

*Before the*  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

<b>In the Matter of</b>	)	
	)	
<b>2010 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</b>	)	MB Docket No. 09-182
	)	
<b>Promoting Diversification of Ownership In the Broadcasting Services</b>	)	MB Docket No. 07-294
	)	

**REPLY COMMENTS OF**

**OFFICE OF COMMUNICATION OF UNITED CHURCH OF CHRIST, INC.  
BENTON FOUNDATION  
COMMON CAUSE  
COMMUNICATIONS WORKERS OF AMERICA  
MEDIA COUNCIL HAWAII  
MEDIA ALLIANCE  
NATIONAL ORGANIZATION FOR WOMEN FOUNDATION  
PROMETHEUS RADIO PROJECT**

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## Summary

In light of the initial comments on the Commission's *Report on Ownership of Commercial Broadcast Stations* filed between December 10 and December 26, UCC *et al.* submit this reply to remind the Commission of its outstanding obligation to use the data to assess the impact of any proposed rule modifications on ownership by women and people of color and to refute specific points and arguments made by some industry commenters.

First, we note that the Commission has an obligation to assess the impact of any proposed rule revisions on ownership by women and people of color, and nothing that the Commission has done nor anything any commenter has said will serve to excuse the Commission of this obligation. The Commission must perform the proper analysis before relaxing any ownership rules.

Second, we respond to several commenters who expressed their support for Congressional action to reenact tax deferral legislation designed to foster diverse ownership. We agree, but point out that the record is insufficient to support such legislation at this point in time, and that therefore these comments underline the need for the Commission to conduct data analysis that would support race- or gender-conscious policies.

Finally, we take issue with assertions made by the National Association of Broadcasters ("NAB") and the Newspaper Association of America ("NAA"), respectively. NAB's observed "positive developments" in ownership by women and people of color are unreliable because they are based on incomplete and flawed data. NAA's assertion that only two minority-owned full power television stations would even be potential targets for cross-ownership under the Commission's proposal is questionable and unsupported.

We continue to urge the Commission to perform its own detailed analysis of the 323 ownership data in the course of the 2010 Quadrennial Review, before adopting any rule changes.

## Table of Contents

Summary .....	i
I. The Commission Must Use the Data to Assess the Effects of Any Proposed Rule Modifications on Ownership by Women and People of Color Before it Issues an Order .....	1
A. No Commenter’s Analysis Negates the Need for the Commission to Perform its Own Analysis of the Data .....	2
B. Nor Do the 2010 Media Ownership Studies Negate the Need for the Commission to Perform a Proper Analysis of the 323 Data .....	3
II. Commenters’ Proposals for Congressional Action Underline the Need for Data to Justify Race- and Gender-Conscious Policies .....	6
A. Courts Require All Race-Conscious Efforts to Have a “Strong Basis in Evidence” .....	6
B. The FCC Should Consult with Other Federal Agencies that Have Developed Records Supporting Race- and Gender-Conscious Action .....	8
C. Commenters’ Suggestions for Congress Do Not Change the Commission’s Obligation to Address Women’s and Minority Ownership Through the Ownership Rules .....	10
III. The Apparently Positive Developments in Minority/Women’s Ownership that the National Association of Broadcasters Observes Are Not Reliable .....	10
IV. The Newspaper Association of America’s Assertion that Only Two Minority-Owned Full Power Television Stations Would Be Potential Targets for Cross-Ownership Under the Commission’s Proposal Is Flawed .....	11
Conclusion .....	13

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The Office of Communication of the United Church of Christ, Inc., Benton Foundation,<sup>1</sup> Common Cause, Communications Workers of America, Media Alliance, Media Council Hawai`i, National Organization for Women Foundation, and Prometheus Radio Project (“UCC *et al.*”), by their attorneys, the Institute for Public Representation (“IPR”), file these reply comments in response to the Public Notice, Commission Seeks Comment on Broadcast Ownership Report, released on December 3, 2012.

**I. The Commission Must Use the Data to Assess the Effects of Any Proposed Rule Modifications on Ownership by Women and People of Color Before it Issues an Order**

Nothing that either the Commission or any commenter has done to date excuses the Commission of its obligation to use the 323 ownership data to assess the effects of any proposed rule modifications on ownership by women and people of color before it may adopt any changes to the rules.

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<sup>1</sup> The Benton Foundation is a nonprofit organization dedicated to promoting communication in the public interest. These reply comments reflect the institutional view of the Foundation, and unless obvious from the text, are not intended to reflect the views of individual Foundation officers, directors, or advisors.

**A. No Commenter’s Analysis Negates the Need for the Commission to Perform its Own Analysis of the Data**

Although a number of commenters have submitted their own summaries and/or analyses of the Commission’s ownership data in the initial round of comments, no commenter’s analysis excuses the Commission of its court-ordered obligation to perform its own analysis of the data to assess the effects of retaining, modifying or repealing its existing ownership limits on station ownership by minorities and women. As UCC *et al.* noted in our initial comments, in 2011 the Third Circuit warned the Commission:

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.*<sup>2</sup>

A number of other commenters also reiterate the Commission’s obligation to perform its own analysis of the data. The “mere issuance and cursory ‘consideration’ of these summary statistics alone is not the analysis that the Third Circuit demanded when it told the Commission to ‘consider the *effect* of its rules on minority and female ownership,’” states Free Press.<sup>3</sup> The National Association of Black Owned Broadcasters (“NABOB”) asserts that *Prometheus II* “makes clear that the Commission may not relax any of its rules until it ‘considers the effect of

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<sup>2</sup> UCC *et al.* Data Comments, MB Docket No. 09-182 at 7 (Dec. 26, 2012) (citing *Prometheus Radio Project v. FCC* (“*Prometheus II*”), 652 F.3d 431, 471 n. 42 (3d Cir. 2011) (emphasis added)) [hereinafter UCC *et al.* Data Comments].

<sup>3</sup> Free Press Data Comments, MB Docket No. 09-182 at 11 (Dec. 21, 2012)(citing *Prometheus II*, 652 F.3d at 471 (emphasis added)).

its rules on minority and female ownership.”<sup>4</sup> And the National Hispanic Media Coalition explains,

the Third Circuit laid out a clear five-step process by which the FCC was to proceed: 1) develop a “minority” ownership database; 2) ensure that database is accurate enough to be reliable for testing the impact of the rules on minority ownership; 3) conduct studies to evaluate the impact of the rules on minority ownership; 4) allow the public to review the studies; and 5) develop a workable SDB definition—*all in time for* completion of the Commission’s 2010 Quadrennial Review.<sup>5</sup>

The solicitation of comments on the Report—some of which offer additional summary or superficial analysis of the data—does not excuse the Commission of its still-outstanding duty to perform its own analysis of the data to determine what effect(s) its proposed rule changes will have on broadcast ownership by women and people of color.

**B. Nor Do the 2010 Media Ownership Studies Negate the Need for the Commission to Perform a Proper Analysis of the 323 Data**

Although the Commission commissioned eleven economic studies “to evaluate the current marketplace and the state of the media industry” in 2010, those studies have in no way diminished the Commission’s obligations under the Third Circuit mandate. The Commission invited comments on those studies in the NPRM it issued in December 2011,<sup>6</sup> but as we noted at that time, “the NPRM provide[d] no analysis of how adoption of its tentative conclusions would

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<sup>4</sup> National Association of Black Owned Broadcasters Data Comments, MB Docket No. 09-182 at 10 (Dec. 26, 2012) (citing *Prometheus II*, 652 F.3d at 471) [hereinafter NABOB Data Comments].

<sup>5</sup> National Hispanic Media Coalition Data Comments, MB Docket. No. 09-182 at 4 (Dec. 26, 2012)(emphasis in original).

<sup>6</sup> *2010 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*, Notice of Proposed Rulemaking, 26 FCC Rcd 17,489, 17,556 (2011).

affect ownership opportunities for women or minorities. Nor [did] any of the studies the Commission conducted or commissioned directly address these issues.”<sup>7</sup>

Indeed, not one of the 2010 Ownership Studies looked at the impact of one or more variables on ownership by women and/or people of color. For example, Media Ownership Study 8A, which attempted to determine whether or not there is any correlation between local media market ownership structure and one measure of diversity, did not consider minority and women ownership at all. Even if the study’s authors’ measure of “viewpoint diversity” were reliable—which is questionable at best<sup>8</sup>—the authors explicitly noted that they did not look at minority and female ownership diversity or any other type of “source diversity,” which according to them “is fairly straightforward to define and measure.”<sup>9</sup>

Not only has the Commission’s refusal to conduct or commission a single study examining the relationship between the ownership rules and ownership by women and people of color apparently defied the Third Circuit’s mandate, but it has also ignored comments from the public that urged the Commission to take up these important studies. After the Commission

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<sup>7</sup> UCC *et al.* Comments, MB Docket No. 09-182 at 24 (Mar. 5, 2012).

<sup>8</sup> The authors noted that their “primary limitation” was that they were unable to control for “news program attributes that all consumers like. . . . [such as] spending more money on special effects, presenters, set design, or wardrobe.” *Id.* at 12; *see* Ethan Kaplan, *Report on a New Local News Media Diversity Measure 4* (2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-308592A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-308592A1.pdf) (“[T]here might be concentrated viewership in a locality due to quality differentials across stations rather than diversity of views (diversity in quality may be strongly positively correlated with the authors’ measure of diversity).”)

<sup>9</sup> Adam D. Renhoff & Kenneth C. Wilbur, *Local Media Ownership and Viewpoint Diversity in Local Television News 3* (2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-308599A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-308599A1.pdf).

issued and announced Requests for Quotations for nine of the 2010 Ownership Studies, it sought suggestions for additional studies<sup>10</sup> and we commented at that time:

The effect of the current ownership rules on station ownership by minorities and women is clearly relevant to the 2010 Quadrennial Review. Yet, the Commission has not requested any studies to assess the impact of its rules on minority and female ownership. For example, a study or studies might examine: (1) has the relaxation of the TV duopoly rules affected the number of television stations owned by minorities and women? ; (2) has re-implementation of the failed station solicitation rule increased minority and female ownership? ; (3) has the relaxation of the radio rules (both generally and by counting noncommercial stations in the numerical limits) affected the number of stations owned or controlled by minorities and women? ; (4) has the FCC's decision to permit the transfer of grandfathered combinations in violation of the local ownership limits to certain eligible small businesses resulted in an increase in the number of broadcast stations owned by women or minorities?<sup>11</sup>

But to our knowledge, the Commission never commissioned or itself completed a single one of these suggested studies.

Of course, it may well have been impossible before now for the Commission to conduct these suggested studies. That is because the November 2012 *Report on Ownership of Commercial Broadcast Stations* “provides, for the first time ever, detailed information by race, ethnicity, and gender about ownership of commercial television and radio stations.”<sup>12</sup> Now that the Commission has this detailed information “for the first time ever,” it must use that data to conduct the necessary studies before changing any of the broadcast ownership rules.

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<sup>10</sup> *Media Bureau Announces the Release of Requests for Quotation for Media Ownership Studies and Seeks Suggestions for Additional Studies in Media Ownership Proceeding*, 25 FCC Rcd 7514 (2010).

<sup>11</sup> UCC *et al.* Comments, MB Docket No. 09-182 at 2 (July 7, 2010).

<sup>12</sup> Bill Lake, *Media Ownership: Going the Extra Mile for Transparency* (Dec. 3, 2012), <http://www.fcc.gov/blog/media-ownership-going-extra-mile-transparency> (emphasis added).

## **II. Commenters' Proposals for Congressional Action Underline the Need for Data to Justify Race- and Gender-Conscious Policies**

Some commenters opine that Congress should reenact tax deferral legislation designed to foster diverse ownership.<sup>13</sup> UCC *et al.* agree wholeheartedly. But these comments fail to recognize that Congress is no more free than is the FCC to adopt race- and gender-conscious policies without proper factual analysis. Race- and gender-conscious Congressional action requires factual analysis to withstand strict scrutiny analysis by the courts. Thus, these comments underline the need for data analysis to justify race- and gender-conscious policies.

Congress will require a record to support these legislative proposals, and, as the expert agency in this area, presumably it is the FCC that must take the lead in developing the necessary data. Support for race-conscious legislative proposals, such as revival of the minority tax certificate, are empty words without support for the data and analysis necessary to justify them. If parties before the FCC and the FCC are truly supportive of the minority tax certificate, they must also support a record that will justify Congressional action against court challenge.

### **A. Courts Require All Race-Conscious Efforts to Have a “Strong Basis in Evidence”**

As we all know, in order to adopt a race-conscious policy, the federal government must identify a compelling government interest.<sup>14</sup> In addition to identifying a compelling government

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<sup>13</sup> Bahakel Communications Data Comments, MB Docket No. 09-182 at 1 (Dec. 26, 2012); Media General Data Comments, MB Docket No. 09-182 at 2 (Dec. 26, 2012); National Association of Broadcasters Data Comments, MB Docket No. 09-182 at 8 (Dec. 20, 2012) [hereinafter NAB Data Comments]; Newspaper Association of America Data Comments, MB Docket No. 09-182 at 10 (Dec. 26, 2012) [hereinafter NAA Data Comments]; Diversity and Competition Supporters Data Comments, MB Docket No. 09-182 at 11–12 (Dec. 26, 2012).

<sup>14</sup> *Grutter v. Bollinger*, 539 U.S. 306 (2003).

interest, the government must demonstrate “a strong basis in evidence” supporting its conclusion that race-based remedial action was necessary to further that interest.<sup>15</sup>

If Congress is the governmental entity adopting a race-conscious policy, then Congress must consider a record. In *Rothe VII*, the Court of Appeals for the Federal Circuit specifically considered in detail the evidence before Congress for its sufficiency in its review of the constitutionality of a Department of Defense SDB program.<sup>16</sup> In reviewing the act of Congress, the court explained that “the government first bears a burden to produce strong evidence supporting the legislature's decision to employ race-conscious action.”<sup>17</sup> It further noted the court has an independent obligation to “review the government’s evidentiary support to determine whether the legislative body had a ‘strong basis in evidence’ to believe that remedial action based on race was necessary.”<sup>18</sup> The Federal Circuit found that Congress required non-stale, probative evidence to meet the standard and undertook a detailed review of its sufficiency.<sup>19</sup>

In another example, in *Adarand VII*, the Tenth Circuit interpreted *Croson* to mean that while “[t]here can be no doubt that Congress repeatedly has considered the issue of discrimination in government construction procurement contracts, finding that racial discrimination and its continuing effects have distorted the market for public contracts,” it emphasized that “statements made with regard to discrimination in the subcontracting industry by congressional reports and by members of Congress *are insufficient in themselves* to support a

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<sup>15</sup> *Rothe Development Corp. v. Department of Defense (Rothe VII)*, 545 F.3d 1023, 1035–36 (Fed. Cir. 2008).

<sup>16</sup> The court applied strict scrutiny because the DOD program presumed “members of certain minority groups are ‘socially disadvantaged’ for purposes of obtaining SDB status.” *Id.* at 1035.

<sup>17</sup> *Id.* at 1035.

<sup>18</sup> *Id.* (citing *Wygant v. Jackson Board of Education*, 476 U.S. 267, 278 (1986)).

<sup>19</sup> *Id.* at 1036–49.

finding of compelling interest.”<sup>20</sup> The Tenth Circuit went on to review “numerous congressional investigations and hearings as well as outside studies of statistical and anecdotal evidence.”<sup>21</sup> Many of these studies were produced by the agencies involved—in that case state departments of transportation.<sup>22</sup> Similar conclusions have been drawn in the Ninth Circuit and the Eighth Circuit with regard to state implementation of the federal DOT DBE program.<sup>23</sup>

In short, for Congress to re-adopt the minority tax certificate program, Congress must consider current and sufficient data to support it. Thus, commenters’ support for the Congressionally-adopted minority tax certificate program provides further support for the Federal Communications Commission to proceed quickly with studies that will provide the type of data and evidence needed to justify preferential tax treatment using race-conscious standards.

**B. The FCC Should Consult with Other Federal Agencies that Have Developed Records Supporting Race- and Gender-Conscious Action**

UCC *et al.* support The Leadership Conference on Civil and Human Rights’ request for the Commission to conduct its pending studies in a public manner.<sup>24</sup> Not only should the Commission be sure to conduct these studies in the most public manner possible to improve the quality of those studies, but it should seek aid from other expert agencies. Other federal departments, particularly since the advent of the Obama Administration, have made significant

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<sup>20</sup> *Adarand Constructors v. Slater (Adarand VII)*, 228 F. 3d 1147, 1167 (10th Cir. 2000) (emphasis added) (citing *Richmond v. J.A. Croson Co.*, 488 U.S. 469, 500 (“[W]hen a legislative body chooses to employ a suspect classification, it cannot rest upon a generalized assertion as to the classification's relevance to its goals.”)).

<sup>21</sup> *Id.* at 1168–69.

<sup>22</sup> *Id.* at 1172–73 (noting 39 local disparity studies); *see also generally id.* at 1169–73.

<sup>23</sup> *Western States Paving v. Washington DOT*, 407 F.3d 983,991 (9th Cir. 2005) (“we must evaluate the evidence Congress considered”); *Sherbrooke Turf v. Minnesota DOT*, 345 F.3d 964, 970 (8th Cir. 2003) (“We agree we must take a hard look at the evidence” considered by Congress and distinguishing the local evidence needed for a state agency to survive an as-applied challenge from the evidence needed to support a Congressional finding).

<sup>24</sup> The Leadership Conference on Civil and Human Rights Data Comments, MB Docket No. 09-182 at 4 (Dec. 26, 2012).

strides in improving the data available and analysis necessary to ensure that discrimination is less prevalent in our society. These efforts would be extremely instructive for the FCC. We urge the Commission to seek out expertise from other agencies that could share their lessons with regard to data collection and race and gender sensitive policies.

For example, the Department of Education recently revamped its data collection efforts, making available for the first time data in relation to race that had not been available before.<sup>25</sup> This data is self-reported from 72,000 school districts nationwide and is available on a public website for research at <http://ocrdata.ed.gov>. In another example, the Transportation Research Board of the National Academies and the National Cooperative Highway Research Program developed a report to aid state departments of transportation in how they can collect data to support their own DBE programs.<sup>26</sup> This report offers clear guidance about the current state of the law with respect to state DBE programs, and a detailed listing of consultants with expertise in disparity studies that have withstood review under strict scrutiny.<sup>27</sup> It also offers guidance about how to develop a study that would be sufficient in light of the current law. Other agencies, including the U.S. Commission on Civil Rights, the Civil Rights Division of the Department of Justice, the Small Business Administration, and others would be valuable resources for the Commission to consult to ensure that any studies the Commission undertakes are of sufficient quality to withstand strict scrutiny.

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<sup>25</sup> Department of Education, Office for Civil Rights, the Transformed Civil Rights Data Collection (CRDC) *available at* <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>.

<sup>26</sup> Jon Wainwright and Colette Holt, *Guidelines for Conducting a Disparity and Availability Study for the Federal DBE Program*, NCHRP Report No. 644 (2009) *available at* [http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp\\_rpt\\_644.pdf](http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_644.pdf).

<sup>27</sup> *See., e.g., id.* at 17 Table 2, 35 Table 5.

**C. Commenters' Suggestions for Congress Do Not Change the Commission's Obligation to Address Women's and Minority Ownership Through the Ownership Rules**

In any event, commenters' suggestions for Congress are neither here nor there with respect to the Commission's existing obligations to address ownership opportunities for women and people of color using its existing power to retain or amend the broadcast ownership rules. Although the Commission may support potential race- and gender-conscious legislation by conducting the necessary studies, ultimately it is up to Congress to make the legislation happen. And regardless of whether or not Congress responds to commenters' recommendations on this point, the Commission is still required to examine the relationship between the ownership rules and women and minority ownership before making any changes to the rules.

**III. The Apparently Positive Developments in Minority/Women's Ownership that the National Association of Broadcasters Observes Are Not Reliable**

The National Association of Broadcasters ("NAB") comments that "the Report reflects some positive developments concerning the number of attributable interest holders and single majority shareholders that are minorities and women." UCC *et al.* disagree with this conclusion based on the available data. As we observed in our initial comments, the large number of missing or incomplete 323 filings in both 2009 and 2011 render any direct comparison of the 2009 to 2011 data unreliable. By our reading of the data (and the Commission's own disclaimer on this point), "whatever modest increases in women/minority ownership the data might suggest, it may be that these 'increases' stem from incomplete data rather than real change."<sup>28</sup> Thus, for example, NAB asserts that "Hispanics held a majority of the voting shares in 30 full power television stations in 2009 and 39 stations in 2011—a 30% increase,"<sup>29</sup> but in fact the

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<sup>28</sup> UCC *et al.* Data Comments at 12.

<sup>29</sup> NAB Data Comments at 2.

Commission lacked complete data on 204 full power TV stations in 2009 and 39 in 2011. This represents a difference of 165 stations between the two years—easily enough to swallow the apparent 9-station increase in Hispanic ownership 18 times over. By the Commission’s own admission,

While this section and the tables provide a basis for trend analysis over the biennial reporting periods from 2009 to 2011, several factors counsel caution in such analysis. . . . Changes in gender, ethnicity, and race of the owners of stations between 2009 and 2011 listed in subsection A(1) could therefore be somewhat misleading because of the missing 2009 data. Additional data points will be provided by future biennial filings, and trend analysis should become increasingly reliable.<sup>30</sup>

The rest of NAB’s observed “increases” from 2009 to 2011 are similarly flawed. There is simply too much data missing to allow for any reliable trend analysis at this time.

#### **IV. The Newspaper Association of America’s Assertion that Only Two Minority-Owned Full Power Television Stations Would Be Potential Targets for Cross-Ownership Under the Commission’s Proposal Is Flawed**

The Newspaper Association of America (“NAA”) comments that “relaxation of the cross-ownership rule simply would not lead to a reduction in minority broadcast ownership” because only two minority-owned full power television stations “would even be potential targets for cross-ownership under the FCC’s proposal.”<sup>31</sup> At the outset, it is impossible to evaluate this assertion because NAA provides no record of the analysis it supposedly performed to arrive at this conclusion—there is no account of its breakdown of the data, and it does not even identify the two minority-owned stations that it believes are the only potential targets for cross-ownership

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<sup>30</sup> 2010 *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*, Report on Ownership of Commercial Broadcast Stations, 27 FCC Rcd 13,814, 13,818 n. 10 (2012).

<sup>31</sup> NAA Data Comments at 4.

under the Commission’s proposal.<sup>32</sup> In addition, the foundation of NAA’s assertion—that no daily newspaper could possibly be interested in acquiring any station that does not already broadcast news in English—is an enormous assumption for which NAA offers no support.

NAA assumes too much. First, those who acquire broadcast properties can—and do—change the format of an acquired station’s content. Moreover, Spanish-language properties can be very profitable even for companies that engage primarily in English-language content. For example, News Corporation recently entered the Latino TV market with “MundoFox,” the newest Spanish-language network in the United States.<sup>33</sup> In addition, the must-carry rights that accompany a full power television station provide plenty of economic incentive for many owners of daily newspapers to purchase stations. A large conglomerate may already own and produce plenty of content to easily fill the schedule of any new property it acquires, and thus the advantage to such a company of acquiring a full power television station in a market where it does not already own one would be the attainment of must-carry rights for its programming with cable providers in the area, and therefore access to a greater audience for its advertising. Indeed, must-carry rights easily explain why the owner of a newspaper (which presumably already has a newsroom) might be considerably more interested in acquiring a television station—even one with no newsroom—than in acquiring a “clothing store, auto dealer, or restaurant.”<sup>34</sup>

Finally, even if minority-owned full power television stations are not the subjects of cross-ownership acquisition under the Commission’s proposal, competition from media giants in an increasingly consolidated marketplace will nevertheless present a rising threat to the viability

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<sup>32</sup> *See id.*

<sup>33</sup> Tanzina Vega, *MundoFox to Enter the Latino TV Market*, *N.Y. Times* (Aug. 12, 2012), available at <http://www.nytimes.com/2012/08/13/business/media/mundofox-new-spanish-language-network-to-make-debut.html>.

<sup>34</sup> *Contra* NAA Data Comments at 4 (conjecturing, “A broadcaster that lacks a newsroom is likely no more attractive to a newspaper than a clothing store, auto dealer, or restaurant.”).

of those stations. As NABOB details in their comments, broadcasters owned by African Americans often control only one or two stations, which means it is harder for them to compete against large conglomerates.<sup>35</sup> For this reason, even if none of the broadcast stations were going to be acquired by newspapers, they would find it harder to compete in a marketplace that is more consolidated.<sup>36</sup>

### **Conclusion**

Nothing the Commission has done nor anything any commenter has said excuses the Commission from its outstanding obligations under the Third Circuit mandate. We once again urge the FCC to use its newly released data to examine the relationship between the ownership rules and women/minority ownership and to conduct the studies necessary to adopt policies that will increase station ownership by women and people of color. These things must be done before the Commission relaxes any of the existing rules.

Respectfully submitted,

/s/

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<sup>35</sup> NABOB Data Comments at 11.

<sup>36</sup> *See id.* at 10–11 (describing increased difficulty of competing against combined advertising sales force of newspaper and broadcast outlets).