U.S. FEDERAL COMMUNICATIONS COMMISSION

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ADVISORY COMMITTEE ON

DIVERSITY FOR COMMUNICATIONS IN THE DIGITAL AGE

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Tuesday December 3, 2009

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The Meeting convened in the Commission Meeting Room, at the Federal Communications Commission, 445 12th Street, SW, Washington, D.C., at 2:00 p.m., Henry Rivera, Chairman,

presiding.

FCC STAFF PRESENT:

MICHAEL COPPS, COMMISSIONER THOMAS REED, OCBO SENIOR DEPUTY DIRECTOR JOSHUA CINELLI, MEDIA ADVISOR BRUCE GOTTLIEB, CHIEF COUNSEL

BARBARA KREISMAN, DESIGNATED FEDERAL OFFICIAL

SHERRESE SMITH, LEGAL ADVISOR

JAMILA BESS-JOHNSON, DEPUTY FEDERAL OFFICER

CAROLYN FLEMING-WILLIAMS, DEPUTY FEDERAL

OFFICER

JULIE SALOVAARA, MEDIA BUREAU

COMMITTEE MEMBERS PRESENT:

HENRY RIVERA, CHAIRMAN

ALONZO BARBER

TONI BUSH

ALAN B. DAVIDSON

SUSAN FOX

ANITA GRAHAM

DAVID HONIG

ANNE LUCEY

JANE MAGO

JOAN MARSH

ROBERT MENDEZ

MELISSA NEWMAN

KAREN K. NARASAKI

LORETTA POLK

ANDREW SCHWARTZMAN

SYLVIA STROBEL

DIANE SUTTER

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| 1 | P-R-O-C-E-E-D-I-N-G-S |
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| 2 | (2:01 p.m.) |
| 3 | MS. KREISMAN: Good morning |
| 4 | everyone, Commissioner Copps, Chairman Rivera, |
| 5 | members, FCC officials, chairman's office, |
| б | Commissioner Copps' office. Welcome to our |
| 7 | pre-holiday meeting of the Advisory Committee |
| 8 | for Diversity in the Digital Age. Thank you |
| 9 | for coming today. I know you all are very |
| 10 | busy, and I'm hopeful that this time period |
| 11 | works better for everybody than the morning |
| 12 | time period. If it doesn't, let me know, and |
| 13 | we'll go back to 10 o'clock. |
| 14 | You have a packet of information |
| 15 | before you that has all of the resolutions |
| 16 | that are going to be considered today. |
| 17 | Everything has been previously emailed to you. |
| 18 | The committees have been very, very hard at |
| 19 | work. My hat's off, especially this time |
| 20 | around, to Diane, who I got my last email |
| 21 | from her last night at like 9:30, and she |
| 22 | called me from the airport this morning. And |

also all of the task forces that are working
 under Diane.

You all have all done a great job,
and the work product reflects that today. We
have five very substantive and thoughtful
proposals from funding to broadband deployment
for your consideration. With that, I turn the
proceedings over to Chairman River.
CHAIRMAN RIVERA: Thank you,

10 Barbara. And let me add my welcome in case you all split before I get an opportunity at 11 the end of the meeting to wish you all a very 12 13 happy holiday, and a very prosperous and happy I want to echo what Barbara said about 14 2010. the work that's been put in. This time it's 15 been -- well, last time too. You guys are 16 working very hard, and I certainly appreciate 17 18 it.

19 I know you all have day jobs. And 20 this has been a pretty challenging quarter for 21 us. As you can see, Commissioner Copps is 22 with us, and we also have representatives from the chairman's office who would like to
 address the group, and so without further ado,
 I'm going to turn the mic over to Commissioner
 Copps.

COMMISSIONER COPPS: Well, thank 5 6 you, and good afternoon, all. I'm delighted 7 to see you here. And welcome, all of you, to the FCC. I think you know most of the FCC 8 9 folks around here. There's one person I want 10 to introduce, Joshua Cinelli, who's joined my office. And I hope you will to get know him 11 12 and he gets to know you.

13 First of all, let me thank Henry and all the members of the committee, and 14 Barbara and the staff who support it. This is 15 a great committee, and you are doing work 16 probably more important than just about any 17 other committee that I can think of. And I 18 know it's time-consuming and that you do have 19 20 day jobs, but it's just kind of inspiring to see folks sit around the table and do 21 22 something to serve the public interest and

advance the causes that so many of you have
 been working on for so many years.

And that we now have, really, an 3 opportunity to do something about, if we're 4 5 smart enough to take advantage of the moment that we have before us, and expeditious enough 6 7 to do it. If we're not expeditious enough, it won't be your fault. You folks responded 8 9 really quickly to the charge when I was acting 10 chairman, to convene and give us some recommendations, and we particularly talked 11 about the need to get some further input on 12 13 the full-file review and on doing the Adarand Studies. 14

And I am so pleased that those 15 16 recommendations came forward so promptly and went out to the offices. And unlike some 17 previous iterations, they're not gathering 18 dust in anybody's desk. I think the 19 20 chairman's office has taken them very 21 seriously. He and I talked about them just yesterday, and he of course would have been 22

here today, but he got summoned at the last 1 moment to the job summit over at the White 2 So I don't think that was invitation 3 House. 4 he probably was not at liberty to say no to. 5 So that's where he is. But he is pleased and I am pleased, and I think all my 6 7 colleagues are, at the attention you gave to getting those recommendations in. And I think 8 9 we're already seeing some of those 10 recommendations being acted on. Whether it's broadband, where I think you can see we're 11 12 following your recommendations that we focus 13 on adoption and adoption in minority communities, and looking at the barriers to 14 adoption in multi-lingual and rural and low-15 income communities. 16 So that's up and running. 17 I think we'll hear some talk about maybe another 18 initiative or two today. I think these 19 20 recommendations will be taken very seriously, 21 and I can assure you that they are being 22 looked at and actively considered. I, as you

1 know, am always possessed of the urgency of 2 the moment and the need to do something now 3 while we have a window of opportunity to us. 4 I would hate to be gathered around this table 5 a year from now and we kind of sit here and 6 say, "Golly, why didn't we get that done a 7 year ago when we had the chance?"

So that's what I continue to push 8 9 for on action here. We need to follow up on 10 the full-file review. It is a complicated subject. It's not just something we can wave 11 a wand at. But let's remember, this is an 12 13 interim kind of solution. We're not talking about the permanent policy to redress the 14 wrongs that have been visited upon minority 15 ownership for generation on generation. 16 This is an interim measure, so we ought to get a 17 rule-making going to tee that interim measure 18 up and figure out how quickly we can deploy it 19 20 and put it to work.

21 The same goes, I think, for the22 Adarand Studies. I think Tom Reed will talk

to you, or maybe Sherrese will talk to you 1 about that today. I'm glad that the chairman 2 has got folks working so actively on figuring 3 4 out what the parameters need to be for the Adarand Studies. But again, you know, this 5 isn't the long term solution. This is just 6 7 laying a foundation and providing the pillars for really taking substantive action somewhere 8 9 down the line. 10 So that's what I'm urging, and I 11 think we'll be able to move these things along 12 fairly expeditiously. I note with interest 13 today that some of the issues of broadcast financing made the newspapers. And some 14 people may not particularly like the exact 15 venue in which that appeared, but 16 nevertheless, it's visibility for the issue of 17 financing and getting people to understand 18 that a lot of companies are being pushed and 19 20 pushed very hard by not just generations lacking incentives for minorities to own these 21 22 stations, but also by the malaise that's

currently impacting our economy and
 emphasizing the need to get a lifeline out
 before we have further -- more companies going
 out of business.

5 Lastly, just a quick second on the quadrennial review. This is going to be a 6 7 highly important proceeding here at the Commission. I encourage your helping us right 8 9 now to frame the parameters of that review. 10 What are the questions, not only the enduring questions that we need to ask, but what are 11 the new questions, the new media questions, 12 13 the new economy questions. Anything we need to be asking that haven't asked for before, 14 this is the time, as the Commission frames 15 what that guadrennial review is going to look 16 like, to get all of that settled. 17

But let's remember the quadrennial review is a quadrennial review. It's a process that takes some time. It will not be done until sometime in 2010. These other things that we've talked about are independent

of the quadrennial review. The actions that
 this committee can take, has already
 recommended, and other actions it will be
 recommending are, by and large, I think,
 independent of the quadrennial review.

We don't need to have a new record 6 7 for many of these things. So I want us always to keep in mind that yes, the quadrennial 8 9 review is important. It's going to help us 10 define how we go ahead long term on structural rules -- that's vitally important. But also 11 we have these other things where we can take 12 13 action now and maybe achieve some progress while we still have the opportunity to do it. 14 So again, I thank you all for your service, 15 and I wish you a happy holiday, too. 16 But I hope you'll devote some attention to this even 17 over the holidays as we move ahead. 18 Thank 19 you. 20 CHAIRMAN RIVERA: Thank you, Mr. 21 Commissioner. We certainly know that we have

22 a friend in your office, and we're very

grateful for your interest in our work. 1 And we certainly have seized the -- taken your 2 message to heart to seize the day. We're 3 working very hard, and we certainly believe in 4 5 the things that you say about that particular subject. Moving on, we have two 6 7 representatives of the chairman's office, Bruce Gottlieb and Sherrese Smith, with us 8 9 today. 10 And we're very happy that you 11 could make it. And you have the floor. MS. SMITH: Good afternoon, Mr. 12 13 Chairman, Commissioner Copps, and members of the Diversity Committee. Commissioner Copps 14 is correct. You have us working. And that's 15 a good thing. We are extremely excited to be 16 here. You have been very invigorating, and 17 the ideas have been extremely valuable, and we 18 are definitely taking a look at this. And 19 20 like I said, we are pleased to be here today. I'd like to first take an opportunity to just 21 22 say thank you from the chairman.

1 As Commissioner Copps said, he 2 really wanted to be here today. But you're correct, the White House invitation is one 3 4 that you really can't decline. And he's doing 5 extremely important work over at the jobs summit today. But he also wanted to make sure 6 7 that you all understood how important this work was as well. 8 9 Which is why you do have two members of the chairman's office here to 10 listen both to your prior recommendations as 11 well as the recommendations today. And he 12 13 wanted us also to pass along his sincere thanks for all of the hard work you're doing. 14 This is extra, this is above everything that 15 you're doing in your regular jobs. But it is 16 important to us, and again, he wanted to say 17 thank you. 18 So we know in the letter that 19 20 Chairman River sent to Chairman Genachowski, there were a lot of recommendations. And so 21

we wanted to at least highlight a couple of

22

Page 14

things that we've done in the short term,
 recognizing that this is just the first step,
 and that there are lots of things to do.

4 This committee has given us a 5 number of recommendations regarding broadband 6 adoption and deployment. And what we wanted 7 to do initially was to kind of start off with workshops to get more ideas about what we need 8 9 to do, how we need to handle that. And on 10 August 18th of 2009, Tom Reed's group, OCBO, hosted a workshop on broadband opportunities 11 for small and disadvantaged businesses. 12 The 13 workshop explored how broadband access and availability impact small and disadvantaged 14 businesses. 15

And I think Tom's going to talk about some of these more in-depth later on. On October 2nd, we had the chief diversity officer, Mark Lloyd, present a workshop on diversity and civil rights issues and broadband deployment and adoption. And here the Commission invited a panel of experts to

really begin the process of identifying the 1 2 best strategies for resolving civil rights and diversity issues that may accompany the 3 4 implementation of the national broadband plan. 5 And I can tell you that a lot of those recommendations are being strongly 6 7 considered and will ultimately be implemented in the national broadband plan. So we're very 8 9 excited about that. We also would like to 10 note that NCTA has been a very strong partner 11 and has recently announced their Adoptions 12 Plus program. And the proposal, basically, 13 offered to the FCC and NTIA, asked for a hundred million dollars in federal government 14 funding to support digital media literacy 15 training programs offered by local schools. 16 Again, we are really considering 17 some of this stuff, because we understand how 18 important it is to the national broadband plan 19 20 and broadband adoption as a whole. So again, we're starting work on some of those 21 This committee has also 22 recommendations.

recommended that we do more for tribal
 entities. And we have been working on ways to
 provide incentives for those parties who want
 to participate and do more in connection with
 tribal lands.

And in the rural radio context --6 7 and I know that most of you know that that's been pending for awhile -- we are currently 8 9 working on an order that will grant a 10 preference to applicants who will serve tribal 11 communities, and we expect to issue that very, very shortly. And we're very excited about 12 13 that, because we know that that's been an important issue for this committee for a long 14 time. And the commissioners have been very 15 supportive of that, and this committee has 16 been very supportive of that. 17 Finally, we know that funding is 18

10 Finally, we know that funding is 19 an issue. You're going to address it today, 20 and it has been coming up in a lot of the 21 workshops and in prior committee 22 recommendations. And on November 12th, OCBO

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had hosted a capitalization strategies 1 2 workshop, and I know that Janelle Trigg was involved in that, and thank you very much. 3 4 And the panelists consisted of 5 experts in private and public funding options. And the workshop basically provided 6 7 entrepreneurs with a nuts and bolts understanding of the steps necessary to obtain 8 9 public or private sector financing. And it 10 also focused on ways that these businesses could better design their marketing efforts 11 for perspective lenders. Again, we know 12 13 without the money, it's hard to accomplish a lot of these things. 14 So those are just a couple of 15 16 things that we wanted to highlight. And we recognize that this is just a start. 17 There are a lot of recommendations, including the 18 Adarand Studies, and some of the full-file 19 20 review issues that are complex and are 21 complicated. But I can assure you that we are 22 in the process of reviewing those carefully so

that we can have a very thoughtful process in 1 2 evaluating how we can make those things best work for the committees and the ultimate 3 communities that we serve. 4 And to that end, I would like to 5 take an opportunity to thank Tom Reed. 6 7 Because he has agreed to take on a lot of the labor on the evaluations of the various 8 9 recommendations that this committee is coming 10 up with. As you know, Tom is chief of the office of communications business 11 opportunities, and he has a full time job. 12 13 But he is taking on another full time job, and he's been doing it with such grace and has 14 really just kind of dug in and started looking 15 at these issues. 16 And we can't thank him enough. 17 He's also going to talk about OCBO's kind of 18 revitalized role with this committee. And he 19 20 has some recommendations for making sure that we have a better sense of what you need and 21 how we can do it in an efficient and fast 22

So I'm going to turn it over to Tom so 1 basis. 2 that he can address a few of those things. But again, thank you for having us here today. 3 We're excited, we're willing to help you, and 4 5 we're looking forward to the next few great 6 years. 7 CHAIRMAN RIVERA: Well Sherrese, we really appreciate your and Bruce being here, 8 9 and we very much appreciate the feedback, 10 particularly in terms of what you all are doing in terms of moving our recommendations 11 12 forward. That's music to our ears. We really 13 appreciate it. Thomas, I'm wondering if I could ask you to hold off on your remarks 14 until we consider our recommendations. 15 Is 16 that okay with you? 17 MR. REED: Yes. 18 CHAIRMAN RIVERA: All right. But 19 we're very pleased that you're stepping up. 20 That too is music to our ears. That's really great. And we look forward to hearing from 21 you. Do we need to take a roll? 22

1 MS. KREISMAN: We need to find out 2 who's on the phone so we can make sure we have a quorum. So could you start identifying 3 4 yourself? 5 MS. GRAHAM: Anita Graham. 6 MS. KREISMAN: Thank you, Anita. 7 MR. FLORES: Frank Flores, SBS. MS. KREISMAN: Thank you, Frank. 8 9 MR. FLORES: You're welcome. 10 MS. BROWN: Kathy Brown, Verizon. 11 MS. KREISMAN: Thanks Kathy. 12 MR. BLACKWELL: Geoffrey 13 Blackwell, Chickasaw Nation Industries. MS. KREISMAN: Thanks Geoff. 14 15 MR. HOOD: Rodney Hood, NCUA. 16 MS. KREISMAN: Thanks Rodney. Anyone else? 17 18 MS. SALOVAARA: Julie Salovaara from the media bureau. 19 20 MS. KREISMAN: Thanks Julie. MR. HILLARD: Steve Hillard with 21 Council Tree. 22

Page 21

MS. KREISMAN: Okay, anyone else? 1 2 That's it. Thank you very much. CHAIRMAN RIVERA: Thank you. 3 Welcome to all of you on the phone. I'm going 4 5 to change the agenda slightly, because David has got to go and catch and airplane. 6 So 7 we're going to put him and his recommendations up first. So David, the floor is yours. 8 9 MR. HONIG: Thank you, Mr. 10 Chairman. We have one recommendation that the constitutional issues subcommittee developed 11 for consideration today. And I want to 12 13 especially acknowledge Joycelyn James, who is in the audience -- please wave your hand --14 who took the laboring oar on this and put it 15 through many drafts. 16 The charge that we had was to 17 consider the persistence of the digital divide 18 with which we're all familiar. And to think 19 about what basis there might be for the 20 Commission to regard itself institutionally, 21 regardless of which Commission it is --22

Page 22

1 Commissions change membership often, of course -- to regard itself institutionally as not 2 only having the voluntary obligation to look 3 at this, the discretionary obligation to do 4 5 so, but whether it is essentially compelled because of the nature of what the digital 6 7 divide is and what it stands for in a society which has become an information society. 8

9 We looked at whether such a conclusion could be drawn based on the notion 10 that closing the digital divide or providing 11 ubiquitous access to broadband, two phrases 12 13 that we use somewhat interchangeably in this recommendation, is a compelling government 14 interest. And we concluded that it may or may 15 not be, but an interest by being regarded as 16 compelling does not necessarily work as a 17 sword. It is a defense to other allegations 18 regarding race consciousness. 19 It does not 20 have special obligatory quality on an agency. We also looked at the question of 21 22 whether, as some have suggested in the

academic space, access to broadband in this 1 day and age is a fundamental right or has 2 become a fundamental right or might. And we 3 4 concluded that we're not quite prepared, at 5 this point, based on the record that we reviewed, to say that it is, although it 6 7 certainly could become one in much the same way as other rights, such as the right to 8 9 procreate or the right to marry have, over 10 time, evolved to become regarded by the courts as fundamental. 11

12 That could happen in maybe ten 13 years, for example, when it becomes virtually impossible to secure employment or to vote 14 other than by having broadband. But we're not 15 16 there yet, so we've tabled that theory. What we present instead is a recommendation reading 17 section 706 of the Communications Act and 18 section seven of the Act as well. 19 The 20 language of which is set out on pages two and 21 three of the narrative preceding the 22 recommendation as obligating the Commission to

| 1 | undertake to close the digital divide, to |
|----|--|
| 2 | monitor the deployment of broadband, and take |
| 3 | steps to promote it if it's not being deployed |
| 4 | at all on a timely basis. |
| 5 | In fact, section 706 says that if |
| б | that determination is made, the Commission |
| 7 | "shall take immediate action to accelerate |
| 8 | deployment of such capability by removing |
| 9 | barriers to infrastructure investment and by |
| 10 | promoting competition in the |
| 11 | telecommunications market." So the |
| 12 | recommendation before us today, which is found |
| 13 | on pages six and seven of the narrative that |
| 14 | you have, is essentially this. |
| 15 | That the advisory committee would |
| 16 | recommend that the agency closely analyze how |
| 17 | its broadband policy or rule-making proposals |
| 18 | will impact the digital divide. That it do so |
| 19 | before it acts in major proceedings, unlike, |
| 20 | as Commissioner Copps has analogized, another |
| 21 | proceedings, taking a ready, fire, aim |
| 22 | approach. And specifically, concluding, that |

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in the major proceedings before the Commission 1 now, the major rule-making proceedings, the 2 Commission should analyze in detail the 3 anticipated effects of rule or policy changes 4 5 in the digital divide, and craft any new rules or policies in a manner that ensures, to the 6 7 extent possible, that these rules and policies will be instrumental in closing the digital 8 9 divide. 10 With that, I move the 11 recommendation for approval. CHAIRMAN RIVERA: Is there a 12 13 second? 14 MS. KREISMAN: Second. 15 CHAIRMAN RIVERA: Is there any discussion? So basically this is a 16 recommendation to the Commission to analyze 17 the impact of its actions on closing the 18 digital divide, as well as to please close --19 20 a request to close the digital divide. Any 21 questions or comments? Are you ready to vote? 22 All in favor of the recommendations, please

1 say "aye." 2 (Chorus of ayes) CHAIRMAN RIVERA: Any opposed? 3 The motion carries. Thank you, David. All right, 4 5 Diane. You're up. 6 MS. SUTTER: Thank you, Mr. 7 Chairman. As we reported at the last full committee meeting, the media issues 8 subcommittee has divided into three task 9 forces to work on issues related to three 10 separate areas. The first being the EEO task 11 The second being the funding for 12 force. 13 acquisitions. And the third being the PPM. And I would like to acknowledge and thank the 14 work of the chairs of these task forces, as 15 that's where the real work has been done in 16 the subcommittee itself. 17 18 And the equal employment opportunity task force has been headed by Jane 19 20 Mago, and we thank and appreciate all the work that that group has been doing and continues 21 to do. The funding for acquisitions task 22

force is being headed by Susan Patrick, who
was not able to be with us today. She's in a
deposition. And the PPM task force, Jenny
Alonzo, who has worked very hard with her
committee to deal with the issues and to come
up with ideas and recommendations to present
to this full committee.

My thanks also to Jocelyn Cleary, 8 9 who serves to keep all of our minutes 10 accurate, and we appreciate that very much. So thank you. I'd like to begin with the EEO 11 12 task force. And you have in front of you the 13 recommendation that we're going to make, but I think it's important to recognize that this 14 body, in 2004, had a pretty significant piece 15 of work that came from the career advancement 16 subcommittee, which made a number of 17 recommendations and talked about best 18 practices and how to determine that. 19 20 And also made some references to 21 something that we sought to discuss and bring 22 before this group today, and that has to do

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with the promotion and retention of women and 1 2 minorities inside the existing broadcast entities that are out there. And we felt that 3 4 this was something we wanted to identify. 5 Again, what has changed in those intervening years between 2004 and now 2009, almost 2010? 6 7 And what has changed from what the recommendations before -- what are the best 8 9 practices out there now, and how might we do a better job, perhaps, of identifying them and 10 using them as the standard by which others can 11 12 learn and have resources that they may not 13 have thought of before.

And have some of our success 14 stories be ways to guide this -- not only this 15 group, but the broadcasters themselves as they 16 move forward in trying to achieve this inside 17 their own organizations. The data that was 18 compiled in this body of work, which was 19 pretty significant, we would fear could still 20 be accurate today, which is a worry issue I 21 think for all of us in this room. 22 Ιf

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| 1 | anything, I'm not sure that things have |
|----|--|
| 2 | improved, but given the economic standing that |
| 3 | we face in the media today, may not have |
| 4 | improved. It may have gotten worse. |
| 5 | So we feel it's important to be |
| 6 | able to go back and put back on the docket, if |
| 7 | you will, and for consideration, the |
| 8 | resolution that you have in front of you. And |
| 9 | I will read it so that you have the background |
| 10 | that comes with this. |
| 11 | "Whereas, the Commission's equal |
| 12 | employment opportunity compliance requirements |
| 13 | are focused primarily on hiring and |
| 14 | recruitment practices, not retention and |
| 15 | promotion practices within the broadcasting |
| 16 | and multichannel video programming |
| 17 | distribution industries, whereas retention and |
| 18 | promotion of diverse candidates to positions |
| 19 | of authority within media organizations is |
| 20 | equally important for achieving greater |
| 21 | diversity and broadcasting and the MVPD |
| 22 | industries, whereas several media companies |

and non-profit organizations engage in 1 2 practices and offer programs designed to promote retention and promotion of diverse 3 candidates to senior level positions within 4 5 the media industry, and whereas there is no central clearinghouse for sharing of 6 7 information on such practices and programs and no central vehicle to facilitate the 8 9 replication or adaption of successful 10 practices and programs by other broadcasters 11 and MVPDS. Therefore, be it resolved that the 12 media issues subcommittee of the FCC Advisory 13 Committee on Diversity for Communications in 14 the Digital Age strongly urges the Commission 15 1), convene a forum where communications 16 companies and non-profit organizations can 17

18 share information about successful practices

19 and programs for the retention and promotion

20 of diverse candidates, and 2), to consider
21 whether additional compliance options should

22 be added to the Commission's EEO rules, so

that more activities focused on retention and 1 promotion of diverse candidates would count 2 toward the EEO compliance. 3 We submit this for the full 4 5 Commission's consideration. CHAIRMAN RIVERA: The Chair will 6 7 take that as a motion. Is there a second? PARTICIPANT: Second. 8 9 CHAIRMAN RIVERA: Is there any discussion? David? 10 MR. HONIG: Two things, Mr. 11 First, I wonder if I could offer a 12 Chairman. 13 minor, friendly amendment. Which is -- and the chairman would be given editorial 14 privileges to do this, so we don't have to do 15 it right now -- which is just to make 16 reference here to the best practices report in 17 the 2004 recommendation to much the same 18 effect as is reflected here with regard to 19 20 retention and mentoring. To specifically cite it so those 21 not familiar with it will see that in fact --22

| 1 | MS. MAGO: We can certainly add |
|----|--|
| 2 | that, yes. |
| 3 | CHAIRMAN RIVERA: So you'll take |
| 4 | that as a friendly amendment? |
| 5 | MS. SUTTER: Yes. The chairman of |
| 6 | the task force agrees, and I would be woefully |
| 7 | mistaken to go against that. |
| 8 | MR. HONIG: The other thing, there |
| 9 | is some context here there really are two |
| 10 | big problems with EEO enforcement at the |
| 11 | Commission. And a lesser but important one |
| 12 | the lesser but important one is in fact |
| 13 | addressed by this recommendation that is |
| 14 | that the industries are in some cases |
| 15 | shrinking. And consequently, it's important |
| 16 | to focus on retention and mentoring, not just |
| 17 | recruitment, as the benchmark for compliance. |
| 18 | But the bigger problems are really two. |
| 19 | First is that we haven't had any |
| 20 | meaningful EEO enforcement in eight years. |
| 21 | None. If you look at the statistics on the |
| 22 | cases brought and the decisions reached, and |
| | |

1 most important, the forfeitures issues,
2 they're at about four or five percent of
3 comparable levels ten years before. And it's
4 not because suddenly over night discrimination
5 stopped taking place.

If you look at the audits that 6 7 have occurred, there haven't been, I think, more than two or three instances in eight 8 9 years when anyone flunked an audit. That means the audit hasn't been calibrated in a 10 11 meaningful level. Especially when other independent studies show that as many as a 12 13 third of broadcasters were failing what should have been the rules as they facially state. 14 We've seen radio journalism 15 minority employment drop to levels of about 16 where they were in the 1950s. It's actually 17 been that bad. There's just been a purge. 18 RTNDA's statistics had to demonstrate that. 19 20 Why, because the Commission doesn't keep track anymore, because of this contentious issue of 21 22 whether to even record how many minorities and women are employed at a given time and let the
 public know and trust the public not to misuse
 that information.

That question is critical. 4 The 5 reason it's critical is that the Commission has found time and again that the most 6 7 significant and important way that especially in broadcasting, a relatively small industry, 8 9 that discrimination occurs, is by word of 10 mouth recruitment being done almost exclusively, and when it is done by a 11 homogeneous workplace. That can only be 12 13 discerned by looking at this form 395 data. So I want to recommend, if I 14 could, that the subcommittee in its next 15 couple months, take on really two critical 16 questions. What should be the type of 17 enforcement that's done, including the type of 18 data reporting that ought to be done. 19 And 20 second, once we make recommendations on that 21 subject, should we have platform neutrality? 22 Should rules that apply to one industry also

| 1 | apply to others? Just as there's virtually no |
|----|--|
| 2 | enforcement for broadcasting in cable, there's |
| 3 | none at all for wireless, wireline, and other |
| 4 | new technologies. |
| 5 | CHAIRMAN RIVERA: So that's simply |
| 6 | a request to the subcommittee chair to take on |
| 7 | those additional tasks. So Diane, do you take |
| 8 | that under advisement? |
| 9 | MS. SUTTER: Duly noted. |
| 10 | CHAIRMAN RIVERA: Thank you. |
| 11 | Karen? |
| 12 | MS. NARASAKI: Yes, Mr. Chair. I |
| 13 | just have a more technical question on the |
| 14 | resolution. I'm wondering whether it should |
| 15 | now be resolved not just not focused on the |
| 16 | media issues subcommittee but the whole |
| 17 | advisory committee is that really the |
| 18 | resolution that we're sending to the |
| 19 | Commission? |
| 20 | CHAIRMAN RIVERA: Okay, I'm not |
| 21 | following you. I'm sorry. |
| 22 | MS. NARASAKI: It says resolve that |
| | |

Neal R. Gross & Co., Inc. 202-234-4433 the media issues subcommittee of the FCC, as
 opposed to the FCC advisory committee.

CHAIRMAN RIVERA: Oh yes. We'll 3 take care of that in the editorials. That's 4 5 a very good catch. Thanks very much, Karen. Any other comments or questions? 6 Yes? 7 COMMISSIONER COPPS: Can I ask a quick question here on number two, where we 8 9 consider whether additional appliance options should be added? Is that in there because 10 there are compliance options out there now 11 that are being used and should be recognized? 12 13 Or is this a request for companies to develop 14 new compliance options? 15 MS. SUTTER: It's actually a request for the Commission to look at adding 16 to those things, those sixteen various 17 categories that exist now. Which all deal 18 with actual recruitment, that they would 19

20 consider an add criteria that would resolve

21 the issues of retention and promotion within

22 the broadcasting industry and other

1 communications media.

15

2 COMMISSIONER COPPS: So you're not 3 saying there are things that are being done 4 out there that the Commission does not 5 recognize but should recognize? It's not 6 going there? 7 MS. SUTTER: What we are saying is

8 that the criteria now, that the standards the 9 broadcasters are being held to and other media 10 that are under this regulation do not provide 11 any consideration or any credit, if you will, 12 under the system that exists for retention, 13 mentoring, within an industry, organization, 14 or stations.

COMMISSIONER COPPS: Right.

MS. MAGO: If I may add to that, I think that the other concept here is having it be something that's on the checklist that the Commission has in terms of the options would give additional incentives for focus by the companies on that. And that was the purpose of what we were trying to get to here.

1 COMMISSIONER COPPS: And then I would applaud the spirit of David's remarks 2 for us to think expansively about this, 3 because we have lived through eight years of 4 5 little or no enforcement activities here, and kind of a timidity in going anywhere near what 6 7 the courts might look at suspiciously. So I hope we will really get that record and get it 8 9 before the other commissioners. I know we 10 used to spend -- I don't know how many staffers we had at one time -- it was like 11 nine staffers around here who were focused on 12 13 doing EEO reviews. 14 And I think every station probably got every three years or something like -- was 15 And now it's maybe, what, a couple 16 audited. or three or four percent that maybe get -- so 17 that's not in line with the spirit of equal 18 opportunity. So I think this is an 19 20 opportunity to educate everybody at the

21 Commission about this, familiarize them with

22 the history of the timidity that has reigned

around here and come up with some positive 1 suggestions to really put some teeth into what 2 we're doing. 3 CHAIRMAN RIVERA: All right, thank 4 5 you, commissioner. 6 MS. MAGO: May I? 7 CHAIRMAN RIVERA: Yes indeed. MS. MAGO: The one other thing that 8 9 I do want to say that I think is very 10 important, when we focus on the enforcement, in no way do we denigrate the actions of the 11 folks that are trying to do the EEO 12 13 enforcement within the Commission. They have been working very hard. They've been trying, 14 under all of the circumstances that are 15 presented to them, and I wouldn't want in any 16 way to have the commentary here be something 17 that would be a negative against them. 18 19 COMMISSIONER COPPS: No, I agree This is a leadership function. 20 with that. That's what I'm talking about here. And the 21 22 charges that come from the Commission itself

to the staff, and I understand the effort and 1 commitment that goes in that. And like you, 2 I salute that too. 3 4 CHAIRMAN RIVERA: That's a great 5 point, Jane. Thanks for mentioning that. I would also note that in the 2004 6 7 recommendation with regard to the EEO language, there is some language in there 8 9 about retention. In case anyone wants to look 10 at that. MS. MAGO: Yes, they do address 11 retention, mentoring, all of those things were 12 13 addressed in the 2004 document. 14 CHAIRMAN RIVERA: Any other comments or questions? Are you ready to vote? 15 All in favor, say "aye." 16 17 (Chorus of ayes) CHAIRMAN RIVERA: Opposed? 18 The ayes have it. Thank you very much, Diane. 19 20 Your next recommendation? 21 MS. SUTTER: Thank you. The next 22 recommendation comes from the funding

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acquisitions task force. This has been a 1 2 major issue that we've been hearing about both in the trade press, and we all know from the 3 economic challenges that the entire country is 4 5 facing that the world of banking, the world of investment, has changed dramatically. And the 6 7 impact that that has had when it relates to the acquisition opportunities for women and 8 9 minorities to acquire and operate broadcast 10 properties has been affected perhaps disproportionately, because of the nature of 11 what's gone on. 12 13 This is not new. The economic downturn has simply become dire. But the 14 challenge for acquisition -- funding for 15 acquisitions -- has existed for guite a long 16 time. And over the course of time, the 17

18 uniqueness of our industry, the uniqueness of

19 broadcast lending and investment means that it

20 is something that takes experience to

21 understand. The inability to secure an

22 interest in an FCC license, how do you deal

with a heavily regulated industry in terms of
 what does that mean for equity participation
 and ownership.

All of those questions have made 4 5 it a unique lending situation, and many banks and lending institutions have not entered into 6 7 this, especially smaller ones, because of the unique things that affect our industry. But 8 9 this has generally happened, that the lending 10 has come and has been done for larger lending and for larger deals. And that has virtually 11 12 disappeared at this point. The stations in 13 some of the smaller markets have opportunities because they are much more local, if you will, 14 and that their lending institutions, the 15 smaller regional banks have a high interest in 16 lending to community-related businesses. 17

And yet they're the least familiar with the challenges of broadcast lending. They're the least experienced in understanding what are the particulars and what are the unique things that have to do in this

business. And so the smaller outlets are the ones that we believe have opportunity. If they could understand the business better, if they knew how it functioned and how are those banks and institutions that have leant, how did they do that? How is it structured, and what does it look like?

Most local and regional banks are 8 9 asset-lenders. Meaning that they like to have 10 things they can repossess. So if it's an industry and they can go in and take your 11 equipment, or if you have -- you're housed in 12 13 a building -- well, as we all know, in lending to media, the equipment and the building is 14 probably the smallest portion of the value of 15 the station. 16

And in fact, the value of the station is largely in its license, for which they cannot take a secured interest. However, there are many ways to be able to work within the requirements of the Commission to be able to have a successful relationship with banks,

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and that has been done. But the smaller
 banks, the regional banks, have shied away
 from it, because it's just a little too scary
 for them.

5 Well, we believe that there are 6 ways that we can address that. And in fact, 7 this very body has acknowledged that and has talked about that in the past. In 2002, the 8 9 Small Business Financing Seminar was held at 10 the FCC, which had presentations from numerous private sector investment professionals and 11 12 government representatives. A senior lending 13 panel meeting was held at the FCC in January of 2004 that addressed many of these 14 challenges that minorities and women face 15 16 today.

And a previous committee on diversity had a number of resolutions that urged the FCC to lift or relax the ban on the security interest on the FCC license. The FCC also held an en banc hearing for access to capital in July of 2008 in New York City. So

clearly this has been a recurring issue. It has been one that this body has faced in the past. And now we hope to provide perhaps some specifics on how we might be able to address it today to provide opportunities for women and minorities to be able to work with smaller and regional banks.

And just so that you know that in 8 9 the creation of these recommendations, the 10 task force has held numerous meetings and convened a meeting of subject matter experts. 11 Many of whom have written articles or have 12 13 created papers which address all of these 14 issues. And we have begun as a committee to get all of those put together. 15 We are addressing by getting those issues together, 16 those papers, and we have a number of members 17 of the legal community from the FCC bar who 18 are working with us. 19 20 Others in the banking industry who have offered to work with us to be able to 21 create a data bank of information that can 22

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1 provide the kind of information that would 2 allow an understanding of how to lend, what it looks like, and how to get a successful 3 broadcast deal done. And so the first 4 5 recommendation that the media issues subcommittee would like to propose is an 6 7 expansion of the FCC's Website to include a dedicated section of the site for educational 8 9 materials for regional and local lenders, investors, and minority and women seeking 10 funding for broadcast acquisitions. 11 12 In addition, the subcommittee 13 recommends that the Office of Communications Business Opportunities -- Tom, I knew you'd be 14 pleased to hear that -- be tasked with 15 implementing this recommendation on a day-to-16 day basis. And we would hope that they would 17 be provided the budget to carry forward this 18 recommendation to take oversight 19 responsibility for making this happen. 20 The materials themselves will be 21 22 provided by knowledgeable third parties on

1 those topics. And we have actually provided 2 an outline which you will see that addresses the specific areas that we believe are a 3 beginning, not the end, of what they would 4 5 look like. As you can see, it talks about the industry, the broadcasting industry overall, 6 7 and goes to how to evaluate broadcast properties themselves. Issues and nuances of 8 9 broadcasting that lenders face, investors, the 10 things that are particular to investing in 11 this industry. 12 Continues on for educational 13 materials for women and minorities that are seeking the funds themselves. And 14 miscellaneous educational materials. 15 The subcommittee would continue to work with the 16 Commission to identify those, to identify the 17 people that would indeed be required to do 18 that, and would serve as a resource to 19 20 providing that. 21 And as I've said, we have already

22

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begun to do that and have a number of articles

1 and information put together.

| 2 | CHAIRMAN RIVERA: So let's vote on |
|----|--|
| 3 | that recommendation. Chair will take that as |
| 4 | a motion. Is there a second? |
| 5 | MS. BUSH: Second. |
| 6 | CHAIRMAN RIVERA: Is there any |
| 7 | comment or question on this recommendation? |
| 8 | Yes, Jenny? |
| 9 | MS. ALONZO: This is just for |
| 10 | broadcast, so what about if somebody wanted to |
| 11 | buy a small cable network, or start like an |
| 12 | online broadband channel? |
| 13 | CHAIRMAN RIVERA: Good question. |
| 14 | MS. SUTTER: Many of the things |
| 15 | that are in here are specific to the nuances |
| 16 | of broadcast lending. However, there are |
| 17 | other things that are in here, as you can see |
| 18 | from the outline, that would apply across the |
| 19 | board. So I think it would be some of each. |
| 20 | CHAIRMAN RIVERA: Any other |
| 21 | questions? All those in favor, say "aye." |
| 22 | (Chorus of ayes) |
| | |

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CHAIRMAN RIVERA: Opposed? Motion 1 2 carries. Thank you. 3 MS. SUTTER: Thank you. CHAIRMAN RIVERA: Recommendation 4 5 two? MS. SUTTER: Yes. The second 6 7 recommendation has to do with implementing an outreach program that proactively seeks to 8 9 increase awareness of the benefits of lending to and investing in minorities and women in 10 the broadcasting industry. The outreach that 11 the committee envisioned would be two-fold. 12 13 It would include other government agencies, as well as the private sector, in order to 14 facilitate lending to minorities and women. 15 Many of us have been reading over 16 the past several months that there are a 17 number of government agencies which are --18 when we met the last time, that day there were 19 panels and meetings going on within other 20 government organizations that are dealing with 21 this issue. And the feeling is that there 22

needs to be some continuity, some communication between them so that the resources can be pulled and the information can be more widely distributed between all of the various agencies and government entities that have an interest in this.

7 So that is the government public sector outreach that has been suggested. 8 And 9 you see in item B, there's a list of all of 10 the ones that are potentially considered. While it is not a complete list, or an 11 exhaustive list, it is simply the beginning of 12 13 where we think the coordination might come. And then the other being within the private 14 15 sector.

And we think that this private sector outreach would be creating seminars, workshops, and panels. Not unlike the en banc hearing that was held in New York, but to be more specific in terms of providing answers and solutions, as that was more of an informational meeting that could be done

regionally, that could go around the country to be able to invite regional lenders and local lenders to come to that.

We would assume that on that panel 4 5 would be not only members of the Commission to be able to answer questions, but it would be 6 7 those private equity investors, banks, that could then talk about the experience they've 8 9 had, how they've done lending, and serve as a 10 resource to people in the regions that we might be able to go to, to be able to make 11 12 that happen.

13 We think that this also can be accomplished by providing these resources and 14 these seminars at existing industry events and 15 activities, whether it's the NAB, the Annual 16 Radio Show, that there are ways now that we 17 could use that gathering to further this 18 recommendation. So we have suggested both of 19 20 those as part of this recommendation number two that we would submit for the full 21 committee's consideration. 22

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1 CHAIRMAN RIVERA: Is there a 2 second? Any discussion? Yes? MR. JOHNSON: Diane, I guess that 3 we can assume that private investors are 4 5 embedded in your list of eight somewhere? 6 MS. SUTTER: Yes. 7 CHAIRMAN RIVERA: Howie? MR. HODGES: My thought was on this 8 9 list that's on B. I know Rodney Hood from the Credit Union Association is on the call. 10 I'm not certain that the credit unions should be 11 included, because we're not only thinking 12 13 about just acquisition capital, but also lines of credit as ongoing operations. And I'd like 14 to suggest that his group be included. 15 16 MR. HOOD: That's a good point, 17 Howie, thank you. And you're right, some of the larger credit unions definitely could play 18 an active role. 19 MS. SUTTER: Well, thank you. 20 We 21 are looking to be inclusive, not exclusive. 22 CHAIRMAN RIVERA: Any other

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1 comments?

| 2 | MS. SUTTER: And can I just ask |
|----|--|
| 3 | that if there are we present this as a |
| 4 | thought-starter, if you will, and just as the |
| 5 | comment that you just made, Howie, thank you, |
| 6 | we would ask if there are others entities, |
| 7 | other organizations, or other things you would |
| 8 | like to have us include, we welcome that. And |
| 9 | in fact, present this hoping that it will be |
| 10 | a thought-starter. |
| 11 | CHAIRMAN RIVERA: All in favor of |
| 12 | the motion, say "aye." |
| 13 | (Chorus of ayes) |
| 14 | CHAIRMAN RIVERA: Opposed? Ayes |
| 15 | have it. Thank you. |
| 16 | MS. SUTTER: Thank you. And the |
| 17 | third recommendation that we would like to |
| 18 | submit is that the FCC designate one FCC |
| 19 | commissioner to oversee the implementation of |
| 20 | the access to capital and funding acquisition |
| 21 | recommendations. And we list the things that |
| 22 | ideally the commissioner would oversee. And |
| | |

as you see, it is many of the things we have 1 just talked about, but also is expanded to 2 include things that could be. 3 The reinstatement of the tax 4 5 certificate, and divestiture of broadcast stations to minority or women-owned 6 7 businesses, that there would be a designated commissioner who could then oversee this 8 9 within the FCC itself with whom the committee could work to have this be -- all of the 10 recommendations be implemented. 11 12 CHAIRMAN RIVERA: And they would 13 work the OCBO as well? 14 MS. SUTTER: Absolutely. CHAIRMAN RIVERA: Is there a 15 second? 16 PARTICIPANT: Second. 17 CHAIRMAN RIVERA: Any questions or 18 comments about this recommendation? David? 19 20 MR. HONIG: Just wanted to note, 21 this is a very important recommendation. In 22 the Carter administration and throughout most

of the 1960s, the agency had the practice of
designating specific commissioners to write
orders, to chair task forces, and to undertake
tasks like this. It was a good idea then. It
was abandoned in the early 1980s.
This is certainly important enough
to start that practice again. And the

9 because that's the portion of the act that 10 addresses market entry barriers. We haven't had a useful 257 report since 2000. 11 The next one is due, actually, this month, that report 12 13 to Congress. So this couldn't be more timely, and I think it's one of the most important 14 things that this body will have done if we 15 vote this out. 16

reference to 257 is particularly vital,

8

17 CHAIRMAN RIVERA: Thank you. Any
18 other comments or questions? All in favor of
19 the recommendation say "aye."
20 (Chorus of ayes)
21 CHAIRMAN RIVERA: Opposed? Motion

22 carries. Thank you, Diane.

| Page | 5 | 7 |
|------|---|---|
|------|---|---|

| 1 | MS. SUTTER: Thank you. And now we |
|----|---|
| 2 | move to the personal people meter task force. |
| 3 | This task force has been working very hard, I |
| 4 | should say, in terms of what they've been |
| 5 | trying to accomplish, because there are so |
| 6 | many pieces to the question. And being able |
| 7 | to have lots of discussion around what the |
| 8 | recommendations would be and to arrive at |
| 9 | something that they could bring before you |
| 10 | today. |
| 11 | I will tell you that in the |
| 12 | deliberations that the task force has had, |
| 13 | they will also be looking for other |
| 14 | recommendations beyond just this. So I should |
| 15 | say to the Commission that this is the first |
| 16 | of what will be other recommendations that |
| 17 | they hope to proffer, and that this |
| 18 | recommendation does not suggest that they |
| 19 | think this is the only solution that they |
| 20 | would like to put forth, but rather one that |
| 21 | they're prepared to make today with the |
| 22 | expectation that there will be others that |

will be coming when they can reach unanimity
 on what that would look like.

So I just mention that in the 3 4 context of what we're recommending today, that 5 this is the one they're bringing to the full committee today, but it's not the only one. 6 7 And it also refers to the fact that the PPM methodology that has been a great point of 8 9 discussion -- that at the current time there 10 are 33 markets in which the -- well, there are 25 now and eight planned by the end of 2009, 11 for a total of 33 markets. Of which only two 12 13 have actually received the Media Ratings Council approval and accreditation. 14 And trying to understand how the 15

thinking has come for people meters, but also to what else is out there. Meaning Nielsen and are there other rating results that are being looked at and considered. So this is not just about Arbitron's PPM, but rather the whole issue of ratings and what impact does that have.

| 1 | And is it a disproportionate |
|----|--|
| 2 | impact on certain stations with certain |
| 3 | formats. So the task force actually has had |
| 4 | conversations and conference calls with the |
| 5 | Media Ratings Council itself, and they have |
| 6 | also been in contact with both Arbitron and |
| 7 | Nielsen to try to understand how and why the |
| 8 | process works, and what is the criteria by |
| 9 | which decisions are made and implemented, and |
| 10 | how should we understand what they're doing |
| 11 | and have a better understanding of what this |
| 12 | needs to look like. |
| 13 | Now, as you know, this is |
| 14 | something that has been before this group |
| 15 | before, and in fact there is an NOI that |
| 16 | currently exists on the subject now, pending, |
| 17 | at the Commission. The recommendation that is |
| 18 | being made is really one that is based on the |
| 19 | conversations that have been going on over the |
| 20 | past several months with the task force |
| 21 | itself, and with the pending NOI and has led |
| 22 | to this recommendation. |

| 1 | The PPM task force recommends that |
|----|--|
| 2 | the FCC use its authority pursuant to 403 of |
| | |
| 3 | the Communications Act of 1934 to institute a |
| 4 | 403 investigation to determine whether the |
| 5 | ratings practice that is currently being |
| 6 | employed in certain markets in the radio |
| 7 | industry are having an inordinately negative |
| 8 | effect on certain formats. Also, does this |
| 9 | have impact on diversity of ownership in |
| 10 | radio? |
| 11 | And then specifically, they go |
| 12 | through and outline where there has been some |
| 13 | question and what they think are the other |
| 14 | questions that need to be answered, which they |
| 15 | will be considering as they move forward in |
| 16 | continuing their work in the task force. So |
| 17 | the media issues subcommittee submits this for |
| 18 | the Commission's consideration. |
| 19 | CHAIRMAN RIVERA: Is there a |
| 20 | second? |
| 21 | PARTICIPANT: Second. |
| 22 | CHAIRMAN RIVERA: Now, as you |
| | |

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noted, this committee has already recommended 1 to the Commission that it institute a 403 2 investigation. It did that in June of 2008. 3 Your subcommittee is making this 4 5 recommendation again because the NOI didn't exist --6 7 MS. SUTTER: When the last one was brought before, that is correct. 8 CHAIRMAN RIVERA: Thanks. 9 10 MS. SUTTER: That has changed since the time that the original one was made. 11 And it's in response to that NOI, which is still 12 13 pending. 14 CHAIRMAN RIVERA: Any comments or questions? 15 Karen? MS. NARASAKI: I think that this is 16 a very important recommendation. 17 In the interest of full disclosure, I actually sit on 18 an advisory council to Nielsen, which came 19 about when they started to roll out their 20 21 people meter program and similar issues were 22 raised. And we've worked very successfully

with them to address the issues to try to make
 sure that their methodology was really fully
 capturing minority communities.

And the advisory council still 4 5 exists today. There's a Latino and African American and Asian American one. So I'd be 6 7 very interested in helping provide any input you would like as your committee moves forward 8 9 on the other related recommendations. I wanted to add that we had not 10 seen similar interest by Arbitron, 11 unfortunately, in response to the issues that 12 13 were being raised about their methodology. So I'm very happy to see this recommendation 14 moving forward. 15 MS. ALONZO: And Karen, we would 16 love to have you on the team. Because I think 17 that's actually a call-out to the entire 18 committee. We need more people, and I would 19

20 love to have someone representing Spanish

21 radio, which does not exist on the

22 subcommittee. So that we have a better

understanding of those needs. We've had great 1 conversations with SBS and Univision, and a 2 host of others and trade groups, but it really 3 is a very complicated subject. 4 5 And we sit -- I sit on the Latino advisory council, and Karen -- so we've had 6 7 the opportunity to see some of the best practices that have been put out there, and we 8 9 would like to bring that to the table, so the 10 more conversation we can have going forward, 11 the better. 12 CHAIRMAN RIVERA: Thank you. 13 MS. SUTTER: And again, I just want to reiterate that this is not the only 14 alternative that the committee hopes to be 15 able to provide, but it's the one that they're 16 prepared to do at this time. 17 CHAIRMAN RIVERA: Understand. Any 18 other comments or questions? All in favor of 19 20 the recommendation say "aye." 21 (Chorus of ayes) 22 CHAIRMAN RIVERA: Opposed?

| 1 | MS. LUCEY: Opposed. |
|----|--|
| 2 | CHAIRMAN RIVERA: One opposed, duly |
| 3 | noted. The ayes have it. Thank you. I |
| 4 | believe that concludes your report? |
| 5 | MS. SUTTER: It does, thank you. |
| 6 | CHAIRMAN RIVERA: Yes, thank you |
| 7 | very much. Wonderful work. A lot of good |
| 8 | work that has gone into here, and we look |
| 9 | forward to hearing more from the subcommittee. |
| 10 | Toni, your turn. |
| 11 | MS. BUSH: Thank you, Henry. And I |
| 12 | want to thank, once again, my committee for |
| 13 | all of their work. I also want to recognize, |
| 14 | before I put forth our recommendation, that |
| 15 | this is one recommendation that we have in |
| 16 | connection with broadband service to the |
| 17 | Native American community, but that there was |
| 18 | a very large submission by a number of Native |
| 19 | American organizations with many |
| 20 | recommendations in them, and there are other |
| 21 | recommendations that the committee will be |
| 1 | |

1 Karen Narasaki and Ray Ramsey, 2 through Howie, have made some specific suggestions of things that we should consider, 3 4 and we are going to take those up starting in 5 the new year. So that there will be other recommendations, but I did want -- we did feel 6 7 it was important to move forward on this issue and it was unanimous in our committee that we 8 9 recommend that the Commission undertake the 10 creation of a joint Native Nations/FCC task 11 force. 12 And it is one of the 13 recommendations that was part of a submission by a number of Native American organizations. 14 And the feeling really is that there are a lot 15 of unique challenges facing the Native 16 American community that don't face any other 17 community in the United States. The issues 18 related to sovereign status, the large number 19 20 of tribes -- 564 -- and also there are 21 physical challenges, locational challenges, and we felt that it's an issue that needs some 22

continuity of attention that could be provided 1 by a task force that specifically focuses on 2 this so that you're not sort of trying to re-3 educate a group of people every time a new 4 5 issue comes up or in a new area. And Geoff, I think you're on the 6 7 phone. Did you want to add anything? MR. BLACKWELL: Thank you, Toni. 8 9 And I'm sorry that I can't be there in person. 10 I'm actually in a part of Indian country right now, out on the West Coast. 11 But I wanted to 12 support what Toni was saying in terms of this 13 being one of the -- this is really a recommendation that comes of Native American 14 involvement at the FCC over the past several 15 Most recently, it has occurred in 16 years. several dockets at the Commission over the 17 last decade, and most recently in the tribal 18 broadband. 19 20 It was submitted by the National Congress of American Indians and Native Public 21 22 Media, two organizations that I'm involved in.

And it has virtual unanimous support across
 Indian country that the Commission find a
 mechanism, create a mechanism to work on a
 government to government basis to dig into the
 media issues based in tribal nations.

6 But to do so in a way that engages 7 elected and appointed tribal leaders, but also engages other members of this committee and 8 9 other advisory committees, members of both 10 minority and majority industry and other stakeholders so that a good -- so that 11 recommendations and tasks, genuine tasks, can 12 13 be arrived at through a full picture of what is going on on tribal lands. 14 So from the National Congress of 15

American Indians and Native Public Media, we thank the consideration of the subcommittee and recommend this recommendation to the full committee. Thank you, Toni.

20 MS. BUSH: You're welcome. So our 21 recommendation is that the Commission should 22 consider formally creating a joint Native Nations/FCC broadband task force charged with
 developing a comprehensive approach for
 resolving the significant barriers to
 broadband deployment and adoption on tribal
 lands.

The joint task force must take 6 7 careful steps to also address the continued need for basic telephone service throughout 8 9 tribal lands as a necessary lifeline. The 10 joint task force makeup should involve both senior-level FCC personnel and key elected and 11 appointed tribal community leaders with 12 13 expertise in the cultures of native nations and the complexities of federal Indian law and 14 policy, tribal government environments and the 15 economic development, as well as an 16 understanding of the obstacles and challenges 17 to broadband deployment in tribal lands. 18 That would be about a hundred 19 20 people, I think, that we would need. The joint task force should strive to meet the 21 22 Commission's commitment to create meaningful

1 consultation with native nations and, by utilizing the exception to the federal 2 advisory committee act for intergovernmental 3 purposes, should act as a tribal sounding 4 5 board for issues for consultation with the native nations throughout the country. 6 7 The joint task force should draw upon the input from other Commission advisory 8 9 bodies, communications industry experts, local 10 and national minority and majority communications companies, officials, and other 11 relevant government agencies, tribal community 12 13 leaders, and visionaries from current successful tribal broadband projects, and 14 tribal governments themselves as it analyzes 15 and develops tasks aimed at finally closing 16 the infamous digital divide on tribal lands. 17 CHAIRMAN RIVERA: Is there a 18

19 second?

20 PARTICIPANT: Second.

21 CHAIRMAN RIVERA: All right. Is

22 there any discussion? Yes, Jenny?

| 1 | MS. ALONZO: So how many successful |
|----|---|
| 2 | tribal broadband projects are there? |
| 3 | MS. BUSH: Geoff? |
| 4 | MR. BLACKWELL: There are really |
| 5 | less than two handfuls. There are some |
| 6 | hybridized next week I'll be meeting with |
| 7 | the Southern California Tribal Chairman's |
| 8 | Association. Their tribal digital village, |
| 9 | which is one of the shining examples in |
| 10 | wireless unregulated spectrums that's |
| 11 | connected several tribes here. There's also |
| 12 | the wonderful example of the Couer d'Alene |
| 13 | tribe in wireless. |
| 14 | In a model that is more telco |
| 15 | oriented, there are eight tribally owned and |
| 16 | operated telephone companies that, to one |
| 17 | level or another, have been able to deploy |
| 18 | DSL, and even in certain locations, triple |
| 19 | play. But that is a vast, vast minority of |
| 20 | the 564 federally recognized Indian tribes. |
| 21 | We estimate the broadband penetration rate in |
| 22 | Indian country it's an anecdotal estimate - |
| 1 | |

- at somewhere around five percent. 1 So in an environment where you're 2 looking to aggregate demand with anchor 3 institutions that most of the country is 4 5 simply not familiar with, a step like this is 6 critical. Thank you. 7 CHAIRMAN RIVERA: Any other questions or comments? All in favor of the 8 9 recommendation say "aye." 10 (Chorus of ayes) 11 CHAIRMAN RIVERA: Opposed? The 12 motion carries. Yes indeed. 13 COMMISSIONER COPPS: I'd like to 14 just say a word. Now that you've voted, far be it for me to ever try to influence the vote 15 of this August assemblage. But I wanted to 16 thank Toni and the subcommittee for their 17 great work here. This is an issue that is 18 just crying out for more visibility. 19 I'm 20 delighted that the subcommittee and this 21 committee are paying attention to it. I'm 22 delighted that the chairman's office is paying

1 attention to it and acting on it.

Eddie Lazarus, the chief of staff, 2 and I had a good trip out to Pine Ridge a 3 4 couple of months ago. I read with great 5 interest the submission that Geoff Blackwell was just talking about. I highly recommend 6 7 folks taking a look at it just to get an understanding of the breadth of the problem 8 9 and the creativity of some of the solutions 10 that have been suggested. And it's got some of the success stories in there in California 11 and Minnesota and Idaho and elsewhere. 12 13 I'm going to be talking a lot about this between now and February 17th, and 14 I think one of the tests that you can apply to 15 the success and the credibility of the 16 broadband plan is how it treats this 17 particular subject matter. So we welcome your 18 attention to this, and I thank you for it. 19 20 CHAIRMAN RIVERA: Thank you, commissioner. Well, I just want to say before 21 we give the floor to Thomas that this is a 22

> Neal R. Gross & Co., Inc. 202-234-4433

very impressive body of work. You guys have 1 really gone above and beyond here. I want to 2 tell you how very proud I am to be associated 3 with all of you. This is really first class 4 5 work. And you should be very proud of 6 yourselves. So thank you. 7 MS. LUCEY: Henry, I'm just wondering if I could explain my opposition, 8 9 since I realize not everybody's been on the last three diversity committee iterations. 10 CHAIRMAN RIVERA: Sure. 11 12 MS. LUCEY: Okay. It's just --13 we're opposed to what we see as the expansion of the FCC's authority over an entity which we 14 see as it having no jurisdiction over. And 15 that there are other ways that we think are 16 better to address the problem, as Diane 17 alluded to. So just wanted to -- this is 18 similar to what we had several years ago, when 19 20 it came up. 21 MS. BUSH: But let's just make it 22 clear that Anne's talking about PPM, not the

1 Native American resolution, okay?

| 2 | CHAIRMAN RIVERA: Thank you for |
|----|--|
| 3 | clarifying that. And Anne, you're consistent. |
| 4 | You're right, you voted against it in June of |
| 5 | 2008. So we understood. But thank you for |
| 6 | your clarification. So Thomas, you have the |
| 7 | floor, sir. And thank you for being here. |
| 8 | We're delighted to see you. |
| 9 | MR. REED: Thank you very much. |
| 10 | Good afternoon, everybody. I guess it's very |
| 11 | clear that we'll be seeing a lot of each |
| 12 | other. But first I'd like to echo the thanks |
| 13 | that Commissioner Copps delivered and Chairman |
| 14 | Genachowski. The yeoman's work that this |
| 15 | committee does I've just started here at |
| 16 | the FCC, and I'm excited to be here and |
| 17 | excited to be here today. Just started at the |
| 18 | FCC in August, and have seen a lot of the work |
| 19 | that this committee has done and have admired |
| 20 | it. |
| 21 | And I'm looking forward to working |
| 22 | with you all very closely. I've met many of |

you already. And I'm looking forward to
 getting to know all of you. And for those of
 you who don't know, my office, OCBO, the
 Office of Communications Business
 Opportunities, really is the principal contact
 within the Commission for small and diverse
 businesses.

And I consider our purpose as 8 9 twofold. One, to promote programs and 10 policies that encourage small and diverse businesses to become increasingly more engaged 11 in the decision-making process here at the 12 13 FCC. That's the first prong. The second prong really is the business development 14 prong. And that is to, again, promote 15 16 programs and policies that will encourage new entry. Small businesses, women and minority 17 owned businesses, to provide them with the 18 information on FCC guidelines and policies on 19 licensing and spectrum, and other information, 20 21 access to capital.

22

That will enable them to compete

more vigorously in the marketplace. And so 1 2 clearly, the mission that we have is aligned with yours. And so as the chairman and I have 3 4 spoken about already, we'd like to sort of 5 reintroduce our office to this organization in a way that really bolsters the work that's 6 7 already being done by Barbara and Jamila and Carolyn. 8

You should consider me at your 9 10 disposal, and my staff at your disposal. And I know that with many of the proposals, that 11 will be not a difficult thing. So you know 12 13 where I am. I can't hide. I'm one of the taller guys here, so I'm easy to find. But I 14 would also like to say that I inherited a 15 staff of very, very dedicated and talented 16 lawyers and outreach specialists who are 17 excited to do this work, are anxious to do 18 this work. 19 20 So it's only appropriate that the 21 recommendations that you make and that we

22 approve, that we be a conduit for that effort.

So in a more direct way, I think going
 forward, the way I would like to
 operationalize our increased relationship,
 I've already assigned three attorneys to
 support the work that Carolyn and Jamila and
 Barbara are doing.

7 So that they can fill in as needed, can liaise with this committee as 8 9 needed. I certainly welcome, in addition to the recommendations that are made here 10 formally, ideas that you have that are 11 12 informal about the work that we do. Sherrese 13 mentioned -- and thank you again Sheresse for those kind words earlier -- a couple of the 14 workshops that we have already done along 15 these lines. The workshop that we hosted in 16 August on broadband and small business entry 17 and using broadband applications to expand 18 their competitive abilities. 19 20 That workshop was a very 21 interesting workshop where we brought policy

22 experts in talking about -- really about

adoption issues. Some deployment issues 1 2 within broadband, but mostly about adoption. There were telcos that were small and minority 3 4 and women owned telcos that also spoke and 5 talked about some of the barriers that they And some that were trying to be a part 6 face. 7 of the deployment effort talked about the resource issues, the access to capital issues 8 9 that they faced and participating that effort. 10 But we also brought in ancillary businesses, traditional businesses that were 11 on the adoption side discovering how broadband 12 13 could expand their competitive position. One of those businesses was Cakelove. We actually 14 pushed them to bring samples, but he forgot. 15 That was kind of a failing. But we'll have 16 him back anyway. But that's one business that 17 does all of his accounting and payroll 18 virtually. And there were other businesses 19 20 that talked about how they were able to enter the marketplace without staff, without 21 22 physical infrastructure, without inventory and

could establish a business totally on the
 Internet.

So we were excited to be a part of 3 4 that process. And more recently, the access 5 to capital workshop that we held a couple weeks ago that Sherrese mentioned, we were 6 7 very excited to be a part of that process. Janelle brought her expertise and talked about 8 9 We had representatives from private TDF. 10 investors talking about the challenges to receiving capital for them, but also talking 11 about strategy, which was more important to 12 13 us.

Very straightforward, how do you 14 15 get money from private investors. And then we 16 had public sector experts, NTIA, RUS, SBA, also talking about those very things, which we 17 think was very useful. And a lot of our 18 constituents came back to us and found the 19 20 information useful. One of the things that we also did that was different for us and 21 22 different for the FCC was we coordinated one

on one sessions between entrepreneurs that 1 2 were participating in that workshop and our private investor panelists, so that they could 3 sit down with individuals that had the money 4 5 and learn more about how they could make their presentations more palatable to those 6 7 individuals, how they could make them more effective. 8

9 So they received critical analysis 10 of their presentations and their business 11 plans. And so that was our first go-around. It wasn't a new idea. That's one of the great 12 13 things about this- you guys come up with great ideas, we just steal them. So we're excited. 14 There are a number of other programs that are 15 in their nascent stages that we are pushing 16 forward. And we look forward to working with 17 all of you. We look forward to doing more 18 access to capital workshops. 19 20 I think that's something that we

21 want to do on a regular basis. It's only the 22 beginning of the conversation when you have a

one-day session on that issue. We hope to do 1 it at least annually. So with that, I cede 2 the floor. I see that I'm between everybody 3 and adjournment of this meeting, so I think 4 5 I'm going to be quiet. But again, thank you for inviting me. And I look forward to 6 7 working with all of you. MS. SUTTER: Can I just respond? 8 9 CHAIRMAN RIVERA: Sure. 10 MS. SUTTER: Tom, the media issues subcommittee with its task force would welcome 11 12 the opportunity to work with you on that 13 funding for acquisitions and access to capital. We have a lot of resources that we 14 could help identify, I think, for you, and to 15 be able to provide some context for some of 16 these conversations with both the broadcasters 17 themselves, with existing lenders, that sort 18 of thing. So we'd be very happy to help with 19 20 that. 21 CHAIRMAN RIVERA: And thank you 22 again for being here, Thomas. We really look

forward to working with you, and we're 1 2 delighted that OCBO is going to be a resource to this committee. We can use the help. 3 Ι want to mention to you that our next meeting 4 5 will be sometime in March. Probably late And I need to work with Barbara to 6 March. 7 find a date that we can use this room. And so committee chairs, we'll be looking for some 8 9 more of your great ideas at that meeting. 10 And we're also considering having 11 a meeting in January, late January, just before the broadband plan is finalized. I 12 13 thought it might be a good idea for us to get a report, basically, of what's going on with 14 the broadband plan in terms of the things that 15 we care about. To see that the interests that 16 this committee is interested in are being 17 carried forward. 18 We're not ready to announce that 19 yet. We've still got a little homework and 20 background work to do on that. But stay 21 22 And you won't need to do anything on tuned.

that, I don't think, other than just come and 1 listen and then give your input. But we'll 2 get back to you on that. We haven't quite 3 finalized that. And I thank Jamila for calling 4 5 it to my attention. It's really a good idea. So we'll be letting you know about that. 6 7 Does anybody have anything else to bring before this August group? 8 9 MS. LUCEY: I just have a question. 10 CHAIRMAN RIVERA: Sure. MS. LUCEY: These recommendations 11 12 now, are they just self-effectuating, go 13 forward as they are, or is there some procedure? 14 CHAIRMAN RIVERA: As we did last 15 time, I will draft a letter to the chairman's 16 office and will send those to the chairman's 17 office. There are a few editorials we've got 18 19 to fix. And then Barbara posts them to the Website. 20 21 MS. KREISMAN: I'll send you all a 22 revised version just to make sure everyone's

okay with the editorial changes. And as 1 you'll see today, even if you get on our 2 Website today, the FACA Website, you'll see 3 4 the proposals that were considered today. So 5 we try to keep it up to date. 6 CHAIRMAN RIVERA: Anything else? 7 MS. BROWN: Henry? CHAIRMAN RIVERA: Yes? 8 9 MS. BROWN: Kathy Brown. 10 CHAIRMAN RIVERA: Hi Kathy. MS. BROWN: Do we have a feedback 11 12 loop on the recommendations we make and how 13 they're received, or some reaction? Or do more or do less or this is good or here's what 14 we're going to do? 15 16 CHAIRMAN RIVERA: That's a very good question. And heretofore, we have not. 17 But today you did hear a report from the 18 chairman's office, from Sherrese, who did give 19 us some feedback on some of the 20 recommendations that we made. Would you like 21 to respond, Bruce? 22

| 1 | MR. GOTTLIEB: Sure. I think that |
|----|---|
| 2 | going forward, that is something we'd like to |
| 3 | develop. We should talk about what's the best |
| 4 | way to do it. It could be a reply to the |
| 5 | letter that could also be posted on the |
| б | Website as well as the work that Tom will be |
| 7 | doing. And I think, depending on which |
| 8 | recommendation we're talking about, those two |
| 9 | are the right ways to respond. |
| 10 | But certainly you have our |
| 11 | commitment that the important work you're |
| 12 | doing is something that we'll respond to and |
| 13 | take account of. |
| 14 | CHAIRMAN RIVERA: Thank you, Bruce. |
| 15 | COMMISSIONER COPPS: And more is |
| 16 | better than less. |
| 17 | CHAIRMAN RIVERA: Excellent |
| 18 | question, Kathy. Thank you so much. Anything |
| 19 | else? All right, we'll stand adjourned. And |
| 20 | again, happy holidays to all of you. |
| 21 | (Whereupon, the above-entitled |
| 22 | matter was concluded at 3:21 p.m.) |
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