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December 20, 2012

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The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Dear Chairman Genachowski,

I write to express my concerns with reports that the Commission intends to revive some form of the same lax media cross ownership rules that the Third Circuit Court invalidated in July 2011. In striking the Commission's rule, and effectively reinstating the current ban on newspaper-broadcast cross ownership, the Court ordered the agency to clarify how its proposed rule changes would impact media diversity and promote ownership opportunities for women and minorities. Since the Commission apparently has yet to conduct such a study, any effort to relax media ownership rules now would be in direct violation of the court's order. I therefore urge the Commission to complete its long overdue diversity analyses before proceeding with any proposed changes to the current ban on newspaper-broadcast cross ownership.

Section 257 of the Communications Act requires the FCC to submit triennial reports identifying and eliminating market entry barriers for entrepreneurs and other small businesses, including minority and women-owned businesses. Moreover, in previous FCC proceedings and the current ownership review, the Commission has affirmed the importance of diversity in national communications policy because the "widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." Unfortunately, the Commission's lax media ownership rules and deregulatory policies have resulted in just the opposite: a heavily-consolidated industry with scarce ownership opportunities for women and minorities.

Today, only five companies own the major broadcast networks; 90 percent of the top 50 cable networks produce three-quarters of all prime time programming, and control 70 percent of the prime time television market share. As these conglomerates have consumed large portions of the market, the opportunities for minority ownership have decreased. Since 1999, minority television ownership has decreased by 50 percent. In 2007, despite comprising 34 percent of the population, minorities owned just 3.2 percent of the U.S. television stations and 7 percent of the nation's full power radio stations. Minority radio ownership has declined by 9% just within the

last three years. Minority wireless and cable system ownership levels are near zero. Finally, minority radio journalism employment has plummeted to less than 1%, a level not seen since 1950.

In *Prometheus*, the Third Circuit Court of Appeals excoriated the FCC's failure to enhance media diversity, concluding 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." In the end, the Third Circuit noted its expectation that the Commission would finalize this work "in time for the completion of the 2010 Quadrennial Review."

The court also noted Supreme Court statements recognizing that "the conclusion that there is a nexus between minority ownership and broadcasting diversity...is corroborated by a host of empirical evidence" and that "both Congress and the Commission have concluded that the minority ownership programs are critical means of promoting broadcast diversity."

The Commission's own recently-released ownership report provides some long-absent data, but the data falls short of satisfying the detailed analysis the Third Circuit ordered the Commission to conduct. According to troubling reports about the draft order on circulation at present, the Commission has not adequately addressed the likely impact of any proposed rule changes on diversity, as the Third Circuit has repeatedly required. I am concerned that the already low levels of ownership will be diminished even further by the proposed rule changes.

Lastly, claims that the Internet has lessened the need for polices that promote media diversity have been grossly exaggerated and disproven by the Commission's own studies. The FCC's report, *Less of the Same: The Lack of Local News on the Internet* (FCC Media Ownership Study #6) (June 2011), found: "almost no evidence that the Internet has expanded the number of local news outlets. Most television markets have fewer than a dozen local news Websites. Those sites that do receive an audience are overwhelmingly newspaper and local television station Websites, rather than new and independent sources of local news. . . . Online local news markets resemble downsized versions of traditional media news markets, with the same news stories produced by the same newspapers and television stations."

For all of these reasons, I respectfully request that the Commission not proceed with its proposed rule changes at this time, and that it conducts the court-ordered analysis on its recently released data before it acts on its media ownership rules.

Sincerely

A handwritten signature in cursive script, appearing to read "Maxine Waters".

Maxine Waters
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION

March 8, 2013

JULIUS GENACHOWSKI
CHAIRMAN

The Honorable Maxine Waters
U.S. House of Representatives
2344 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Waters:

Thank you for your recent letter on the pending broadcast ownership quadrennial review. I appreciate hearing your views about these important issues before the Commission. As the Commission conducts its review, promoting diversity of ownership is one of a small number of particularly critical goals, along with guarding against excessive media consolidation, enabling robust local news for all communities, and fostering economic growth and opportunity.

The growth of the Internet is changing the media landscape, including the economics of local newspapers and broadcasters. At the same time, while broadband adoption is increasing, tens of millions of Americans do not yet have ready access to news and other content available on the Internet, and changes in ownership rules may have different effects on those with or without Internet access.

With this in mind, earlier in the Commission's review of its broadcast ownership rules, I circulated a draft order for my colleagues' consideration that would primarily preserve existing ownership rules while proposing steps to promote media diversity and modest reforms that could help strengthen local journalism. I proposed to (1) keep the bulk of existing broadcast ownership rules in place, including the rules limiting the number of TV and radio stations that can be co-owned in any market, and the rules prohibiting ownership of more than one major broadcast network; (2) provide various diversity-promoting broadcast opportunities for small businesses and proceed with studies to determine whether additional measures can be taken in the next quadrennial review to promote minority ownership; (3) retain the rule prohibiting TV-newspaper combinations, while providing greater transparency and predictability on waivers, in a way that would strengthen the bar against major TV station-newspaper combinations, and reduce the bar to smaller TV station-newspaper combinations in the top 20 markets; and (4) remove the bar on cross-ownership of radio stations and newspapers. Circulation of the proposed order has led to healthy discussions among Commissioners and stakeholders about the substance of the issues and the state of the record before the agency.

As you may know, the Minority Media and Telecommunications Council recently informed the Commission that it will conduct a focused, independent study on the effects of cross-ownership rules on minority ownership and newsgathering, in order to enhance the record in the Commission's proceeding. The study is expected to take several weeks and will be filed

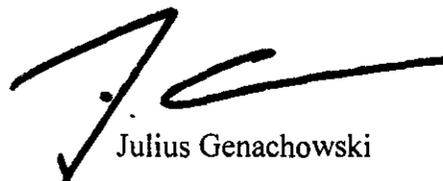
with the Commission, after which MMTC suggests that the agency solicit public input, to be followed by a Commission vote. In this heavily-litigated area where a strong record is particularly important, I believe this is a sensible approach to moving forward. The study addresses an issue of importance, will augment the record, and will assist the Commission in resolving the issues before it on the full record.

In addition to the ongoing review of our broadcast ownership rules, our work to promote diversity continues in other areas. For example, our Office of Communications Business Opportunities (OCBO) has been reviewing the state of communications and media ecologies as part of the Section 257 Report to Congress process. Additionally, the Commission is conducting studies to analyze the critical information needs of the American public and the barriers to participation in the communications industry that might limit the extent to which those needs are met.

Further efforts to promote diversity include our work to enable the largest-ever expansion of community radio, when, in December of last year, the Commission created opportunities for non-profit organizations and minority groups to launch thousands of new low-power FM radio stations. The Commission also recently released an ownership report that provides, for the first time, detailed information by race, ethnicity, and gender concerning ownership of commercial television and radio stations. In our review of the Comcast-NBCU transaction, the Commission worked closely with the parties to develop initiatives, including major ones on broadband adoption and independent programming, to ensure that the transaction improved diversity in the media marketplace. And we adopted rules to preserve an open Internet for all, and to push for greater broadband adoption by low-income groups and minorities.

I remain committed to developing policies that help support and promote a diversity of ownership and viewpoints in our media, which are essential to a well-functioning democracy, and I appreciate the Caucus's continued attention to these important issues.

Sincerely,



Julius Genachowski