

Howard Media Group Supports Byron Allen's Lawsuit Against Comcast

Byron Allen's suit against the media conglomerate Comcast Corporation and Charter Communications ("Comcast"), which comes before the U.S. Supreme Court on Nov. 13, 2019, must be understood as a landmark civil rights case. Allen is the chairman and CEO of Entertainment Studios, a growing Black-owned global media company that is beginning to rival mainstream competitors in size and diversity of programming.

Allen is suing Comcast for \$20 billion over racial discrimination after the cable giant refused to carry Entertainment Studios' programming over a period of 8 years, saying ES's programming lacked sufficient commercial promise (i.e., viewership and advertising potential). Comcast executives also claimed that they did not have capacity to add more channels for programming, but subsequently added more than 80 programming options by White-owned companies. Allen has also alleged that a Comcast executive said "we don't need any more Bob Johnsons," referring to the African-American billionaire who founded the cable network BET. Allen sued Comcast on grounds of discrimination citing a 150-year-old law, Section 1981 of the Civil Rights Act of 1866, which was passed to remove racial discrimination in contracting.

The Trump administration's Department of Justice has filed an amicus brief supporting Comcast's appeal in the case of *Comcast Corp. v. National Association of African American-Owned Media* (the official name of the case). In an op-ed published in *The Griot* in August 2019, The case hinges on what kind of evidence a plaintiff must show to establish a claim under the Civil Rights Act of 1866. Comcast is seeking to abridge the breadth of the Act by claiming that the plaintiff is limited to proving that race is the only motivating factor in Comcast's refusal to carry Entertainment Studios' programming.

Allen seeks the court to rule otherwise and establish that the plaintiff only needs to show that race was one of the motivating factors that Comcast used in denying access to Entertainment Studios. This question of what a plaintiff must prove is critical in order to deny the use of tokenism as a defense against racial discrimination. In essence, opening a space for such a defense ultimately defeats the essence of the Civil Rights of 1866.

The Howard Media Group (HMG) agrees with Allen and strongly supports the view that a Supreme Court ruling in favor of Comcast will have adverse effect, for years to come, on the ability of minority persons and businesses to seek remedies against discrimination through the courts.

The Civil Rights Act of 1866 was enacted during Reconstruction to ensure economic protections for newly freed African American slaves seeking to establish their own enterprises. The law provides the statutory means for people of color to hold companies accountable for doing business.

Howard Media Group joins organizations and leaders who are taking Byron Allen's side in this important civil rights case, including U.S. Senators Cory Booker (D-NJ) and Kamala Harris (D-CA); U.S. Representative Bobby Rush (D-IL); Dr. Bernice King, Martin Luther King Jr. Center for Nonviolent Social Change; National Association of Black Journalists; Lawyers' Committee for Civil Rights Under Law; and the NAACP Legal Defense and Education Fund.

Howard Media Group is composed of graduate research faculty and doctoral students in the Communication, Culture & Media Studies Department, Cathy Hughes School of Communications, Howard University. HMG is concerned with communication policy and practices associated with the rights of access for people of color, women and other under-served communities.