

HOWARD UNIVERSITY

School of Communications
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August 6, 2014

Commission Chair Tom Wheeler
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: **MB Docket No. 14-50**, 2014 Quadriennial Regulatory Review of the
Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to
Section 202 of the Telecommunications Act of 1996

MB Docket No. 09-182, 2010 Quadriennial Regulatory Review of the
Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to
Section 202 of the Telecommunications Act of 1996

MB Docket No. 07-294, Promoting Diversification of Ownership in the
Broadcasting Services

Dear Chairman Wheeler:

It was with considerable dismay that we read the Commission's latest broadcast ownership report, released and adopted on June 27, 2014. Not only are **(1)** the ownership numbers for women and minorities as dreadfully low or lower in most cases than they were in the last (2012) report, but there is **(2)** no indication whatsoever in this report that the Commission is either concerned about this situation or advancing strategies to address it.

In addition, in the Introduction section, **(3)** the report appears to be obfuscating the low minority ownership rates by aggregating ownership data for the various broadcast stations (e.g., AM, FM, TV) for Black/African-Americans, Asians, American Indian, Native Hawaiians and Persons of two or more races, rather than breaking these down and revealing how pathetically low (or in some cases, non-existent) ownership percentages are for individual groups. To learn this, readers – even those who are familiar with the issue – must go back into the details of the report, including the tables.

In addition, and perhaps most important, **(4)** the numbers reported in the current report are questionable in their validity and reliability. There are significant amounts of missing data, resulting from Form 323 reports that were either not submitted or from data that apparently



contained errors and were omitted by Media Bureau staff. There is no indication how the Bureau is (or will be) managing the problem of non-submission of reports, something required by law. We add that the public is entitled to know how non-compliance with reporting is monitored, managed and addressed.

Last, we want to suggest that **(5)** the structure and substance of the ownership report, which has now been issued twice by the Media Bureau, are problematic. The Media Bureau seems to have adopted a template in which the numbers are changed each time but that provides no real discussion of what the ownership numbers in broadcast mean in relation to the wider media landscape or society. A full and user-friendly source of information to the public, with adequate explanations, would contribute to better understanding the broadcast ownership situation in the nation. We are concerned that these issues may not be just a matter of presentation but of the bureau's sincerity to fulfill its responsibility by law, and in accordance with two court remands (*Prometheus I and II*).

We address these comments sequentially in the following narrative.

(1) Low ownership rates.

In the current report, women's ownership of FM stations is reported at 6.7% of the total 5,714 FM stations in US. This represents a slight increase from the 5.8% that was reported in 2011. However, when the number of FM stations in 2011 (5611) is compared to the number of FM stations in 2013 (5,714), it can be seen that there was also an increase in FM stations. Therefore, when the increase in women ownership of FM stations is compared to the increase in the total amount of FM stations, the increase in women ownership of FM stations becomes relative. This is more obvious when data for African American ownership of FM stations for 2011 and 2013 is observed and compared. For example, African American ownership of FM stations in 2013 is reported at 1.3% of the total 5,714 FM stations in US with an ownership of 73 FM stations. However, in 2011 African American ownership of FM stations was reported at 1.7% with an ownership of 93 FM stations. We want to bear in mind these data are incomplete in both the 2011 and 2013 data sets, as we explore in more depth in our point #4, below. For this reason, it is difficult to say exactly how many stations women and minorities own in commercial AM and FM stations for these years – ownership levels could either be slightly better or slightly worse. What we can say with certainty is that minorities' and women's ownership levels in all broadcast formats is pitifully, intolerably low, and completely unacceptable.

The 2014 Report (reporting 2013 ownership levels) fails to carry the data collected for the 2009 Report on Ownership of Commercial Broadcast Stations. We added the data from the 2009 Report to the table below and our analysis to be able to see more clearly the inconsistencies and disparities within the data. To this end, we also want to suggest that the data

collected in past reports be carried and used in future Reports on Ownership of Commercial Broadcast Stations so that the longitudinal nature of ownership levels can be viewed.

Table 1: Comparative Broadcast Ownership Data*

Ownership Group	FPA M 2009	FPA M 2011	FPA M 2013	FPF M 2009	FPF M 2011	FPF M 2013	Class A TV 2009	Class A TV 2011	Class A TV 2013	FPT V 2009	FPT V 2011	FPT V 2013	LPT V 2009	LPT V 2011	LPT V 2013
Women	267/70.0%	300/78.8%	310/83.3%	325/62.2%	323/58.8%	383/67.7%	33/8.3%	35/8.6%	30/7.6%	66/5.6%	91/6.8%	87/6.3%	156/5.1%	185/4.8%	217/3.1%
Black/African American	89/2.3%	106/28.8%	93/25.5%	63/1.2%	93/1.7%	73/1.3%	6/1.5%	6/1.5%	8/2.0%	12/1.0%	10/0.7%	9/0.6%	7/0.7%	16/1.3%	16/1.3%
Hispanic/Latino	174/4.6%	172/45.5%	194/52.2%	141/2.7%	151/2.7%	180/3.2%	31/7.6%	31/7.6%	29/7.4%	30/2.5%	39/2.9%	42/3.0%	85/8.2%	120/9.6%	126/10.0%
Asian	97/2.5%	100/26.6%	104/28.8%	20/0.4%	45/0.8%	41/0.7%	8/2.0%	8/2.0%	6/1.5%	9/0.8%	6/0.5%	19/1.4%	34/3.3%	28/2.2%	14/1.1%
American Indian	7/0.2%	16/0.4%	12/0.3%	16/0.3%	28/0.5%	23/0.4%	4/1.0%	4/1.0%	2/0.5%	8/0.7%	12/0.9%	11/0.8%	1/0.1%	4/0.3%	1/0.1%
Native Hawaiian	4/0.1%	6/0.2%	9/0.2%	16/0.3%	28/0.5%	26/0.5%	0	0	0	1	1	1	3/0.3%	2/0.2%	0
Multiple race	9/0.2%	9/0.2%	7/0.2%	9/0.2%	8/0.1%	6/0.1%	5/1.3%	8/2.0%	7/1.8%	0	1	1	10/1.0%	20/1.6%	10/0.8%

*In 2009, there were 1,187 Full Power TV stations; 1,034 Low Power TV stations; 399 Class A TV stations; 3,820 Full Power AM stations; and 5,272 Full Power FM stations.

*In 2011, there were 1,348 Full Power TV stations; 1,253 Low Power TV stations; 409 Class A TV stations; 3,830 Full Power AM stations; and 5,611 Full Power FM stations.

*In 2013, there were 1,386 Full Power TV stations; 1,258 Low Power TV stations; 393 Class A TV stations; 3,737 Full Power AM stations; and 5,714 Full Power FM stations.

(2) No indication of Commission concern or action to address the lack of women's and minority ownership in broadcast.

It has been 11 years since the *Prometheus I* ruling and almost four years since the *Prometheus II* ruling, and still the Commission makes no indication that it has any plans to address extremely low ownership rates in broadcast by both women and racial and ethnic minorities. In fact, the Commission continues to say that it lacks sufficient research on which to base proposals for enhancing ownership opportunities for women and minorities. Still, the Commission makes no provisions to award contracts so that the research can be conducted. In the meantime, conglomeration continues at an alarming rate, and, as the Form 323 reports indicate (even in their incomplete state). Ownership in the Full Power stations continues to dwindle for racial minorities and to remain stable but horribly low for women.

Research needs to answer persistent issues associated with ownership, such as what the impact of Local Marketing Agreements is on the number of minority owned stations. For example, WVON in Chicago is run by Midway Broadcasting but is counted as a "property" under Clear Channel communications, leaving Chicago with NO minority owned stations in the market. How many other minority owners are shackled by these types of agreements WVON (which is minority and female owned) broadcasts on 1690, which is a property of Clear Channel under the LMA. The question is whether and how these agreements are counted in the ownership assessment made of Form 323?

We believe the Commission's refusal to address women and minority broadcast ownership may serve the profit-oriented interests of wealthy corporate owners, but it greatly fails to serve the public interest. This is, in our view, an intolerable situation.

(3) Obfuscation of low rates among minorities in the Introduction.

The 2014 Report makes an effort in providing information on both race and ethnicity. However, the structure used to report the results, as well as the categories provided to collect and determine the ownership's race and ethnicity, and are both confusing and over inclusive, which can deem the 2014 Report as inaccurate, and therefore, unreliable.

The data provided in the 2014 Report is not organized in a user-friendly manner. The confusing organization of data can be seen, particularly, in the way the introduction has aggregated ownership of "racial minorities," rather than providing an accurate breakdown by racial/ethnic category. Because of this, in order to determine how many stations each racial and ethnic group owns, the readers – even those familiar with the issues – have to dig deep into the data and continuously move around the details.

The ethnic and racial categories used by the 2014 Report, both to collect information and to provide data analyses and results, are also troubling. On page 4, point 6, for example, the 2014 Report provides information on "Broadcast ownership and ethnicity" by dividing the results in "Hispanic/Latino persons collectively or individually" and "Non Hispanic/Latino collectively individually." However, on point 7 the 2014 Report provides information on "Broadcast ownership and race" by dividing the results by "Racial minorities collectively or individually" and "Whites collectively and individually." This structure is not only wrong, is vague and confusing.

Although the Report enumerates "Black/African Americans, Native Hawaiian/Other Pacific Islanders, Asians, American Indian/Alaska Natives, and Persons of two or more races" within the category of minorities, it puts Hispanics/Latinos in a separate category, which creates the illusion that Hispanics/Latinos are is not a minority group. Moreover, an analysis of the data revealed that in all instances where a station was reported to be owned by a Hispanic/Latino, the same stations' owners identified themselves as White. This is a clear demonstration that the structure

of the 2014 Report, as well as the ethnic and racial categories used by the 2014 Report, both to collect information and to provide data analyses and results, as they stands are vague and confusing, which obfuscates the data, and could therefore deem the 2014 Report as inaccurate and therefore unreliable.

(4) Missing data signals serious problems in validity and reliability.

Not only there is a lack of organization and clarity in the presentation of data contained in the 2014 Ownership Report, the same data are also incomplete (as we have alluded to before). In the figures for AM commercial radio, for example, 759 of the 4,728 total stations did not file Form 323, and another 280 Form 323 reports contained “insufficient data” to be adequately counted for race and ethnicity – 22% missing data in all. In the data for FM commercial radio, related to race, ethnicity, and gender, 349 of a total 6,613 stations did not file, and another 550 reports contained insufficient data – 14% missing data in all. When quantitative research does not determine what it sets out to do (in this case measure levels of ownership among minorities and women), it is judged to be *invalid*. When data are insufficient or inaccurate, such as missing data create, the research is also *unreliable*.

There is also the problem of “hidden” data. The data of the 2014 Report are organized in a way that makes it difficult to assess how many stations are owned by the same entity. In this sense, the 2014 Report fails in assessing the impact of Local Marketing Agreements, especially when it comes to the minority owned stations. This raised the question of how many minority owners are bound by these types of agreements in which although the station is reported to be minority and female owned, in reality are run and managed by an entity that is not necessarily minority nor women owned. Which in turn raises the question of whether are these agreements counted in the numbers, and if so, how.

While the data appear to be more complete for Full Power TV stations in the current report, this does not lessen the significance of inadequate data sets for the Full Power commercial AM and FM radio stations. It is simply not possible to say with confidence that ownership levels are what the report states when the situation could be either better or worse than that!

Moreover, this problem with radio stations has persisted over time. Analysis performed on three FCC ownership data sets (for 2009, 2011, and 2012 from Form 323 filings), with regard to race and ethnicity, by the Institute for Representation at Georgetown Law Schoolⁱ, show the persistence of “stations not filed” over these years. Questions arise: 1) Are the same stations not filing in these three periods, or is this a chronic problem among many different stations? In either case, stations are NOT in compliance with the legal requirement to file, and the FCC makes no mention of how this is being addressed in any of its ownership reports. 2) What is the

FCC doing to address this situation which clearly not only violates law but also the public's interest?

The Commission is compelled to answer this basic question of accountability: What is it doing to uphold its responsibility to accurately report ownership levels by gender, race and ethnicity in broadcast media?

(5) Structure and substance of the ownership report.

We want to suggest that additional data that should be collected in order to provide a full and user-friendly source of information to the public that promotes a better understanding of the broadcast ownership situation in the nation. The report's lack of organization, reliability, and accuracy make it difficult for the public to properly analyze the information, and in this sense, asses how well broadcast stations are serving their communities.

As discussed above, the structure used to report the results, as well as the categories provided to collect and determine the ownership's race and ethnicity, and are both confusing and over inclusive. This translates into an incomplete set of data, which deems the Report as inaccurate and therefore unreliable.

The 2014 Report also fails to make a connection between the recent data collected, and the data collected for the 2012 Report on Ownership of Commercial Broadcast Stations and the 2009 Report on Ownership of Commercial Broadcast Stations. In this sense, in order to have a clearer picture of what the numbers in the report really mean, the data had to be reorganized and analyzed in conjunction with other supporting documents, such as the 2012 Report on Ownership of Commercial Broadcast Stations, the 2009 Report on Ownership of Commercial Broadcast Stations, the Spring 2014 Nielsen Radio Market Survey Population, Rankings, and the Fall 2013 Arbitron Market Schedule & Populations Ranking Report.

Moreover, how do ownership levels by women and minorities in the broadcast media compare to those in other telecommunications industries, e.g., cable and wireless? Until gender, race and ethnicity are discussed in a more comprehensive way, there is no context for understanding the broader meaning of these data. Similarly, how does conglomeration through buyouts and acquisitions, cross-ownership agreements, and LMAs affect broadcast ownership by women and minorities?

The FCC cannot ignore the ways that its decisions to deregulate ownership within telecommunications industries affect women's and minorities' ability to get into the market, stay in the market, and thrive. In the same way that the Commission has the responsibility to report the statistical facts of ownership by women and minorities, it also has the responsibility to

determine and report the way that its own regulations are source of marginalization for these populations.

Chairman Wheeler and Other Commissioners, we urge you to consider our foregoing comments on the 2014 Quadriennial report on broadcast ownership by gender, race and ethnicity, and to respond to our requests.

Sincerely, 

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¹ This analysis of data was provided to Howard Media Group by Professor Angela Campbell, Institute for Public Representation, Georgetown Law Center, Washington, DC, in July 2014. We appreciate the work that she and her staff did to obtain it and to share it with us.