks comment on moving to SDBs rather than eligible entities and advises commenters on how to survive the constitutional standards of review that follow race- and gender-based classifications. However, the FCC fails to adequately heed the specific instructions of the court. The Third Circuit was clear when it said “[s]tating that the task is difficult in light of [constitutional implications] does not constitute “considering” proposals using an SDB definition.”⁹⁹ Yet this appears to be exactly what the Commission has done here.

Additionally, as noted above, even if the Commission were to put forth proposals for a workable SDB definition, any proposal would lack requisite supporting data and analysis necessary to withstand scrutiny from the court based on the current record. As the court stated in a footnote in *Prometheus II*, citing language from *Prometheus I*, “all of the FCC’s media ownership rules [will be] vulnerable to being overturned “until the Commission has developed a minority ownership database of sufficient accuracy to allow for reliable testing of the impact of

⁹⁸ *Prometheus II*, 652 F.3d at 471.

⁹⁹ *Prometheus II*, 652 F.3d at 471, n.42.

the rules on minority ownership.”¹⁰⁰ Without this database, any consideration of SBDs is premature.

III. RELAXING THE MEDIA OWNERSHIP LIMITS WOULD CONSTITUTE ARBITRARY AND CAPRICIOUS RULEMAKING

Even if the Commission’s failure to collect and study ownership diversity data is not in violation of the Third Circuit’s orders – which it is – any relaxation of media ownership limits would nonetheless be arbitrary and capricious rulemaking and could not withstand judicial review. A reviewing court must “hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”¹⁰¹ A rule is considered arbitrary and capricious if it is found to have “relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.”¹⁰² Further, “[t]he agency must examine relevant data and articulate a satisfactory explanation for its action including a ‘rational connection between the facts found and the choices made.’”¹⁰³ When an agency makes a policy shift or reversal, it must provide a more detailed explanation for the policy reversal if the “new policy rests upon factual findings that contradict those which underlay its prior policy; or when its prior policy has engendered serious reliance interests that must be taken into account.”¹⁰⁴

¹⁰⁰ *Id.* at 468, n.37.

¹⁰¹ 5 U.S.C. § 706(2)(A) (2012).

¹⁰² *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

¹⁰³ *Id.* (internal citations omitted).

¹⁰⁴ *FCC v. Fox TV Stations, Inc.*, 129 S. Ct. 1800, 1811, 173 L. Ed. 2d 738 (2009) (citing *Smiley v. Citibank* (South Dakota), N.A., 517 U.S. 735, 742, 116S. Ct. 1730 L. Ed. 2d 25 (1996)).

A. The FCC Lacks Data To Justify Relaxation Of The Ownership Limits

A court would find relaxation of any of the media ownership limits arbitrary and capricious because the Commission has failed to adequately consider an important aspect of the limits – opening doors for women and people of color to own broadcast stations. Section 309(j) of the Telecommunications Act of 1996 requires the Commission to promote broadcast ownership by women and people of color.¹⁰⁵ The FCC has a long-standing mandate to facilitate the expansion of license ownership and to promote other opportunities for participation in the broadcast industry by people of color and women.¹⁰⁶ And strengthening, or at least retaining ownership limits is one of the few race-neutral ways the FCC can promote diversity.

In this instance, the Commission has admittedly not collected or analyzed data on how the proposed relaxation of the NBCO rule and elimination of the radio/television cross-ownership rule would impact broadcast ownership diversity. The data that does exist demonstrates that rule relaxation would disproportionately harm diverse owners and prevent new diverse entrants, especially in radio, thought to be one of the few remaining gateways through which women and people of color become broadcast licensees. By failing to fully vet how ownership changes would impact women and people of color, any relaxation of rules in this proceeding would be arbitrary and capricious.

By failing to provide comprehensive data on broadcast ownership by people of color, the Commission has neglected to fulfill even baseline requirements. In addition, it is important to note within the context of this proceeding that the recently passed legislation authorizing the Commission to conduct voluntary auctions of UHF spectrum could exacerbate the already

¹⁰⁵ 47 U.S.C. § 309(j)(4)(D) (2012).

¹⁰⁶ 2011 NPRM 26 FCC Rcd at 17545, ¶ 148, n.346.

substantial deficit in broadcast ownership by women and people of color.¹⁰⁷ A number of large broadcast station ownership groups – such as NBCUniversal, CBS Corporation, and Sinclair Broadcasting Group – have already indicated that they would not sell any of their substantial spectrum holdings at auction.¹⁰⁸ According to a spokesperson for the National Association of Broadcasters, the stations that are likely to sell will be “the ones that offer truly niche programming serving a melting pot of immigrant populations.”¹⁰⁹ These “niche” stations are currently some of the only stations owned by owners of color. While targeting an underserved audience that is often more reliant on over-the-air broadcast than the general population, these stations can and do find an audience in their communities. However, these stations also often lack the substantial financial resources of increasingly consolidated media conglomerates. If these owners should decide to sell en masse, the number of broadcast stations owned by people of color in this country would drop precipitously.

B. Repealing The Radio/Television Cross-Ownership Rule Is Unsupported By The Data, Contradicts The FCC’s Goal Of Promoting Diverse Owners And Runs Contrary To The Evidence In This Proceeding

Relaxing the radio/television cross-ownership limit would be arbitrary and capricious because it runs counter to the evidence in this docket. The NPRM seeks comment on the proposal to repeal the radio/television cross-ownership rule, stating that the Commission’s studies indicate, “the rule is not necessary to ensure sufficient diversity in local markets.”¹¹⁰ Yet the NPRM fails to provide sufficient data about radio ownership by women and people of color.

¹⁰⁷ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96 (2012).

¹⁰⁸ FCC Can Auction Spectrum, But Will Broadcasters Sell?, LA TIMES, FEB. 17, 2012, <http://latimesblogs.latimes.com/entertainmentnewsbuzz/2012/02/broadcast-spectrum.html>

¹⁰⁹ *Id.*

¹¹⁰ 2011 NPRM, FCC Rcd at 17533, ¶ 119.

The NPRM fails to adequately support its conclusions.¹¹¹ And although the Commission cites studies with respect to localism concerns, it concludes that “[e]vidence from the studies is mixed with respect to this question.”¹¹² In fact, the Commission’s conclusion runs contrary to NHMC *et al.*’s research in the Los Angeles and Rio Grande Valley DMAs. In these markets, consolidation has led to a reduction of local news in terms of both quantity and quality, as it has across the country.¹¹³

Even if the data were sufficient, relaxing the media ownership limits is arbitrary and capricious because it runs counter to the evidence before the agency. The Commission acknowledges that repealing the rule would allow more media consolidation in large markets,¹¹⁴ that there are significant entry barriers that “exist for minorities and women in both the traditional and new media industries,”¹¹⁵ that stations owned by people of color provide more content geared toward minority audiences, and that “minority communities are underserved as a result of the lack of minority media ownership.”¹¹⁶ Other evidence in the record demonstrates that media consolidation harms minority and female ownership of broadcast stations.¹¹⁷

¹¹¹ *Id.* at 17535, ¶ 126.

¹¹² *Id.* at 17536, ¶ 128.

¹¹³ Steven Waldman and the Working Group on Information Needs of Communities, *The Information Needs of Communities: The changing media landscape in a broadband age*, FEDERAL COMMUNICATIONS COMMISSION 12 (July 2011), www.fcc.gov/infoneedsreport.

¹¹⁴ 2011 NPRM at 17535, ¶ 126, (stating “[I]n the largest markets, absent the current radio/television cross-ownership rule, an entity approaching the limits of the existing cap could acquire...one additional radio station and remain in compliance with the local radio rule. Likewise, an entity with one television station already could acquire only one additional station in the largest markets under the current local television rule.”).

¹¹⁵ 2011 NPRM at 17538, ¶ 134.

¹¹⁶ *Id.*

¹¹⁷ Comment of Free Press at Section I.A.2, MB Dkt. No. 09-182 (filed Mar. 5, 2012).

Finally, the NPRM seeks comment on whether increasing use of the Internet supports eliminating the radio/television cross-ownership rule.¹¹⁸ The NPRM seeks comment on whether “the increase in the diversity of news outlets provided by the Internet contribute enough to the marketplace of ideas to ensure that viewpoint diversity would be adequately protected absent [the radio/television cross-ownership] rule.”¹¹⁹ The FCC should not consider Internet outlets as an alternative to broadcast. Broadcast stations are free to the public, and radio reaches over 93% of Americans each week.¹²⁰ This penetration level has been found to be even higher in communities of color.¹²¹ Further, Internet outlets are not adequate substitutes when it comes to provision of news because they largely repeat the news of the major conglomerates, as one recent FCC study – commissioned in preparation for this proceeding yet oddly buried in the NPRM – indicates.¹²² Finally, the FCC acknowledges in this NPRM that “[t]oo much of the country is unserved or underserved by broadband...tens of millions of Americans do not have access to news and other programming on the Internet. Some parts of the population, including minorities...have much lower rates of broadband adoption.”¹²³ To consider Internet voices in examining radio/television cross-ownership would thus negatively impact the exact groups that the FCC is required to help, in reckless disregard of even the limited record in this proceeding.

¹¹⁸ 2011 NPRM, 26 FCC Rcd at 17537-38, ¶ 133; *See also, supra* at Section I.

¹¹⁹ 2011 NPRM, 26 FCC Rcd at 17537-38, ¶ 133.

¹²⁰ ARBITRON INC., RADIO TODAY 2011, 2011 RADIO TODAY SERIES 1, 104 (2011), http://www.arbitron.com/downloads/Radio_Today_2011.pdf.

¹²¹ Southern California Broadcasters Association, *Los Angeles Metro Report* (2010), <http://rope.zscb.fimc.net/pdfs/LA%20Metro%20Profile.pdf>.

¹²² Matthew Hindman, *Study #6: Less of the Same*, MB Dkt. No. 09-182 at 3 (April 2011), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-307476A1.pdf, (noting that “[l]ocal news on the Web is fundamentally about consuming less news from the same old sources.”).

¹²³ 2011 NPRM, 26 FCC Rcd at 17491, ¶ 4.

Appendix A

Los Angeles, CA Full Power Television Stations, Radio Outlets and Daily Newspapers*				
Licensee (State)	Call Sign/Name	Service	Type	Diverse
Media News Group (CO)	Torrance Daily Breeze	Newspaper	Commercial	No
	LA Daily News	Newspaper	Commercial	No
	Long Beach Press-Tele.	Newspaper	Commercial	No
	Inland Vall. Daily Bul.	Newspaper	Commercial	No
	San Bernardino Sun	Newspaper	Commercial	No
	Redlands Daily Facts	Newspaper	Commercial	No
	San Gabriel Vall. Trib.	Newspaper	Commercial	No
	Pasadena Star-News	Newspaper	Commercial	No
	Whittier Daily News	Newspaper	Commercial	No
CBS Corporation (NY)	KCAL-TV	TV	Commercial	No
	KCBS-TV (CBS)	TV	Commercial	No
	KAMP-FM (97.1 FM)	FM Radio	Commercial	No
	KCBS-FM (93.1 FM)	FM Radio	Commercial	No
	KROQ-FM (106.7 FM)	FM Radio	Commercial	No
	KRTH-FM (101.1FM)	FM Radio	Commercial	No
	KTWV-FM (94.7 FM)	FM Radio	Commercial	No
	KNX-AM (1070 AM)	AM Radio	Commercial	No
Clear Channel (TX)	KBIG-FM (104.3 FM)	FM Radio	Commercial	No
	KHHT-FM (92.3 FM)	FM Radio	Commercial	No
	KIIS-FM (102.7 FM)	FM Radio	Commercial	No
	KOST-FM (103.5 FM)	FM Radio	Commercial	No
	KYSR-FM (98.7 FM)	FM Radio	Commercial	No
	KFI-AM (640 AM)	AM Radio	Commercial	No
	KTLK-AM (1150 AM)	AM Radio	Commercial	No
	KLAC-AM (570 AM)	AM Radio	Commercial	No
Univision Communications, Inc. (NY)	KMEX-DT (Univision)	TV	Commercial	No
	KFTR-DT (Telefutura)	TV	Commercial	No
	KRCD (103.9 FM)	FM Radio	Commercial	No
	KRCE (98.3 FM)	FM Radio	Commercial	No
	KLVE (107.5 FM)	FM Radio	Commercial	No
	KSCA (101.9 FM)	FM Radio	Commercial	No
	KTNQ (1020 AM)	AM Radio	Commercial	No
Lieberman Broadcasting, Inc. (CA)	KRCA (EstrellaTV)	TV	Commercial	Yes
	KWIZ-FM (96.7 FM)	FM Radio	Commercial	Yes
	KBUE (105.5 FM)	FM Radio	Commercial	Yes
	KBUA (94.3 FM)	FM Radio	Commercial	Yes
	KEBN (94.3 FM)	FM Radio	Commercial	Yes
	KRQB (96.1 FM)	FM Radio	Commercial	Yes
	KHJ-AM (930 AM)	AM Radio	Commercial	Yes

* NHMC *et al.* painstakingly compiled this data using the Commission's Consolidated Database System (CDBS), owner and station websites, targeted web searches, and a variety of other free sources. While every attempt was made to ensure that the data collected was complete and accurate, NHMC *et al.* was hindered by many of the well-documented flaws and shortcomings of the of the CDBS system and the Commission's available data.

Multicultural Radio Broadcasting, Inc. (NY)	KALI (106.3 FM) KAHZ (1600 AM) KAZN (1300 AM) KMRB (1430 AM) KBLA (1580 AM) KNSN (1240 AM) KYPA (1230 AM)	FM Radio AM Radio AM Radio AM Radio AM Radio AM Radio AM Radio	Commercial Commercial Commercial Commercial Commercial Commercial Commercial	Yes Yes Yes Yes Yes Yes Yes
Entravision (CA)	KDLD (103.1 FM) KDLE (103.1 FM) KLYY (97.5 FM) KSSC (107.1 FM) KSSD (107.1 FM) KSSE (107.1 FM)	FM Radio FM Radio FM Radio FM Radio FM Radio FM Radio	Commercial Commercial Commercial Commercial Commercial Commercial	No No No No No No
High Desert Broadcasting (CA)	KDAY (93.5 FM) KGMX-FM (106.3 FM) KUTY-AM (1470 AM) KOSS (1380 AM)	FM Radio FM Radio AM Radio AM Radio	Commercial Commercial Commercial Commercial	No No No No
Tribune Company, Debt. In Poss. (IL)	KTLA (CW) Los Angeles Times Daily Pilot	TV Newspaper Newspaper	Commercial Commercial Commercial	No No No
Disney Enterprises, Inc. (CA)	KABC-TV (ABC) KDIS (1110 AM) KSPN (710 AM)	TV AM Radio AM Radio	Commercial Commercial Commercial	No No No
Salem Communications (CA)	KFSH-FM (95.9 FM) KKLA-FM (99.5 FM) KRLA (870 AM)	FM Radio FM Radio AM Radio	Commercial Commercial Commercial	No No No
Lotus Communications Corp. (CA)	KIRN (670 AM) KWKW (1330 AM) KWKU (1230 AM)	AM Radio AM Radio AM Radio	Commercial Commercial Commercial	No No No
Freedom Communications (CA)	Orange County Reg. Daily Press Desert Dispatch	Newspaper Newspaper Newspaper	Commercial Commercial Commercial	No No No
Fox Television Holdings, Inc. (NY)	KCOP-TV (MyNet) KTTV (FOX)	TV TV	Commercial Commercial	No No
NBCUniversal LLC (NY)	KVEA (Telemundo) KNBC (NBC)	TV TV	Commercial Commercial	No No
Ronald Ulloa (CA)	KXLA KVMD	TV TV	Commercial Commercial	Yes Yes
Cumulus Radio, Inc (GA)	KLOS (95.5 FM) KABC (790 AM)	FM Radio AM Radio	Commercial Commercial	No No
Emmis Communications (IN)	KXOS (93.9 FM) KPWR (105.9 FM)	FM Radio FM Radio	Commercial Commercial	No No
California State University (CA)	KCSN (88.5 FM) KKJZ (88.1 FM)	FM Radio FM Radio	Noncommercial Noncommercial	NA NA
Mount Wilson FM Broadcasters, Inc. (CA)	KKGO (105.1 FM) KMZT (1260 AM)	FM Radio AM Radio	Commercial Commercial	No No
Santa Monica Comm. College (CA)	KCRW-FM (89.9 FM) KCRY-FM (88.1 FM)	FM Radio FM Radio	Noncommercial Noncommercial	NA NA
Spanish Broadcasting System (FL)	KLAX-FM (97.9 FM) KXOL-FM (96.3 FM)	FM Radio FM Radio	Commercial Commercial	Yes Yes
Bellagio Broadcasting Corp. (CA)	KBBC-TV	TV	Commercial	No
Comm. TV of Southern California (CA)	KCET (ETV)	TV	Noncommercial	NA
Costa de Oro Television, Inc. (CA)	KJLA	TV	Commercial	Yes

Ellis Communications Group LLC (NY)	KDOC-TV	TV	Commercial	No
HERO Broadcasting LLC (FL)	KBEH	TV	Commercial	Yes
Intl. Media Group, Debt. In Poss. (CA)	KSCI	TV	Commercial	No
ION Media Networks, Inc. (FL)	KPXN-TV (ION)	TV	Commercial	No
KOCE-TV Foundation (CA)	KOCE-TV (PBS)	TV	Noncommercial	NA
Los Angeles City Board of Education (CA)	KLCS (PBS)	TV	Noncommercial	NA
Meruelo Media Holdings (CA)	KWHY-TV	TV	Commercial	Yes
San Bernardino Comm. College (CA)	KVCR-DT (PBS)	TV	Noncommercial	NA
Southern California License, Inc. (DC)	KAZA-TV	TV	Commercial	Yes
Sunbelt Television, Inc. (CA)	KHIZ	TV	Commercial	No
Trinity Broadcasting Network, Inc. (CA)	KTBN-TV (Trinity)	TV	Commercial	No
Adelman Broadcasting, Inc. (CA)	KGBB (103.9 FM)	FM Radio	Commercial	No
Amaturo Broadcast Group (CA)	KLST-FM (92.7 FM)	FM Radio	Commercial	No
Bonneville International Corp. (UT)	KSWD (100.3 FM)	FM Radio	Commercial	No
Buena Park School District (CA)	KBPK-FM (90.1 FM)	FM Radio	Noncommercial	NA
Calvary Chapel of Costa Mesa, Inc. (CA)	KWVE (107.9 FM)	FM Radio	Commercial	No
Life on the Way Communications Inc. (CA)	KTLW (88.9 FM)	FM Radio	Noncommercial	NA
Loyola Marymount University (CA)	KXLU (88.9 FM)	FM Radio	Noncommercial	NA
Mt. San Antonio Comm. College (CA)	KSAK (90.1 FM)	FM Radio	Noncommercial	NA
Pacifica Foundation, Inc. (CA)	KPFK (90.7 FM)	FM Radio	Noncommercial	NA
Pasadena Community College (CA)	KPCC (89.3 FM)	FM Radio	Noncommercial	NA
Pomona College (CA)	KSPC (88.7 FM)	FM Radio	Noncommercial	NA
South Orange County Comm. College (CA)	KSBR (88.5 FM)	FM Radio	Noncommercial	NA
Taxi Productions, Inc. (CA)	KJLH (102.3 FM)	FM Radio	Commercial	Yes
University of California (CA)	KUCI (88.1 FM)	FM Radio	Noncommercial	NA
University of Southern California (CA)	KUSC (91.5 FM)	FM Radio	Noncommercial	NA
Crawford Broadcasting (PA)	KBRT-AM (740 AM)	AM Radio	Commercial	No
Family Stations, Inc. (CA)	KFRN-AM (1280 AM)	AM Radio	Noncommercial	NA
HK Media, Inc. (CA)	KFOX-AM (1650 AM)	AM Radio	Commercial	Yes
Hi-Favor Broadcasting LLC (CA)	KLTX (1390 AM)	AM Radio	Commercial	No
Jeri Lyn Broadcasting, Inc. (CA)	KHTS (1220 AM)	AM Radio	Commercial	Yes
KFWB License Trust (NY)	KFWB-AM (980 AM)	AM Radio	Commercial	No
Korean Gospel Broadcasting Network (CA)	KXXM (1190 AM)	AM Radio	Commercial	Yes
LAA 1, LLC (CA)	KLAA (830 AM)	AM Radio	Commercial	No
P&Y Broadcasting Corp. (CA)	KMPC (1540 AM)	AM Radio	Commercial	Yes
Trans-America Broadcasting Corp. (CA)	KTYM (1460 AM)	AM Radio	Commercial	Yes
Antelope Valley Press	Antelope Valley Press	Newspaper	Commercial	No
GateHouse Media, Inc. (NY)	Daily Independent	Newspaper	Commercial	No
Impremedia, LLC (CA)	La Opinion	Newspaper	Commercial	Yes

Appendix B

Harlingen-Brownsville-Weslaco-McAllen, TX Full Power Television Stations, Radio Outlets and Daily Newspapers*				
Licensee (State)	Call Sign/Name	Service	Type	Diverse
Border Media (TX)	KBUC (102.1 FM)	FM Radio	Commercial	No
	KJAV (104.9 FM)	FM Radio	Commercial	No
	KESO (92.7 FM)	FM Radio	Commercial	No
	KZSP (95.3 FM)	FM Radio	Commercial	No
	KURV (710 AM)	AM Radio	Commercial	No
	KVJY (840 AM)	AM Radio	Commercial	No
Clear Channel (TX)	KTEX (100.3 FM)	FM Radio	Commercial	No
	KBFM (104.1 FM)	FM Radio	Commercial	No
	KHKZ (106.3 FM)	FM Radio	Commercial	No
	KQXX (105.5 FM)	FM Radio	Commercial	No
	KVNS (1700 AM)	AM Radio	Commercial	No
Entravision (CA)	KNVO (Univision)	TV	Commercial	No
	KFRQ (94.5 FM)	FM Radio	Commercial	No
	KKPS (99.5 FM)	FM Radio	Commercial	No
	KNVO-FM (101.1FM)	FM Radio	Commercial	No
	KVLY (107.9 FM)	FM Radio	Commercial	No
Freedom Communications (CA)	El Nuevo Herald	Newspaper	Commercial	No
	Valley Morning Star	Newspaper	Commercial	No
	The Brownsville Herald	Newspaper	Commercial	No
	The Monitor	Newspaper	Commercial	No
RGV Educational Broadcasting Inc. (TX)	KMBH (PBS)	TV	Noncommercial	NA
	KHID (88.1 FM)	FM Radio	Noncommercial	NA
	KMBH (88.9 FM)	FM Radio	Noncommercial	NA
Univision Communications, Inc. (NY)	KBTQ (96.1 FM)	FM Radio	Commercial	No
	KGBT-FM (98.5 FM)	FM Radio	Commercial	No
	KGBT (1530 AM)	AM Radio	Commercial	No
Christian Ministries of the Valley (TX)	KBIC (105.7 FM)	FM Radio	Noncommercial	NA
	KRGE (1290 AM)	AM Radio	Noncommercial	NA
Rio Grande Bible Institute, Inc. (TX)	KOIR (88.5 FM)	FM Radio	Noncommercial	NA
	KRIO (910 AM)	AM Radio	Noncommercial	NA
World Radio Network, Inc. (TX)	KVMV (96.9 FM)	FM Radio	Noncommercial	NA
	KBNR (88.3 FM)	FM Radio	Noncommercial	NA
Barrington Harlingen Licensee LLC (IL)	KGBT-TV (CBS)	TV	Commercial	No
CommCorp of America (LA)	KVEO-TV (NBC)	TV	Commercial	No
Community Educational Television (TX)	KLUJ-TV (Trinity)	TV	Noncommercial	NA
Mobile Video Tapes, Inc. (LA)	KRGV-TV (ABC)	TV	Commercial	No
Sunbelt Multimedia Co. (TX)	KTLM (Telemundo)	TV	Commercial	Yes
Sound Investments Unlimited, Inc. (TX)	KQBO (107.5 FM)	FM Radio	Commercial	Yes
Faith Baptist Church (TX)	KCAS (91.5 FM)	FM Radio	Noncommercial	NA
Faith Pleases God Corp. (TX)	KTER (90.7 FM)	FM Radio	Noncommercial	NA
Bravo Broadcasting Company (TX)	KIRT (1580 AM)	AM Radio	Commercial	Yes
Paulino Bernal (TX)	KUBR (1210 AM)	AM Radio	Commercial	Yes
Vision Hispana Inc. Internacional (TX)	KSOX (1240 AM)	AM Radio	Noncommercial	NA

* NHMC *et al.* painstakingly compiled this data using the Commission's Consolidated Database System (CDBS), owner and station websites, targeted web searches, and a variety of other free sources. While every attempt was made to ensure that the data collected was complete and accurate, NHMC *et al.* was hindered by many of the well-documented flaws and shortcomings of the of the CDBS system and the Commission's available data.

Appendix C

NHMC Report

American Hate Radio: How A Powerful Outlet For Democratic Discourse Has Deteriorated Into Hate, Racism and Extremism



AMERICAN HATE RADIO

**How A Powerful Outlet For Democratic Discourse Has
Deteriorated Into Hate, Racism And Extremism**

A report by the
National Hispanic Media Coalition

January 2012

“[Blacks are] 12 percent of the population. Who the hell cares [if they are heard]?”

KFI AM’s *The Rush Limbaugh Show*¹

“[Mexicans] bring their third-world habits and foul our life.”

KFI AM’s *The John and Ken Show*²

“So, if we ... really enforce our borders and get into euthanasia, for example ... and get rid of, let’s say, Armenians...”

KFI AM’s *The Bill Handel Show*³

Introduction

A century ago, the U.S. military began using radio waves to communicate. In the 1920s, commercial radio emerged to inform and entertain the public. And, despite various innovations that, upon their inceptions, seemed to threaten radio’s viability – film, television, the Internet – even today radio remains the primary way that people consume media, as it reaches 93% percent of Americans each week.⁴ In the 1990s, the news-talk format grew,⁵ and it is now the predominant radio format with almost 1,800 dedicated stations nationwide.⁶

On its face, this is a positive development: news and debate are essential components of this country’s democracy. Indeed, historian and former Federal Communications Commission (“FCC”) Commissioner Michael J. Copps put it best when he said that “the future of our country’s media is an

issue that goes to the heart of our democracy. A well-informed electorate is the premise and prerequisite of functioning self-government.”⁷ Presumably, more news and talk radio would further that goal. Yet something sinister and decidedly un-American is happening over many of this country’s public airwaves.

This report sheds light on the prevalence and the dangers of American hate radio. Specifically, it chronicles how hate groups and hate crimes have spiked while hate radio’s popularity and reach have risen. Finally, it examines a microcosm of the prevalence of hate radio, synthesizing hundreds of consumer complaints to the FCC against one station in Southern California, Clear Channel Radio’s KFI AM 640.⁸

The Prevalence And Dangers Of Hate Radio

NHMC has produced significant evidence – in its Petition for Inquiry on Hate Speech in Media, its Comment on the Future of Media and Information Needs of Communities in a Digital Age, and in other documents – that hate against vulnerable groups is pervasive over radio.⁹ Since the production of those documents, a 2011 study has found significant incidences of hate speech on radio news-talk programming.¹⁰ The study examined thirty- to forty-minute segments of three popular radio programs:

The Lou Dobbs Show: Mr. Independent,
nationally syndicated by the United Stations
Radio Networks

The Savage Nation,
produced at KFMB 760 AM and nationally
syndicated by Talk Radio Network

The John & Ken Show,
on Clear Channel Radio's KFI AM 640, Los
Angeles.¹¹

In just these three short segments, researchers identified 148 instances of speech targeting a vulnerable group or its supporters,¹² forty-two unsubstantiated claims,¹³ thirteen instances of divisive language,¹⁴ and 101 indexical terms related to political nativism.¹⁵ The report noted the particularly troubling nature of unsubstantiated claims on news-talk radio, given that this radio format generally presents information from a journalistic framework that is often associated with fact-based news commentary and expert-driven interviews on topical issues.¹⁶ Finally, the report observed that the recent rise in hate crimes could be an effect of highly volatile news-talk programming.¹⁷

Hate Radio – Influencing Behaviors And Psychologically Damaging Its Targets

Extensive research exists on the harmful effects of hate speech in media. In a 1993 report, combining the most recent evidence available at that time, the federal government recognized that some people use “telecommunications to convey messages of hate and bigotry that create a hostile environment in which hate crimes may occur,” and that “[i]n some instances, such activities appear to be part of an ongoing strategy to foment violence and unrest.”¹⁸ Further reports and studies have emerged on this topic in the intervening years, demonstrating that hate speech influences society’s behaviors and perceptions, and causes severe psychological damage to its victims, especially teens and children.

Scholars have documented that hate speech influences society’s behaviors and perceptions. Indeed, one study has shown that “bias can be exacerbated or mitigated by the information environments we inhabit,”¹⁹ and that “consuming negative images can exacerbate implicit bias.”²⁰ Recent history, demonstrates that the media can be harnessed to create an atmosphere of hate that legitimizes violence. In 1994, prior to the Rwandan genocide, radio proved a powerful tool to legitimize the killings. In language strikingly similar to that used by modern day American shock jocks, Rwandan perpetrators were able to validate their message to the masses.²¹ Hutu broadcasters used Rwandan radio to: refer to the Tutsi as *inyenzi* (cockroaches);²² remark on the inherent differences between Hutu and Tutsi; opine on the cleverness of the Tutsi in infiltration, their cruelty, and their cohesiveness; and to suggest that the Tutsi intended to restore past repression. This method of diatribe may be compared to much of

the anti-immigrant language used over the U.S. airwaves today.

Scholars have also noted the harmful mental and emotional effects that hate speech has on its victims. Because hate speech fosters feelings of inferiority, over time its cumulative impact may produce a society in which race will become “a badge of inferiority and justification for the denial of opportunity and equal treatment.”²³ Victims of hate speech often suffer severe emotional and physiological distress.²⁴ “Race-based stigmatization is...one of the most fruitful causes of human misery. Poverty can be eliminated – but skin color cannot.”²⁵ Victims are attacked based on factors that they cannot alter. “The suffering [a victim of hate speech faces]... may be aggravated by a consciousness of incurability and even blameworthiness, a self-reproaching which tends to leave the individual still more aware of his loneliness and unwantedness.”²⁶

Moreover, the negative images that hate speech creates can be internalized by targeted groups, shaping their identities. Researchers have noted that “accumulating evidence suggests that ethnophaulisms [or ethnic slurs] may serve as a general risk factor for psychological and somatic dysfunction,” as hate speech may influence health “through exclusion, leading to poverty, segregation into unhealthy environments, reduced access to health care, and employment and educational policies that discriminate against stigmatized groups.”²⁷ In addition, statistics show that ethnic immigrant groups subjected to hate speech are more likely to commit suicide than other groups.²⁸

Not surprisingly, children and teenagers are the ones most acutely affected by hate speech. Indeed, it has long been of special concern that the media has a particularly strong influence on children and teenagers since they are not yet fully developed cognitively.²⁹ Children of surprisingly young ages are shaped by images of race and gender in the

media, as children as young as three understand concepts such as race and racism.³⁰ One study conducted before President Obama took office, found that one in four children thought it was illegal for a woman or person of color to be president, while one in three attributed the lack of female or minority presidents to gender and racial bias.³¹ The study also found that one third of children thought members of the excluded groups lacked the skills necessary to hold the office of president, while others expressed the belief that prejudice informed the way adults voted.³²

Hate Speech, Hate Groups And Hate Crimes – Their Simultaneous Spike

As hate radio has escalated to a fever pitch, hate groups and hate crimes targeting vulnerable groups have climbed significantly.

According to the Southern Poverty Law Center (“SPLC”), there are 1,002 known hate groups operating across the country – including neo-Nazis, Ku Klux Klansmen, white nationalists, neo-Confederates, racist skinheads, black separatists, border vigilantes and others.³³ And their numbers are growing.³⁴ Every U.S. state has at least one known hate group, and most states have many more than one.³⁵ The number of hate groups in the U.S. has more than doubled since 2000.³⁶ The five states with the most hate groups are California (68), Texas (59), Florida (49), New Jersey (47) and Mississippi (40).³⁷ According to SPLC:

This growth in extremism has been aided by mainstream media figures and politicians who have used their platforms to legitimize false propaganda about immigrants and other minorities and spread the kind of paranoid conspiracy theories on which militia groups thrive.³⁸

In 2009, the Department of Homeland Security (“DHS”) released an extremism assessment, reporting that extremists “have adopted the

immigration issue as a call to action, rallying point, and recruiting tool” and that “anti-immigration or strident pro-enforcement fervor has been directed against specific groups.” DHS found that this “has the potential to incite individuals or small groups toward violence.”³⁹

Between 2003 and 2007, anti-Latino hate crimes rose by over 40%.⁴⁰ Last year alone, hate crimes against Latinos in California increased by nearly 50%.⁴¹ As SPLC reports, “[N]ational hate crime numbers are notoriously sketchy, providing only a rough indication of trends. However, many experts consider California particularly good at reporting hate crimes, so that state’s statistics are considered much more accurate than those in other states.”⁴²

While the numbers are artificially skewed across

different states based on reporting deficiencies, SPLC also notes that the numbers change drastically depending on how the data is collected:

In a related study— based not on police reports but rather on questionnaires sent to a statistically representative sample of the population — the Department of Justice in June estimated there was an average of about 195,000 hate crime victimizations per year from 2003 to 2009. An earlier DOJ study using the same methodology, considered far more accurate than the hate crime statistics reported to the FBI each year, found an average of 210,000 hate crime victimizations each year between 2000 and 2003.⁴³

Data collected directly from individual victims tends to produce a more accurate measure of the incidence of hate crimes, as opposed to data dependent on police reports alone.

On September 1, 2011, John and Ken of Clear Channel Radio’s KFI AM crossed the line. The duo began disparaging immigrants and one immigrant rights activist in particular, Jorge-Mario Cabrera. They repeatedly read Cabrera’s personal cell phone number and encouraged their listeners to call him. Cabrera received almost 500 harassing and threatening calls. One individual called Cabrera over thirty times. Many of the callers referenced John and Ken and repeated their exact words, and then threatened his life and his physical safety. Here are some transcripts of actual calls received:

“What the fuck are you doing? Get the fuck out of our country? You need to fucking go back to Mexico and fix your shit over there. Get the hell out of the United States. This is nothing about racism...and if I ever see you’re ass I’m gonna kick it. Fuck you, you motherfucker, I hope somebody shoots your ass.”

“You illegal immigrant piece of shit, motherfucker. We will do everything to fight you motherfuckers until you’re all dead, you’re all motherfucking dead.”

“Hi this message is for Mr. Cabrera. Listen, you pile of garbage. I hope you get fucking cancer tomorrow and start to die. Your fucking motive is so fucked up. You need to pack your shit up and go back to wherever it is you came from. Nobody wants you here. You are invading the legal people that are in this country and ruining this country. I hope you choke on your own vomit. Better yet, I hope you’re hit by a fucking car crossing across the street, you fucking pile of shit.”

“You’re nothing but a fucking parasite. I fucking hate your kind. John and Ken fucking rock, baby.”

Clear Channel Radio's KFI AM 640 – A Hate Radio Hotspot

FCC records indicate that, between 2008 and 2011, over 240 consumers filed complaints about KFI's programming.⁴⁴ 196 out of the 240 complaints, or 82%, specifically alleged hate speech or violent speech. All but a handful of these complaints were against shock jocks that continue to regularly pontificate on KFI's airwaves. The following section summarizes some of the complaints that consumers have filed with the FCC in regards to KFI's programming:

- A complaint filed in March 2008 alleged that **Rush Limbaugh** referred to Barack Obama as a "nigger." The complaint stated, "I heard him literally shout this word on KFI AM 640 in Los Angeles, CA ... I have to say, I was more than a little disappointed ... to hear your commentator Rush Limbaugh make a veiled reference to Presidential candidate Barack Obama as 'President Nigger'."
- Many consumers filed complaints concerning a May 2009 airing of **The Bill Handel Show**. The complaints were based on the following conversation between Bill Handel and his co-host, Lara Hermanson:

Lara Hermanson: "If we had 50% less people in this country, we would be doing a lot better."

Bill Handel: "So, if we practice, for example, really enforce our borders and get into euthanasia, for example...and get rid of, let's say, Armenians..."

Lara Hermanson: "Yeah, sell Glendale..."⁴⁵

- Many consumers filed complaints concerning a May 2009 airing of **The Bill Handel Show**. The complaints were based on the following

conversation between Bill Handel and his co-host, Lara Hermanson, relating to the "Armenian" conversation aired earlier in May:

Bill Handel: "You should be a saint yourself for caring for a group of people like that. What's next? You want to get rid of the Irish and the Italians? Of course I do."

Lara Hermanson: "What the Turks started, Bill will finish."⁴⁶

- A consumer complaint filed in August 2008 against **The John and Ken Show** claimed that "on the 4th day of the Democratic Convention ... John & Ken were commenting on how they would like to see some 'Skin head speed freaks' take a shot at Barack Obama from the rafters at Invesco Field, the site of the Democratic Convention. This among other things said during the program is NOTHING LESS THAN HATE SPEECH!"
- In September 2009, one consumer complained, "It is blatant hate speech/hate crime for **Rush Limbaugh** to urge his listeners to support segregation of school children on school buses based on their race."
- Several complaints filed in January 2008 alleged that **Rush Limbaugh** referred to Barack Obama as a "spade" and Hillary Clinton as a "ho".
 - One complaint stated, "[I]t was obvious that he meant the terms in their most offensive meaning."
 - Another complaint explained that Rush emphasized the derogatory words as he repeated them.

- A complaint submitted in December 2009 against **The John and Ken Show** alleged that one of the two co-hosts said that “when he was playing tennis some ‘stupid, illegal alien, leafblower guy’ had blown dust into their tennis game.” The complaint went on to state, “[T]he announcer (John or Ken) wanted to ‘pound him to a pulp with his racket.’ This is hate speech. The announcer suggests that because the worker was Hispanic he was an illegal alien...”
- In September 2011, a consumer complained about **Tim Conway, Jr.’s** program. The complaint stated that while discussing the DREAM Act, a caller “stated he was prepared to jump in his Suburban and run over Spicks. I attempted to call in and voice my opposition to KFI’s racist obscenities regarding DREAM Act. I was not accepted until I concurred with KFI’s racist rhetoric ... Most every program and personality on KFI makes offending and discriminatory slanders about race, creed, color, national origin, ethnicity, sexual orientation, handicap, [and] disability. I have not in my life heard such bigotry as is broadcast on KFI.”
- A consumer complaint from March 2010 about **The Bill Handel Show** claimed: “This radio personality used the N word (N*GGER) over the air describing The Congressional Black Caucus Members of the 111th Congress.”
- A consumer complaint submitted May 2010 alleged that **Bill Handel** said he refused second row tickets to a Lakers game because he did not want to sit next to a “svartze (...it is the word Jews and Germans use for Ni**er).”
- In August 2011, several people complained that, “**John & Ken** stated that listeners need to call California state legislators with ‘Latino surnames’ to voice opposition to [DREAM A]ct

legislation. They constantly make mention of a ‘Mexican Caucus’ in the California senate. Though I do not support the [DREAM A]ct, John & Ken constantly misrepresent and slant facts often fabricating information creating a hyperbole of non factual situations. John & Ken are racist in their very core fiber and should be kept from the airwaves.”

- In October 2008, one consumer complained about the **The Bill Handel Show** stating, “... Bill Handel and his other ... announcer said that EVERYDAY is a HIT A JEW DAY ... PLEASE FIRE HIM.”

In addition to the consumer complaints detailed above, KFI has aired the following derogatory statements:

- In October 2010, **Rush Limbaugh** said: “But there is no equality. You cannot guarantee that any two people will end up the same and you can’t legislate it, and you can’t make it happen. You can try under the guise of ‘fairness’ ... but some people are self-starters, and some people are born lazy, some people are born victims, **some people are just born to be slaves....**”⁴⁷
- In September 2011, on **The John and Ken Show**, one of the co-hosts stated: “We have a policy we don’t talk to Spanish TV. There is no good that could come out of that. Of course, we have no audience there ... and they are widely absurd in their interpretation of the news, so there is no reason to participate. So you people from the Spanish TV stations, Univision, Telemundo, and whatever Channel 62 is, just stay in your offices don’t come and bother us. We are not talking to you. Ever. We only talk to English speaking stations that have legal residents as viewers ... yeah non-Spanish speaking cameras ... we don’t do special appearances for the illegal aliens.”⁴⁸

Getting Back To Civil Discourse

Radio voices are still immensely powerful in this country, and many broadcasters are using their airwaves to educate, entertain and inform their listeners. NHMC applauds those broadcasters. Others, however, have adopted hate as a profit model. The people of the United States do not have to stand idly by as some radio pundits trade hate for profits. Just as the First Amendment allows haters to speak, it also allows the majority of Americans, who find hate speech reprehensible, to

speaking out and demand a better, more accountable media. NHMC's campaign against *The John and Ken Show* is just one example of community members raising their voices and demanding better use of the public airwaves. To learn more about NHMC's work to free the airwaves from hate, and to find out what you can do to stop hate in your community, please visit NHMC's website at <http://www.nhmc.org>.

Endnotes

- ¹ Jeff Cohen and Steve Rendall, *Limbaugh: A Color Man Who Has a Problem with Color?*, FAIRNESS & ACCURACY IN REPORTING, June 7, 2000, available at <http://www.fair.org/index.php?page=2549>; Derrick Z. Jackson, *Limbaugh Brings Baggage With His ESPN Blabber*, BOSTON GLOBE, July 16, 2003, available at <http://www.commondreams.org/views03/0716-10.htm>.
- ² YouTube Video, Take John and Ken Off the Air, <http://www.youtube.com/watch?v=hqSSMIBb3AM>.
- ³ Audio Recording: Clip of co-hosts of *The Bill Handel Show* discussing getting rid of Armenians (aired May 13-14, 2009), available at <http://www.burbankanc.org./KFI.mp3>. See also Corey Deitz, *Armenians Mad at KFI Radio's Bill Handel*, About.com, June 5, 2009, available at <http://radio.about.com/b/2009/06/05/armenians-mad-at-kfi-radios-bill-handel.htm>.
- ⁴ Arbitron Inc., *Radio Today 2011*, 2011 Radio Today Series 1, 104, available at, http://www.arbitron.com/downloads/Radio_Today_2011.pdf.
- ⁵ JOHN HALPIN ET AL., CTR. FOR AM. PROGRESS & FREE PRESS, THE STRUCTURAL IMBALANCE OF POLITICAL TALK RADIO 1 (2007) available at http://www.americanprogress.org/issues/2007/06/pdf/talk_radio.pdf.
- ⁶ Arbitron Inc., *Radio Today 2011*, 2011 Radio Today Series 1, 20, available at, http://www.arbitron.com/downloads/Radio_Today_2011.pdf.
- ⁷ Statement of FCC Commissioner Michael J. Copps on Release of FCC Report "The Technology and Information Needs of Communities" (June 9, 2011), available at <http://www.fcc.gov/document/copps-information-needs-communities-report>.
- ⁸ NHMC conducted extensive research on KFI AM 640 following *The John and Ken Show's* transgressions against Jorge-Mario Cabrera. KFI AM 640 was therefore selected as an example of one hate radio hotbed, however, it is only one of hundreds of stations throughout the country that air similar programming.
- ⁹ See Petition for Inquiry on Hate Speech in Media of National Hispanic Media Coalition at 7-13 (filed Jan. 28, 2009) (undocketed) (illustrating the pervasive nature of hate speech in media, with numerous examples of hate speech that occurs across a range of media, including broadcast radio); Comment of National Hispanic Media Coalition *et al.*, *Future of Media and Information Needs of Communities in a Digital Age*, GN Dkt. No. 10-25, filed May 7, 2010; NHMC White Paper: *Hate Speech, Incitement and Hate Crimes in the U.S.: January 2004 – August 2011*, available at http://www.nhmc.org/sites/default/files/Complete%20Hate%20Speech%20and%20Hate%20Crimes%20List%20June%20011_0.pdf.
- ¹⁰ Chon A. Noriega and Francisco Javier Iribarren, *Quantifying Hate Speech on Commercial Talk Radio: A Pilot Study* (UCLA Chicano Studies Research Center, Working Paper, 2011), available at <http://www.chicano.ucla.edu/research/documents/WPQuantifyingHateSpeech.pdf> ("Pilot Study").
- ¹¹ *Id.* at 2.
- ¹² *Id.* at 4. (finding that "[j]ust over two-thirds of targeted statements focused on undocumented immigrants and Latinos (73 of 117), including 4 of 28 instances related to people of color in public office. Averaged on a per program basis, Latinos (both citizen and undocumented) represented 91 percent (43 of 47, including those in public office) of the targeted vulnerable groups on *The Lou Dobbs Show*, 43 percent (15 of 35) on *The Savage Nation*, and 43 percent (15 of 35) on *The John & Ken Show*. The figure for *The John & Ken Show* is actually higher, since 34 percent (12 of 35) of the targeted statements in this broadcast segment focused on the residents of "South L.A." (South Central Los Angeles), an area that is roughly 55 percent Latino and 41 percent African American.").
- ¹³ *Id.* at 6.
- ¹⁴ *Id.* at 7.
- ¹⁵ *Id.* at 9.

¹⁶ *Id.* at 10.

¹⁷ *Id.* at 1. (noting that “[n]ationally, hate crimes against Latinos, when compared with hate crimes against other racial/ethnic groups, have risen at the highest rate, with a 25 percent increase between 2004 and 2008 (Federal Bureau of Investigation 2004, 2008). This increase may be linked to the media generated negative discourse against immigrants that has been prevalent on the airwaves. In a 2007 national survey, about 64 percent of U.S. Latinos reported that the immigration debate had negatively impacted their lives, while 78 percent reported feeling that discrimination remained a problem affecting their community (Pew Hispanic Center 2007).”).

¹⁸ NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, DEPARTMENT OF COMMERCE, REPORT TO CONGRESS: THE ROLE OF TELECOMMUNICATIONS IN HATE CRIMES at 31 (1993), *available at* <http://www.ntia.doc.gov/legacy/reports/1993/TelecomHateCrimes1993.pdf>.

¹⁹ Jerry Kang, *Trojan Horses of Race*, 118 HARV. L. REV. 1489, 1557 (2005).

²⁰ *Id.*

²¹ ALISON DESFORGES, *LEAVE NONE TO TELL THE STORY: GENOCIDE IN RWANDA* 190-192 (Human Rights Watch 1999).

²² *Id.* at 54 n.34.

²³ Richard Delgado, *Words that Wound: A Tort Action for Racial Insults, Epithets, and Name-Calling*, in *CRITICAL RACE THEORY: THE CUTTING EDGE* 131, 131 (Richard Delgado & Jean Stefanic eds. Temple University Press 2d ed. 2000).

²⁴ Mari J. Matsuda, *Public Response to Racist Speech: Considering the Victim’s Story*, in *WORDS THAT WOUND: CRITICAL RACE THEORY, ASSAULTIVE SPEECH, AND THE FIRST AMENDMENT* 24 (Charles R. Lawrence & Richard Delgado eds. 1993); *see also id.* at 26 (citing GORDON W. ALLPORT, *THE NATURE OF PREJUDICE* 461-78 (1954); HARRY H.L. KITANO, *RACE RELATIONS* 113-14 (1974); HOWARD SCHUMAN, CHARLOTTE STEEH & LAWRENCE D. BOBO, *RACIAL ATTITUDES IN AMERICA* 137 (1985)).

²⁵ Richard Delgado, *Words that Wound: A Tort Action for Racial Insults, Epithets, and Name-Calling*, in *CRITICAL RACE THEORY: THE CUTTING EDGE* 131, 131 (Richard Delgado & Jean Stefanic eds. Temple University Press 2d ed. 2000).

²⁶ *Id.* (citing Oliver Cromwell Cox, *CASTE, CLASS AND RACE* 383 (1948)).

²⁷ Brian Mullen and Joshua M. Smyth, *Immigrant Suicide Rates as a Function of Ethnophaulisms: Hate Speech Predicts Death*, 66 *PSYCHOSOMATIC MEDICINE* 343, 347 (2004).

²⁸ *Id.* at 346. The study was controlled for ethnic group size and the suicide rates in their countries of origin.

²⁹ Children’s Television Act of 1990, 47 U.S.C. §§ 303a-303b & § 394. *See also*, H.R. REP. NO. 101-385 (1989), S.REP. NO. 101-66 (1989); Albert Bandura, *Influence of Models’ Reinforcement Contingencies on the Acquisition of Imitative Responses*, 1 *JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY* 589 (1965); Michele L. Ybarra et al., *Linkages Between Internet and Other Media Violence With Seriously Violent Behavior by Youth*, 122 *PEDIATRICS* 929 (2008).

³⁰ DEBRA VAN AUSDALE & JOE R. FEAGIN, *THE FIRST R: HOW CHILDREN LEARN RACE AND RACISM* 26 (2001).

³¹ *See* Rebecca S. Bitler et al., *The Politics of Race and Gender: Children’s Perceptions of Discrimination and the U.S. Presidency*, 8 *ANALYSES OF SOCIAL ISSUES AND PUBLIC POLICY* 83 (2008) (discussing a team of researchers at the Gender and Racial Attitudes Lab at the University of Texas Austin who interviewed 205 children between the ages of five and ten. They questioned the children about their knowledge and beliefs of U.S. presidents).

³² *Id.* at 106.

³³ S. POVERTY LAW CTR., *ACTIVE U.S. HATE GROUPS* (2010) (“SPLC Hate Map”), *available at* <http://www.splcenter.org/get-informed/hate-map>.

³⁴ Mark Potok, *The Year in Hate & Extremism, 2010*, S. POVERTY L. CENTER, *Intelligence Report*, Spring 2011, *available at* <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2011/spring/the-year-in-hate-extremism-2010>.

³⁵ SPLC Hate Map, *supra* note 33.

³⁶ S. POVERTY LAW CTR., *HATE AND EXTREMISM*, *available at* <http://www.splcenter.org/what-we-do/hate-and-extremism> (“SPLC Hate and Extremism”).

³⁷ SPLC Hate Map, *supra* note 34.

³⁸ SPLC Hate and Extremism, *supra* note 36.

³⁹ Assessment, U.S. Department of Homeland Security, *Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment* (Apr. 7, 2009), available at <http://www.fas.org/irp/eprint/rightwing.pdf>.

⁴⁰ Federal Bureau of Investigation (FBI): Hate crime statistics (2009), available at <http://www.fbi.gov/ucr/hc2007/victims.htm>.

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⁴² *Id.*

⁴³ *Id.*

⁴⁴ Letter from Kurt Schroeder, Deputy Chief, Consumer Policy Division, Consumer & Governmental Affairs Bureau, to Jessica Gonzalez, Vice President, Policy & Legal Affairs, National Hispanic Media Coalition (Oct. 24, 2011) (on file with the National Hispanic Media Coalition) (“FOIA No. 2011-573”).

⁴⁵ Audio recording: *The Bill Handel Show* (May 13-14, 2009), available at <http://www.burbankanc.org./KFI.mp3>. See also Corey Deitz, *Armenians Mad at KFI Radio’s Bill Handel*, About.com, June 5, 2009, available at <http://radio.about.com/b/2009/06/05/armenians-mad-at-kfi-radios-bill-handel.htm>.

⁴⁶ *Id.*

⁴⁷ KingofdaWackos, *Rush Limbaugh: Some People Are Just Born to be Slaves*, YOUTUBE (Oct. 20, 2010), <http://www.youtube.com/watch?v=t6cL4HbUc00>.

⁴⁸ *The John and Ken Show* (KFI Radio Broadcast Sept. 8, 2011).

Available at

<http://www.nhmc.org/hateradio>

NOTES



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Our Mission:

NHMC educates and influences media corporations on the importance of including U.S. Latinos at all levels of employment. It challenges media that carelessly exploit negative Latino stereotypes. It scrutinizes and opines on media and telecommunications policy issues before the Federal Communications Commission and in Congress.

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Appendix D

**A Movement Agenda For Narrative Power
(June, 2010 US Social Forum, Detroit, Mi)**

USSF 2010 Peoples' Movement Assembly Resolution

**A Movement Agenda For Narrative Power (Draft 1, June, 2010 US Social Forum, Detroit, Mi)
USSF 2010 Peoples' Movement Assembly Resolution**

Introduction, from the Center for Media Justice:

"[Change]...presupposes the formation of a new set of standards, a new psychology, new ways of feeling, thinking and living that must be specific to the working class, that must be created by it,"

--Antonio Gramsci

Truly effective and sustainable movements for democratic social change must have the narrative power to shape and advance a transformative vision for civil society and the public good. The Center for Media Justice defines narrative power as the capacity, strategy, and leadership to advance a shared worldview and agenda, watchdog power, elevate strategic stories to wider audiences, increase popular governance, shape civil society, and influence policy to change material conditions.

Rather than winning the hearts and minds necessary to build transformative justice movements, current media and cultural conditions, infrastructure, and policies overwhelmingly advance an agenda that shrinks the safety net, expands militarization and neoliberalism, and entrenches structural racism. As a result, progressive social movements – often led by people of color – in the U.S. are under threat, and the transformative voices and visions of disenfranchised communities are pushed to the margins.

Instead being a position of weakness, communicating from the margins is a powerful and transformative position from which to launch effective strategies to confront and transform wedge issues, build narrative power, and expand the communication rights of the disenfranchised and digitally divided.

Building the narrative power to advance a compelling shared vision demands democratic media policies and institutional practices that amplify racial justice and support economic equity. With expanded first amendment and communication rights, reduced structural barriers to media access and ownership, and open, public platforms for strategic communication and news - historically disenfranchised communities can create the media conditions necessary to seed and deploy transformative public narratives and mobilize movement-building communications strategies to change public policies guiding civil society.

Using transformative, collaborative, popular, and multi-disciplinary approaches to media and cultural change, liberatory social movements in the U.S. can follow in the footsteps of Antonio Gramsci, poet Gloria Anzaldua, writer James Baldwin, and others to use strategic stories, and the infrastructure through which they pass, to change the story on critical justice issues and achieve a new vision for the U.S. and its role in the world.

Media Justice is the visionary transformation of media and culture – both narrative and structural – for the purpose of social change. Justice Communications is the strategy of building meaning through building movements, one coordinated story at a time.

--Center for Media Justice 2010

"The job of the artist is to make the revolution irresistible."

--Toni Cade Bambara, writer

Media Justice, Communications, Culture and Technology Summary/Synthesis:

"As organizers, communicators, cultural workers, artists, media makers, and technologists we believe the right to communicate, and therefore the power to transform society, must belong to everyone.

We call for full and equal access, rights, and power to create and use all forms of media, communications, and technology to democratize the production and distribution of information, culture, and knowledge- and to use these as tools in the furtherance of our own collectively determined liberation.

With an emphasis on advancing movement goals and confronting identified framing threats, we commit to deeply integrating communications strategies into our organizing fights. We will work together to develop and deploy meaningful, powerful, shared stories through coordinated communications strategies that connect issues and communities, and advance a compelling shared vision for democratic social change, racial and economic justice, and human rights.

Further, we commit to work together to deepen collaboration across the lines of issue and geography to realize the goals set forward by each PMA and the PMA process.”

People’s Movement Assembly Process:

The United States Social Forum presented a unique opportunity to build the fields of justice communications, and integrate collaborative, creative, and strategic storytelling as a core movement building strategy for political, social, and cultural change. It also represented a convergence of key social movements to define a relevant media justice policy framework as a core organizing strategy for social change.

Often we *only* ask ourselves: What is *possible to win* given the current political and cultural terrain? This collaborative project sought to build our collective strategic effectiveness and *also* ask the question: How can we *transform* the current political and cultural terrain through popular storytelling and framing *and* build the conditions for systemic media and narrative changes that increase human rights, political power, social justice, and dignity for all communities at the margins.

Through a process that included 1) a survey of communicators and media policy advocates, 2) a continued participatory research project with interviews of movement leaders and affected populations, 3) a series of digital dialogs and 4) a Peoples’ Movement Assembly at the US Social forum, we affirmed our goals.

Resolved:

The process affirmed a commitment to create a “Justice Communications Working Group” of movement communicators to convene and reframe core movement goals and advance a collaborative strategy to win key framing fights around structural racism, the economy, corporate control of government, immigration, ecological justice and more.

The process also affirmed the need for a movement building media policy platform anchored in Article 19 of the United Nations Declaration of Human Rights that defines a media policy agenda for our movements, anchors this agenda in participatory models, advances a 21st Century demand for rights, access, and power in an information age, and expands the concepts of free speech and public press to include a broader concept of Communication and Cultural Rights for all.

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