



July 23, 2013

Chairwoman Mignon Clyburn
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: In the Matter of Technology Policy Task Force Regarding Critical Information Needs Studies, BO Docket No. 12-30; 2010 Quadrennial Review, MB Docket No. 09-182; Diversification of Ownership in the Broadcasting Services, MB Docket No. 07-294

Dear Chairwoman Clyburn:

On behalf of the undersigned members of The Leadership Conference on Civil and Human Rights (The Leadership Conference), we write to offer our views with respect to the Critical Information Needs (CIN) studies research proposal and its relationship to the Quadrennial Review process.¹ The Leadership Conference is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States. Constituencies represented by The Leadership Conference have historically been underserved by information resources and those needs have not been studied despite repeated promises by the Commission in the past. Thus, we have a particularly strong interest in the completion of this research and we are gratified that the Commission has finally released this proposal.

At the outset, we note that it is important to evaluate the proposed research protocol in the context of the history of media ownership regulation. The Commission has thus far failed to collect sufficient data about broadcast ownership by women and people of color.² Consequently, the present quadrennial review is flawed for its lack of adequate data analyzing media concentration's impact on people of color and women. A recent study filed by the Minority Media and Telecommunications Council (MMTC)³ does not correct any deficiency in the record. We appreciate the MMTC's goal, which was to add to the Commission's body of knowledge with respect to the impact of media concentration, and recognize the challenges associated with the study that was undertaken. However, given the study's limitations, we cannot support any Commission action based on its findings.⁴ The Commission does not yet have the evidence it needs to evaluate the impact of the proposed media ownership rules on women and people of color in the Quadrennial Review docket.⁵ Below we recommend refinements to the research proposal that are designed to

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ensure that the resulting data are as strong as possible. We urge the Commission to:

- **Consult with other agencies with expertise in robust data collection that can withstand constitutional scrutiny.** If the data demonstrate that certain constitutionally-protected segments of the population are underserved, it may also need to be robust enough to withstand constitutional scrutiny of the highest order.⁶ For this reason, the Commission should consult with federal agencies such as the Department of Justice and the Department of Transportation, which have significant expertise in robust, constitutionally-sensitive data collection. Beyond these consultations, this research framework could be useful not only to the FCC, but also to other agencies and researchers who recognize the importance of understanding critical information needs.⁷ Therefore it would be useful to **identify areas where more expansive collection would augment findings**, should other agencies or private parties find resources for such work.
- **Take into account the particular circumstances of traditionally underserved communities, including people of color, women, and linguistic minorities.** The Commission should account for disparate access to broadband Internet when evaluating information sources by coding for market penetration by particular groups. Many communities that traditionally lack adequate critical information also traditionally have less Internet connectivity.⁸ Conversely, some communities over-index on social media and this should also be considered.⁹ The Commission should also modify the sampling methodology to better capture minority, and specifically Asian language media outlets,¹⁰ including sampling of non-English newspapers from small markets.
- **Ensure that information sources are not undercounted or duplicated.** The Commission should consider sampling from national television news sources as well as local sources. The proposal justifies exclusion of national news sources by assuming local market forces largely dictate what content is provided. Instead of excluding these sources, the study should test this assumption through collection of data.
- **Expand sampling beyond news radio outlets.**¹¹ The civil rights community believes that ownership and content on broadcast radio has an important role to play in meeting the critical information needs of all Americans.¹² The proposal appears to assume that non-news radio does not contribute to information sources or information flow in the U.S. and may rely on inaccurate claims in the Quadrennial Review docket to this effect. This point is especially critical given the format of most urban radio stations, the preferences of urban minority listeners, and the lack of diversity in news radio.
- **Take particular care with coding “seed” websites.**¹³ Care should be taken to discern between posts covering new content versus re-posted content (such as, for example, a tweet reposting a broadcaster’s own news story). If much of the content sampled is not original, it may result in an overrepresentation of critical information.
- **Ensure that the in-depth neighborhood interviews adequately represent people of color and women.** While the proposal does contain measures to ensure representation of racially and ethnically diverse populations,¹⁴ it is essential that female populations also be represented. For consistency, the Commission should specify how the interviews will be conducted, whether in person or over the phone. Research shows that interviewer identity can have a significant impact on interviewee responses;¹⁵ care should be taken to minimize the impact of the interviewer’s identity on participant responses. For example, the racial/ethnic identity of the pool of interviewers should be reflective of the populations being interviewed, and the Commission should work with local community based organizations to ensure culturally appropriate outreach.
- **Ensure that the survey tool does not overlook responses that offer evidence of discrimination in information provision.** It may be the case that some participants will report



discriminatory practices in response to open-ended questions that they or their community members have experienced when dealing with different media outlets. The research protocol should provide a numeric code to capture this data.

- **Take care to ensure all tracked websites, and particularly including hyper-local news websites, are not duplicating content.**¹⁶
- **Specify the validated instrument that will be used to measure both objective and perceived information needs.**

Finally, there is no question that refining the research protocol will contribute to the overall validity and reliability of the CIN studies. It is essential that the studies receive adequate funding and are concluded in time for the 2014 quadrennial review. In addition to fulfilling the Commission's statutory obligation,¹⁷ these studies are necessary to inform the Commission on disparities and market entry barriers facing women and people of color. Without this essential information, the Commission cannot move ahead with the proposed media ownership changes currently pending in the 2010 Quadrennial Review.

We welcome the opportunity to assist the Commission in carrying out these recommendations. Please contact Leadership Conference Media/Telecommunications Task Force Co-Chairs Cheryl Leanza, United Church of Christ, Office of Communication, Inc., at 202-841-6033, or Gabriel Rottman, American Civil Liberties Union, at 202-675-2325, or Corrine Yu, Leadership Conference Managing Policy Director at 202-466-5670, if you would like to discuss the above issues or any other issues of importance to The Leadership Conference.

Sincerely,

American Civil Liberties Union
Asian Americans Advancing Justice | AAJC
Common Cause
Communications Workers of America
The Leadership Conference on Civil and Human Rights
National Council of La Raza
National Consumer Law Center, on behalf of its low-income clients
National Hispanic Media Coalition
National Organization for Women Foundation
National Urban League
NAACP
United Church of Christ, Office of Communication, Inc.

¹ Public Notice, Federal Communications Commission, Office of Communications Business Opportunities, BO Docket No. 12-30, DA 13-1214 (rel. May 24, 2013), and Media Bureau, DA 13-1317, MB Docket Nos. 09-182, 07-294 (rel. June 7, 2013).

² Comment of The Leadership Conference, *et al.*, MB Docket No. 09-182 (filed Dec. 26, 2012).

³ Minority Media and Telecommunications Council, *The Impact of Cross Media Ownership on Minority/Women Owned Broadcast Stations*, MB Dockets 09-182, 07-294 (filed May 30, 2013) at i.

⁴ The MMTC study claimed to provide evidence demonstrating that “cross-media interests’ impact on minority and women broadcast ownership” does not justify “tightening or retaining the rules.” The study suffers from several flaws, including a tiny sample of only 14 interviewees and a lack of transparency with respect to the markets studied. Further, the MMTC study conflates a lack of evidence with proof that no harm exists. See UCC OC Inc. *et al.* comments (filed July 22, 2013) (“it is misleading and inaccurate to characterize [a small-sample] study as proof that such a result has been ruled out. This is well-established in responsible research.”)

⁵ Despite its formal conclusion, the MMTC study did find evidence that concentration harms broadcasters who are women or people of color. MMTC stated:

[A]n especially extensive cross-media combination, although lawful under the rules, could materially inhibit “singleton station” operations in the advertising marketplace. Inasmuch as minority owned stations are more likely than others to be singleton stations, we recommend that the Commission be alert to the possibility that *a cross-media combination . . . can have sufficient market power to operate as a material detriment to minority and women ownership.*

Letter from David Honig to Chairwoman Clyburn *et al.*, MB Dockets 09-182, 07-294 (filed May 30, 2013) (emphasis added).

⁶ *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 235 (1995).

⁷ U.S. Dept. of Health and Human Services Office of the Assistant Secretary for Preparedness and Responses, Funding Opportunity Announcement and Grant Application Instructions, Funding Opportunity Title: Assistant Secretary for Preparedness and Response Grants to Support scientific Research Related to Recovery from Hurricane Sandy, EP-HIT-13-001, 93.095, 3 (2013).

⁸ National Telecommunication and Information Administration, U.S. Broadband Availability: June 2010–June 2012 A Broadband Brief at 10 (2013).

⁹ Bloomberg Businessweek Companies & Industry, *For Many, Twitter Replaced Traditional News Sources During Storm*, BUSINESSWEEK.COM, <http://www.businessweek.com/articles/2012-10-30/for-many-twitter-replaced-traditional-news-sources-during-storm> (Oct. 30, 2012).

¹⁰ For example, ranking the first ranked foreign language station ahead of the fourth ranked English language station will almost always sample a Spanish language station over an Asian language station. See Study Design at 6. The Commission should choose at least one market where an Asian language station would be ranked fourth.

¹¹ Social Solutions International, Inc., Research Design for the Multi-Market Study of Critical Information Needs: Final Research Design at 8 (2013) (“Given that the vast majority of radio content is music, we plan to only sample from radio stations that potentially provide for CIN’s (i.e. news content)”).

¹² *Cf.* Comments of Office of Communications, Inc. Of the United Church of Christ, MM Docket No. 00-244, at i (filed Mar. 26, 2002) (illustrating that the decrease in independent broadcast radio ownership has detracted from the availability of independent news, sports, and entertainment programming).

¹³ Seed websites are websites that will be sampled and analyzed for each category of CIN, to include TV station websites, university websites, local school system websites, blogs, local radio station websites, and state/local government websites.

¹⁴ Social Solutions International, Inc., Research Design for the Multi-Market Study of Critical Information Needs: Final Research Design at 15 (2013).

¹⁵ See Patrick R. Cotter, Jeffrey Cohen *et al.*, Race-of-interviewer Effect in Telephone Interviews, 46 *Public Opinion Quarterly* 278, 278-284, (1982) (demonstrating that a race-of-interviewer effect does occur in telephone interviews).

¹⁶ We note that duplicate posts might be relevant only if the studies can capture the degree to which the duplicate posts can extend their reach into communities who are not able to find the original source.

¹⁷ 47 U.S.C. § 257(c) (requiring review and reports on “(1) Regulations prescribed to eliminate market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications and information services or in the provision of parts or services to providers of those services and ... (2) proposals to eliminate statutory barriers to market entry by those entities....”).