Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Emergency Alert System	)	EB Docket No. 04-296
	)	
Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief	)	

To the Commission

COMMENTS OF THE MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL

David Honig, Esq.
President
Nicol Turner-Lee, Ph.D.
Vice President and
Chief Research & Policy Officer
Jacqueline Clary, Esq.
Senior Counsel
Joycelyn James, Esq.
Senior Counsel
Minority Media and Telecommunications Council
3636 16th Street NW, Suite B-366
Washington, D.C. 20010
(202) 332-0500
david@davidhonig.org

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Table of Contents

Summary

August 29 marks the nine-year anniversary of Hurricane Katrina, a Category 4 storm that devastated the Gulf Coast and affected thousands of English and non-English speaking residents. Despite the Petition for Immediate Relief, Independent Panel recommendations and Federal Emergency Management Agency (FEMA) support, the Commission has made no significant progress to ensure that non-English speaking residents will have access to lifesaving information before, during, and in the wake of an emergency. The Minority Media and Telecommunications Council (MMTC) respectfully requests that the Commission act to correct this oversight before the upcoming anniversary of this devastating natural disaster.

Broadcasters should be required to work with local government and other stations to develop a plan that communicates each party's responsibilities in reasonably anticipated emergency circumstances to help ensure that non-English speaking populations receive timely access to both emergency alert system (EAS) alerts and non-EAS emergency information. The designated hitter model fits well within the system that the Commission relies upon to fulfill its role in national public safety. While technology is evolving, human coordination and planning such as examining the community to determine the characteristics, the languages, and the technological sophistication of the market – will continue to be necessary as the government identifies potential solutions. Further, until translation technologies are capable of capturing the nuances of language through which critical information is transmitted and received, it is essential that a real person convey lifesaving information in a variety of languages.

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The Minority Media and Telecommunications Council (MMTC) respectfully requests that the Commission act – prior to the ninth anniversary of Hurricane Katrina – upon the petitions and recommendations[1] to institute multilingual emergency communications plans to ensure all residents regardless of the language they speak have access to life-saving information before, during and after, an emergency.

[1] *See* Petition for Immediate Relief, Independent Spanish Broadcasters Association *et al.*, EB Docket No. 04-296 (Sep. 20, 2005) ("Petition for Immediate Relief"); Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, Report and recommendations to the Federal Communications Commission (June 12, 2006), p. i-ii ("Independent Panel Recommendations"); and Comments on Behalf of Federal Emergency Management Agency integrated Public Alert and Warning System Program Management Officer, EB Docket No. 04-296 (Mar. 31, 2014) ("FEMA Comments").

Access to emergency information "at the speed of life" is a necessary public service of the communications industry.[2]

Much of the emergency communications debate centers around location and technology. However, at its core it is about saving lives. FEMA, which supports the goal of multilingual alerts,[3] aptly states the importance of access to alerts, "Get Alerts, Stay Alive."[4] Americans continue to rely on radio and television for emergency information.[5] The Commission has recognized that even with Internet-based applications and alerting technology, broadcast-based emergency communications has an ongoing and essential function in disseminating information.[6]

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[2]The Federal Emergency Management Agency (FEMA) markets their Integrated Public Alert Warning System (IPAWS) as "Emergency Alerts at the Speed of Life." *See* FEMA website, available at http://www.fema.gov/integrated-public-alert-warning-system (last visited May 27, 2014).

[3]*See* FEMA Comments. "FEMA supports the work of MMTC to extend alerting to the non-English speaking population. The US IPAWS Common Alerting Protocol Profile specifically includes specified means and methods to propagate alert information received with multiple language versions to privately held broadcast, cable and commercial mobile service providers for delivery to members of the public using their systems. Alerting Authorities (AA) may originate alert messages in the language that they prefer for consumption by the public or other public warning dissemination and distribution methods. However, AAs should understand that some EAS encoder/decoder products may have limitations in Text-to-Speech conversions to languages other than English and compose messages intended for Text-to-Speech accordingly. During the course of conveying alert and warning messages FEMA does not alter, edit or translate the contents of any messages. In fact messages are digitally signed by authorized originators to ensure that no changes occur." *Id.*

[4]*See id.*

[5]Steven Waldman *et al*., The Information Needs of Communities: The Changing Media Landscape in a Broadband Age, p. 213 (June 2011) (citing American Red Cross, Social Media in Disasters and Emergencies, p. 5 (2010)).

[6]In justifying a transitional approach to CAP based alerting systems, the Commission noted, "The transitional approach also makes sense because the many benefits of maintaining the legacy EAS previously outlined by the Commission in the *Second Report and Order* continue to be relevant today. For example, in emergencies that result in outages of power, cellular telephone service, or Internet connectivity, IP based services like CAP-based alerting systems may not be available, and the broadcast-based legacy EAS may be the only reliable means of disseminating emergency alerts to the public, because messages can be received on batter powered radios and televisions." *Review of the Emergency Alert System et al., Fifth Report and Order*, 27 FCC Rcd 642, 654 ¶27 (2012) ("*Fifth R&O*").

Moreover, as broadcasters tout emergency communications as a necessary justification of their continued use of spectrum, they should be required to – at minimum – institute a plan to serve predominant languages in their market.[7]

A. Plan for Action

At its core, MMTC's most recent request – requiring broadcasters to work together with state and market counterparts to develop a multilingual plan that communicates each party's responsibilities in reasonably anticipated emergency circumstances – is a simple request that would help to ensure that non-English speaking populations receive timely access to both EAS alerts and non-EAS emergency information.[8] While MMTC's proposals include EAS alerts, the primary goal of the proposal is to ensure broadcasters, in their capacity as public trustees, distribute emergency information before, during, and after an emergency in the languages understood by the communities they serve.

Multilingual emergency communications scholar, Dr. Federico Subervi,[9] studied multilingual emergency communications in Central Texas and found that multilingual emergency

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[7] *See* Members of Congress Recognize Broadcasters' Critical Role as First Informers, NAB News Release (June 1, 2012), available at http://www.nab.org/documents/newsRoom/pressRelease.asp?id=2748 (last visited May 28, 2014) (President and CEO of the National Association of Broadcasters, Gordon Smith, remarked, "With the start of hurricane season upon us, we thank these Members of Congress for recognizing the critical role that stations play in keeping citizens safe and informed. Indeed, no technology can replicate broadcasting's reliability in reaching mass audiences and providing a lifeline support in emergency and disaster situations.")

[8] *See Comment Request to Refresh the Record in EB Docket No. 04-296, on Petition Filed by the Minority Media and Telecommunications Council Proposing Changes to Emergency Alert System (EAS) Rules to Support Multilingual EAS and Emergency Information, Public Notice,* EB Docket No. 04-296 (rel. Mar. 11, 2014), p. 5 ("*Public Notice*").

[9] Dr. Federico Subervi is currently a Full Professor at the School of Journalism and Mass Communication at Kent State University, Ohio, where he is also Provost Faculty Associate for Diversity, Equity & Inclusion. Previously, Dr. Subervi served as Full Professor and Director of the Center for the Study of Latino Media & Markets at Texas State University-San Marcos. Since the early 1980s, he has conducted research, published and been teaching at United States

communications are, as he describes, the 'Achilles heel' of emergency communications.[10] The Multilingual EAS Study found that the Achilles heel was "the outcome of the modus operandi of each of the entities that work oftentimes too independently of each other and not in the coordinated and collaborative manners that are indispensible for overcoming the current shortcomings to assure the maximum possible safety and well being that all residents of every community deserve, regardless of the language they speak."[11] Further, the Multilingual EAS Study explained that "[r]esearch findings based on case studies from actual crisis situations time and again point to the problems that have been caused by the gaps in the communication flows between government officials, community organizations, and the ethnic-oriented media."[12]

B. Scope of Multilingual Emergency Communications Plans

To ensure that the public has lifesaving information during and in the wake of an emergency, at minimum broadcasters in a market with a significant[13] non-English speaking population

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and international universities on issues related to the media and ethnic minorities, especially Latinos in this country. His book *The Mass Media and Latino Politics: Studies of Media Content, Communication and Survey Research, 1984-2004* (NY: Routledge, 2008) was the first and remains the only such publication dedicated to this topic.

[10]*See* Federico Subervi, Ph.D., An Achilles Heel in Emergency Communications: The Deplorable Policies and Practices Pertaining to Non English Speaking Populations (on file with MMTC) (Dec. 2010) ("Multilingual EAS Study").

[11]*See id*. at 5. *See also* Independent Panel Recommendations at p. i-ii ("… informal sharing of fuel and equipment among communications industry participants helped to maximize the assets available and bolster the recovery effort. However, additional coordination of personnel and assets within industry and among government agencies could have substantially facilitated restoration of communications networks…. Ensuring emergency communications reach Americans with hearing or visual disabilities or who did not speak English was a major challenge. Although the broadcast industry has taken significant steps to provide on-screen sign language interpreters, closed captioning, and critical information in a second language, these steps were reported to be insufficient in certain instances.").

[12]*See* Multilingual EAS Study at 6.

[13]MMTC originally proposed that languages would consist of those which are spoken by 5% of the market's population or 50,000 people in the market, whichever is less. *See infra* at n.17. On further reflection, we are persuaded that the Commission should borrow from federal bilingual

should be required to coordinate with state, local, and federal emergency management counterparts to evaluate the available multilingual emergency communications resources and institute a plan of action for reasonably foreseeable emergencies. Broadcasters and emergency management officials should be able to determine if a significant population of non-English speakers resides in the communities they serve. Broadcasters are assumed to be familiar with the communities they serve and thus ought to know how this model could work.[14] Further, as a practical matter, broadcasters and their sales departments understand the composition of their market as a means to compete.

The need for multilingual emergency communications has been recognized in other public safety contexts. For example, 911 services are finding ways for their monolingual operators to connect with interpreters to ensure that community members in distress can get the help they need.[15] Some broadcast markets have no non-English stations dedicated to serving that particular population or one or a few non-English serving stations. Those with a significant population should evaluate the limitations (*e.g.* if nighttime listeners are able to access the non-

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election requirements to determine that a significant multilingual population exists when, based on Census data, more than 5% or 10,000 of voting aged citizens "are members of a single language minority and are limited-English proficient…" *See* 42 U.S.C. §1973aa-1a (b)(2)(A) (1975). If this standard defines the minimum number of citizens entitled to multilingual services for voting, no smaller number should be entitled to multilingual services for lifesaving.

[14]*See e.g. Deregulation of Radio*, 84 FCC 2d 968, 998 ¶68-69 (1981) (When eliminating formal broadcast ascertainment requirements, the Commission authorized licensees to "utilize their good faith discretion in determining the type of programming that they will offer and the issues to which they will be responsive.")

[15]*See* AP, Community Installing Multilingual 911 System, The Seattle Times (Apr. 25, 1993). *See also* Susan Shah *et al.*, Overcoming Language Barriers: Solutions for Law Enforcement, Vera Institute of Justice (2007), available at http://www.lep.gov/resources/vera_translating_justice_final.pdf (last visited May 7, 2014); Susan Shah *et al.*, Engaging Policy in Immigrant Communities: Promising Practices from the Field, Vera Institute of Justice (2012), available at http://www.vera.org/sites/default/files/resources/downloads/engaging-police-in-immigrant-communities.pdf (last visited May 12, 2014).

English station or whether any of the local stations have their own news staff and equipment, and a staff that is trained to produce and distribute emergency information)[16] and options available to serve its community – regardless of the language spoken – before, during, and after an emergency.

C. A Plan that Uses the Designated Hitter Model

The designated hitter model is a logical model to follow when implementing a multilingual emergency plan.[17] The proposed designated hitter model fits right in with the system that the Commission relies upon to fulfill its role in the national public safety scheme.[18] The designated hitter proposal, which works to ensure that a station in the market is prepared to broadcast multilingual information before, during, and after an emergency – also addresses the

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[16] *See e.g.* Multilingual EAS Study at 19-20.

[17] MMTC has explained the designated hitter model in previous filings. "A radio station serving as a designated hitter would air programming in another language during regular segments throughout the hour (e.g. "on the eights") in cooperation, where possible, with other radio stations in the market which broadcast in that language (utilizing, for example, their staffs) when, during or in the wake of the emergency, there is no other source of emergency radio programming in the covered language. Covered languages would consist of those which are spoken by 5% of the market's population or 50,000 people in the market, whichever is less (approximating analogous federal voting rights policies). This initiative could be effectuated by requiring states to amend their EAS plans, many of which are in need of the modernization in any event, to require broadcasters to coordinate regarding the designated hitter process. Further, the Commission could express its willingness to offset a radio station's costs of service as a designated hitter in an actual emergency by waiving or reducing subsequent regulatory fees for that station for one year." *See* MMTC *Ex Parte* Letter re MB Docket No. 09-182 *et al.* (Sep. 9, 2011).

[18] *See* Emergency Preparedness, U.S. Government Accountability Office Report to Congressional Committees, GAO-07-411 (Mar. 2007), at p. 8, available at http://www.gao.gov/new.items/d07411.pdf (last visited May 12, 2014) ("2007 GAO Report on EAS"). *See also* 47 C.F.R. §11.18 (setting forth the EAS designations for Presidential and local messages); Strengthening the Emergency Alert System (EAS): Lessons Learned from the Nationwide EAS Test, Public Safety and Homeland Security Bureau, FCC (Apr. 2013), at p. 6-8, available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0412/DOC-320152A1.pdf (last visited May 14, 2014) ("FCC Report on Strengthening EAS").

policy need for increased redundancy in message dissemination throughout the communications system.[19]

Plans similar to the designated hitter model have been used for centuries by armed forces in combat. For example, when a soldier falls in combat another one has been trained and is expected step up and take their place. Further, news outlets and broadcasters have considerable experience working with each other and sharing information in extenuating circumstances. Consider, for example, camera pools used when only limited access is feasible to cover an event, like a presidential announcement where one outlet captures the event and shares with other outlets.[20]

While translation technology exists, it is not yet capable of capturing the nuances of language through which critical information is transmitted, making it essential that a real person convey lifesaving information in a variety of languages. Under the designated hitter model, multilingual messages should be translated at the point of origin[21] or broadcast by a live person,

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[19] *See e.g.* 2007 GAO Report on EAS at 14 ("We heard that a lack of redundancy among key broadcasters makes the current daisy chain system prone to failure. For example, the chair of a state emergency communications committee told us redundancy is lacking among PEP stations, and therefore, if a PEP station were disabled during a disaster in a major metropolitan area, an EAS alert would likely fail to reach a sizeable portion of the population). *See also Fifth R&O*, 27 FCC Rcd 642, 643 ¶2, 648 ¶9, 651 ¶16. In this R&O the Commission continued to use a transitional approach that maintains the legacy EAS system while updating portions of the rules to ensure that EAS equipment is capable of receiving and converting CAP message as well as converting them into the traditionally compliant or Specific Area Message Encoding (SAME) messages. *Id.* at 654 ¶26.

[20] *See e.g.* David W. Dunlap, Photographic Presidential Broadcasts, *The New York Times* (June 1, 2011), available at http://lens.blogs.nytimes.com/2011/06/01/photographing-presidential-broadcasts/?_php=true&_type=blogs&_r=0 (last visited May 16, 2014).

[21] *See e.g.* The Communications, Security, Reliability and Interoperability Council (CSRIC), Working Group 5A, Final Report (Sep. 2010), at p. 3-4. "… given the growing multilingual population in the United States, this report recommends that the responsibility for message translation from English to another language should like with the message originators at this time. U.S. Census data and social science research could be used to identify geographic areas with a high density of non-English speaking individuals that require translation services. As

since language software may confuse the meaning or intent behind a specific translation.[22]

As the Commission continues to rely on the legacy EAS system as a redundant backstop and as FEMA has announced plans to continue using this legacy system as part of its IPAWS initiative,[23] the designated hitter model remains relevant even in light of the changing technological landscape. The Commission should require broadcasters to collaborate with one another to ensure that the communities they serve are not denied access to lifesaving information simply because of lack of English proficiency.

D. Incorporating a Multilingual Plan into State EAS Plans

The Commission already has oversight of state and local emergency plans. These plans should be updated to require states and local communities to work with broadcasters and emergency officials to think through multilingual communications during and after an emergency.

The Commission's role in emergency communications is defined in a series of documents beginning with a "1981 Memorandum of Understanding between FEMA, National Weather Service, and the FCC; a 1995 Presidential Statement of EAS Requirements; and a 2006 Executive Order."[24] While the Secretary of Homeland Security has the primary responsibility to ensure that all Americans are included in warning plans,[25] the Commission still has a vital role in

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language translation technology improves, going forward the Commission should research methodologies employed by bilingual and multilingual countries such as Canada, Israel, Belgium, to name a few."

[22] *See id*. at p. 21.

[23] *See Fifth R&O*, 27 FCC Rcd at 654 ¶27.

[24] FCC Report on Strengthening EAS at p. 6 (internal citations omitted). *See also* MMTC Memo re FCC Jurisdiction to adopt the Katrina Petition, EB Docket No. 04-296 (filed Dec. 2, 2011), at p. 4 ("MMTC Memo on FCC Jurisdiction").

[25] *See* MMTC Memo on FCC Jurisdiction at 3 (citing Executive Order 13407, Public Alert and Warning System, Sec. 2(a)(iv) (July 3, 2006)).

regulating the technical and operational procedures for the communications industry[26] and serves as a consultant to both the Secretary and FEMA.

The Commission has a stake in multilingual emergency communications planning. In carrying out its functions, the Commission issues an EAS Operating Handbook that summarizes the protocol for EAS participants to take upon receiving an emergency alert.[27] The Commission also issues procedures for national level EAS activation of Presidential messages[28] and reviews and approves State and Local Area EAS plans prior to implementation of these plans.[29] The State EAS Plans explain procedures for state emergency officials to disseminate information during an emergency.[30] Clearly, some research, preparation, and communication are necessary to determine what technology and resources are available to States as they create these plans.[31] A Local Area plan covers procedures for local officials and the National Weather Service to transmit emergency information during a local emergency.[32] According to the current rules,

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[26]*See* 47 C.F.R. §11.1 (describing the purpose of the FCC's regulations).

[27]*See* 47 C.F.R. §11.15.

[28]*See* 47 C.F.R. §11.16.

[29]*See* 47 C.F.R. §11.21.

[30]*See* 47 C.F.R. §11.21(a).

[31]*See* 47 C.F.R. §11.21(a). "The State EAS Plan contains procedures for State emergency management and other State officials, the NWS, and EAS Participants' personnel to transmit emergency information to the public during a State emergency using the EAS. State EAS Plans should include a data table, in computer readable form, clearly showing monitoring assignments and the specific primary and backup path for emergency action notification (EAN) messages that are formatted in the EAS Protocol (specified in § 11.31), from the PEP to each station in the plan. If a state's emergency alert system is capable of initiating EAS messages formatted in the Common Alerting Protocol (CAP), its State EAS Plan must include specific and detailed information describing how such messages will be aggregated and distributed to EAS Participants within the state, including the monitoring requirements associated with distributing such messages." *Id.*

[32]*See* 47 C.F.R. §11.21(b).

Local Area plans may be included in State plans.[33] The Commission also relies on State and Local Area plans to create the FCC Mapbook, which "organizes all broadcast stations and cable systems according to their State, EAS Local Area, and EAS designation."[34]

These emergency communications plans and others[35] provide an opportunity for the Commission to finally set policies and procedures that help the Commission to overcome the Achilles heel[36] of emergency communications by encouraging broadcasters and emergency officials to collaborate and consider available options to serve all Americans before, during, and after an emergency.

In addition to the Commission's oversight of the State and Local EAS plans, the Commission also certifies the acceptability of EAS equipment,[37] and the Commission has not been reticent to require equipment upgrades to account for greater functionality.[38] While

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[33] *See id.*

[34] *See* 47 C.F.R. §11.21(c).

[35] According to IPAWS Currently the following programs have written plans that may designate specific alerting authority including: State/Regional/Local Emergency Alert System Plan; State/Tribal/ Local Emergency Operations Plan; State/Regional/Local AMBER Alert Plan; Radiological Emergency Preparedness Program Plan; Chemical Stockpile Emergency Preparedness Program Plan; Other hazard specific emergency plans or interjurisdictional agreements. *See* Lesson 2: Appropriate, Effective, and Accessible Alert and Warning Messages, FEMA Emergency Management Institute, available at http://emilms.fema.gov/IS247a/lesson2/L2000.htm (last visited May 27, 2014).

[36] *See supra* at p. 4.

[37] *See* 47 C.F.R. §11.34.

[38] "Although no commenters discussed specific figures for equipment costs, we believe that the approximately three and one half-year window we are providing for intermediary device users is sufficient to allow EAS Participants to finish depreciating and then replace this aging legacy EAS equipment and to allow equipment manufacturers time to develop possible workarounds to allow intermediate devices to become compliant with our rules. Among the benefits that CAP-compliant equipment will bring is an EAS that is more accessible to all Americans, including Americans with disabilities, who will directly benefit from this new requirement. We agree with the many commenters that argued that using CAP's capacity for enhanced text would, among other things, help harmonize the EAS rules with the requirements of section 79.2, and thus

technology solutions may be evolving to bring new multilingual emergency communications solutions to bear, given the critical role of broadcast and the necessity of redundant communications systems, the Commission should require broadcasters to work with emergency management agencies and officials to consider how to serve significant multilingual populations before, during, and after an emergency.

E. The Current State of Multilingual Communications

Technology is undoubtedly evolving to ensure that emergency information is efficiently delivered on multiple platforms, but the human coordination and planning element – examining the community to determine the characteristics, the languages, and the technology sophistication of the market – will continue to be necessary as the government identifies potential solutions.

As our communities continue to become more diverse, our solutions and the redundancy of our systems must recognize and respond to our communities' diversity to ensure that every one has access to life saving information before, during, and in the wake of a disaster. Moreover, these local solutions will likely be different to account for the unique needs of each area. For example, Miami may have plenty of non-English language stations to ensure the dissemination of emergency information to the significant non-English speaking populations, even if a station is knocked off the air during an emergency. This may not be the case for smaller and less heterogeneous communities, such as Gainesville, Jacksonville, Tallahassee, and Pensacola.

During Hurricane Katrina 28 percent of television stations and 35 percent of radio stations in the vicinity of the storm went off air for some time.[39] In the New Orleans area, only

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conclude that requiring intermediate equipment to comply with these rules by June 30, 2015 is justified." *Fifth R&O*, 27 FCC Rcd 642, 672 ¶75 (internal citations omitted).

[39]Independent Panel Recommendations at p. 11.

10 percent of radio stations stayed on air after the storm and some broadcasters were only able to remain on air by partnering with the stations whose signals were not interrupted.[40] As explained in the initial Petition for Immediate Relief, "[m]any Latinos, Vietnamese, and other minorities in these communities had little to no advance warning that this country's worst natural disaster in recent history was at their doorstep."[41] When the only Spanish language station was knocked off air, vital lifesaving information such as where to seek shelter and how to stay safe after the worst of the storm were not disseminated in a language they could understand.[42] This is unacceptable. The government can no longer afford to postpone final action on this docket.

Conclusion

Respectfully, the time for action has arrived. MMTC respectfully renews its request that the Commission take this opportunity to act before the upcoming ninth anniversary of Hurricane Katrina.

[40] *See id.*

[41] *See* Petition for Immediate Relief at 1.

[42] *See id.*

Respectfully Submitted,

David Honig, Esq.
President
Nicol Turner-Lee, Ph.D.
Vice President and
Chief Research & Policy Officer
Jacqueline Clary, Esq.
Senior Counsel
Joycelyn James, Esq.
Senior Counsel
Minority Media and Telecommunications Council
3636 16th Street NW, Suite B-366
Washington, D.C. 20010
(202) 332-0500
david@davidhonig.org

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