

Minority Media and Telecommunications Council

3636 16th Street N.W., Suite B-366
Washington, D.C. 20010
Phone: 202-332-0500 Fax: 202-332-7511
www.mmtconline.org

September 30, 2013

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: MB Docket No. 09-182; MB Docket No. 07-294
Response to Free Press' September 25, 2013 Ex Parte Letter

Dear Ms. Dortch:

This letter responds to a recent letter filed by Free Press in the above-captioned proceedings¹ concerning the BIA/Kelsey study ("Study") that MMTC sponsored and submitted to the Commission.² In the letter, Free Press offers repetitious criticisms regarding the Study.³ In the interest of closing the record concerning this matter, we respond briefly to a few of Free Press' allegations below. Others we shall not dignify further.

- **“MMTC also took issue with Free Press pointing out that MMTC erroneously identified certain stations as female- and/or minority-owned. In response to this discovery, MMTC dismissed its error and pinned the blame on the Commission’s databases ...The reality remains that MMTC indeed did mistakenly identify certain stations as female and/or minority owned ...”**⁴ However, the FCC uses its own

¹ See Free Press Ex Parte Letter, MB Docket 09-182, MB Docket 07-294 (Sept. 23, 2013), available at <http://apps.fcc.gov/ecfs/document/view?id=7520945135> (last visited Sept. 25, 2013) (“Free Press Ex Parte Letter”).

² See Mark Fratrick, Ph.D., The Impact of Cross Media Ownership On Minority/Women Owned Broadcast Stations, BIA-Kelsey (May 30, 2013), available at <http://apps.fcc.gov/ecfs/document/view?id=7022419396> (last visited Aug. 18, 2013) (“Study”). The Study concludes that its results, “while not dispositive, do provide evidence that the impact of cross-media ownership on minority and women broadcast ownership is probably negligible.”

³ We have addressed several of Free Press' criticisms of our Study in an August 20, 2013 letter filed in the above captioned proceedings. See MMTC Ex Parte Letter, MB Docket 09-182, MB Docket 07-294 (Aug. 20, 2013), available at <http://apps.fcc.gov/ecfs/document/view?id=7520939155> (last visited Sept. 25, 2013) (“MMTC Ex Parte Letter”).

⁴ See Free Press Ex Parte Letter at p. 2.

database as well. Free Press does not demonstrate that the results of the Study would have been materially different if a different database had been used.

- **“Not only did MMTC fail to disclose its relationships with certain owners it contacted, MMTC refused to disclose any information about who responded, further compounding the problem.”**⁵ Free Press is inventing an issue where none exists. MMTC’s identity was not known to Study respondents, nor were the respondents’ identities known to MMTC. No conflict of interest for “double blind” research exists by virtue of a nonprofit sponsor’s ownership of or relationships with broadcast stations. Were that not the case, every university that places students in internships with commercial stations, or that owns a station, would be accused of an inherent conflict when it sponsors faculty research. Furthermore, MMTC promised full confidentiality to the Study participants – a decision Free Press does not challenge. We were permitted by the Commission, under a protective order, to only provide information about those contacted to participate in the Study. Providing any additional information could reveal the identities of Study subjects.
- **“MMTC has also misguidedly called our characterization of the peer review process “pure hyperbole” and “unsubstantiated by the record.” If our account of the peer review process was unsubstantiated by the record, that is only because the record did not contain any formal peer reviews.”**⁶ Although the Study employed a peer review process, formal or informal peer reviews were not required for such a study. Even if the Study had not been peer reviewed at all, the Study would still be a useful piece of evidence that could aid the Commission in its evaluation of whether common ownership has a disparate impact on minority and/or women owned broadcast stations. All of the peer reviewers ultimately concluded that while not dispositive, the study has value as a piece of evidence. That is all MMTC has ever asserted.

Furthermore, while Free Press contends there is “a glaring inconsistency in the story told by MMTC’s outside experts”⁷ who submitted a declaration in this proceeding maintaining that a modest relaxation of the newspaper-broadcast station cross-ownership rule would not significantly influence the value of broadcast stations in most instances,⁸ Free Press has not, and

⁵ p. 3.

⁶ Id.

⁷ See id. at p. 4. Free Press states that “in response to MMTC’s recent submission concerning station valuation, we note a glaring inconsistency in the story told by MMTC’s outside experts. They make the broad claim that, in their experience, cross-ownership does not impact the valuation of stations in a market. They then note that certain forms of cross-ownership, such as the radio-TV-newspaper combination generically described in the MMTC study, do in fact impact the valuation of the stations in such a market.”

⁸ See Statement of Broadcast Station Valuation Experts, MB Docket 09-182, MB Docket 07-294 (Aug. 28, 2013), available at <http://apps.fcc.gov/ecfs/document/view?id=7520940280> (last visited Sept. 25, 2013). The experts’ statement concerned relaxing the newspaper-broadcast

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cannot, attack the credentials of these experts. The fact remains that the results of the Study are consistent with their collective 50 years of experience in broadcast station valuations.

Respectfully submitted,

David Honig

David Honig
President

station cross-ownership rule as proposed by former Chairman Genachowski. That proposal only concerned the largest 20 markets. See, e.g. Statement From FCC Chairman Julius Genachowski On The Status of Media Ownership Proceeding, 2013 FCC LEXIS 648 (rel. Feb. 26, 2013) (Genachowski states: “earlier in the Commission's quadrennial 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 ...”)