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December 20, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Via Electronic Filing

Re: MB Docket No. 09-182, 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; MB Docket No. 07-294, Promoting Diversification of Ownership in the Broadcasting Services

Dear Ms. Dortch:

On December 18, 2012, I spoke by telephone with Alex Hoehn-Saric, Policy Director for Commissioner Rosenworcel, regarding matters in the above-captioned dockets.

I reiterated that, before the Commission makes any changes to its cross-ownership rules, it must adequately analyze the impact of such changes on broadcast ownership opportunities for women and people of color. If the Commission were to relax those rules before conducting and completing a proper analysis of the likely effects, it would violate the Third Circuit’s directives on this issue in the *Prometheus II* decision.

I noted the growing consensus on this point, as evidenced in recent letters from more than sixty members of Congress; from trade groups such as the National Association of Black Owned Broadcasters; from civil rights organizations and leading institutions including the Leadership Conference on Civil and Human Rights, the NAACP, National Urban League, National Council of La Raza, Asian American Justice Center, National Hispanic Media Coalition, and the Joint Center for Political and Economic Studies; and from media scholars including Dean Ernest J. Wilson and others. Each of these submissions agrees with the logic of the Third Circuit’s *Prometheus II* ruling, which forbids the Commission from making policy shifts in willful ignorance of their impact on diversity.

All of these lawmakers, stakeholders, experts, and constituency organizations have explained that the Commission should not loosen its cross-ownership rules before studying the likely result of such steps. And as Free Press has emphasized consistently in the record of this proceeding, such measures inexorably increase concentration and decrease opportunities for diversity. The overwhelming majority of public commenters agree, voicing opposition to policies that exacerbate concentration and decrease the number of voices in an already consolidated media market.

To remedy deplorably low levels of ownership for women and people of color, the Commission should first and foremost decline to allow for still more consolidation. I explained that the Commission can and should fund forward-looking studies (often referred to as *Adarand* studies) on methods to promote diversity in the broadcast bands. Yet simply allocating funds now for future research cannot possibly satisfy the Third Circuit's mandate in *Prometheus II*. Moreover, whatever the timetable may be for such prospective studies, the Commission need not undertake Constitutional analyses to justify the maintenance of race- and gender-neutral regulations like the newspaper-broadcast cross-ownership rules. In sum, the Commission cannot simply release ownership data in the above-captioned dockets and then promise to think about diversity issues in some separate docket or in the next quadrennial review. It must instead fully and fairly analyze that data, as well as the role that structural ownership rules play in either promoting or dampening diversity; and it must do so *before* releasing a final order that changes those rules in this 2010 ownership proceeding.

Turning briefly to the topic of Shared Service Agreements and other such contracts between putatively separate television stations, I suggested that the draft item's reported focus on Joint Sales Agreements is puzzling. News co-production and "sharing" arrangements seem more likely to allow for control or influence over another licensee's programming than do JSAs, in which one station sells advertising for another. Like mergers and explicit cross-ownership arrangements often posited as ways to preserve viewpoints and salvage journalism, SSAs and other covert consolidation agreements do just the opposite. Consolidation is not an all-purpose cure for broadcast and newspaper properties, but is instead a sure method for decreasing the number of voices, the amount of news, and the number of journalists on the beat in a local media market.

We file this *ex parte* notice today, pursuant to Section 1.1206(b) of the Commission's rules. If you have any questions regarding this submission, please do not hesitate to contact me.

Respectfully submitted,

/s/ Matthew F. Wood

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