

FEDERAL COMMUNICATIONS COMMISSION  
ADVISORY COMMITTEE ON  
DIVERSITY FOR COMMUNICATIONS  
IN THE DIGITAL AGE  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

December 15, 2009

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

Dear Chairman Genachowski:

As Chair of the Advisory Committee on Diversity for Communications in the Digital Age (“Diversity Committee”), I am pleased to present you with five recommendations that the Diversity Committee believes will enhance the ability of minorities and women to participate in telecommunications and related industries. These recommendations originated in our Constitutional Issues Subcommittee, Media Issues Subcommittee, and Telecom and Broadband Issues Subcommittee, whose tireless efforts in this regard are to be commended. At the December 3, 2009 meeting of the full Diversity Committee, each of the recommendations was approved.

**Recommendation on Constitutional Issues**

The Commission’s Obligation to Close the Digital Divide. The Diversity Committee recommends that the Commission acknowledge and act upon its affirmative duty under Section 706 of the Communications Act to take pro-active steps to close the digital divide. Specifically, the Diversity Committee recommends that in the agency’s National Broadband Plan, Network Neutrality and Spectrum Policy proceedings, among others, the Commission should analyze in detail the anticipated effects of rule or policy changes on the digital divide, and craft any new rules and policies in a manner that ensures, to the extent possible, that these rules and policies will be instrumental in closing the digital divide.

Congress and the Commission acknowledge that ubiquitous deployment and access to broadband is an agency goal.<sup>1</sup> Under Section 706, Congress directed the

---

<sup>1</sup> Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as

Commission to “encourage [broadband] deployment on a reasonable and timely basis...to all Americans.”<sup>2</sup> In February, Congress reaffirmed its commitment to ensuring ubiquitous access to broadband and charged the Commission with developing a national broadband plan under the American Recovery and Reinvestment Act of 2009 (“ARRA”).<sup>3</sup> Recognizing these goals, the Commission made broadband “a top priority at the Commission.”<sup>4</sup>

Given the Commission’s statutory mandates and its established priorities, the Diversity Committee recommends that prior to finalizing the National Broadband Plan and net neutrality rules, the agency analyze how its broadband policies or rulemaking proposals will impact the digital divide. This will assist the Commission in determining whether its ultimate policies and rulemaking proposals are consistent with its determination that ubiquitous access to broadband is one of the Commission’s most critical policy objectives.

### **Recommendations on Media Issues**

Recommendations on Funding Acquisitions. The Diversity Committee makes three recommendations to improve the current state of financing for media transactions. As the Commission is aware, access to capital for broadcast media transactions is limited for all businesses, not just small, minority, or women owned broadcasters. Larger lenders seek to finance larger businesses, leaving smaller broadcasters with a lack of funding options. Local and regional banks that are more likely to lend to smaller businesses do not fully understand the nature of funding for a broadcast license and are more comfortable lending to businesses with traditional, tangible assets. More direct and timely efforts should be pursued to educate local and regional banks on the nuances of broadcast media licensing and financing, thereby improving the likelihood that small and medium-sized broadcasters will have access to the capital they need to sustain their business and eventually thrive.

---

Amended by the Broadband Data Improvement Act, Notice of Inquiry, GN Docket 09-137, FCC 09-65 ¶12 (rel. Aug. 7, 2009) (“Sixth Section 706 NOI”).

<sup>2</sup> Section 706(a) of the Telecommunications Act of 1996 (codified at 47 U.S.C. §1302(a)).

<sup>3</sup> American Recovery and Reinvestment Act of 2009, §6001(k)(2), Pub. L. No. 111-5, 123 Stat. 115 (2009).

<sup>4</sup> Sixth Section 706 NOI at ¶2; see also, e.g., A National Broadband Plan for Our Future, Notice of Inquiry, 24 FCC Rcd 4342, 4381 ¶123 (2009) (“National Broadband Plan NOI”) (recognizing the “the incredible value of ubiquitous broadband”).

The Diversity Committee recommends that the Commission task (and fully fund) the Office of Communications Business Opportunities (“OCBO”) with the duty to expand the FCC website to include educational materials for regional and local lenders, investors, and minorities and women seeking funding for broadcast acquisitions. We also recommend that the Commission implement an outreach program to increase awareness of the benefits of lending to and investing in minorities and women in the broadcasting industry. This program will be twofold in that it will include outreach to both other government agencies and the private sector in order to facilitate lending to minorities and women. Further, the Diversity Committee recommends that the Commission designate one Commissioner to oversee implementation of these and other access to capital and funding acquisitions recommendations.

Equal Employment Opportunity (“EEO”) Forum & Revisions. In 2004, the Diversity Committee made a recommendation that the Commission convene a meeting to review best practices in the industry and use those practices as an example to share within the broadcasting and multichannel video programming distribution industries.<sup>5</sup> This resolution also stressed the importance of retention and promotion practices within the industry in addition to recruitment as a means to increase diversity.

The Commission’s current EEO rules center on hiring and recruitment of diverse employees, not retention and promotion. The Diversity Committee finds that having diverse candidates in positions of authority within media organizations is equally important for achieving greater diversity in the broadcasting and MVPD industries. Several media companies and non-profit organizations engage in practices and offer programs designed to promote retention and promotion of diverse candidates to senior-level positions within the media industry.

The Diversity Committee recommends that the Commission convene a forum where communications companies can share information on successful practices for retaining and promoting diverse employees. Further, the Diversity Committee recommends that the Commission’s EEO rules be revised to reflect that retention and promotion of diverse employees “counts” toward EEO compliance.

Personal People Meter (“PPM”) Taskforce.<sup>6</sup> In June of 2009, the Media Issues Subcommittee convened a task force to focus on the continuing issues with Arbitron’s

---

<sup>5</sup> See Workplace Diversity: A Global Necessity and an Ongoing Commitment, Career Advancement Subcommittee of the FCC’s Advisory Committee on Diversity for Communications in the Digital Age (June 14, 2004).

<sup>6</sup> The Diversity Committee is aware of its June 2008 recommendation that the Commission institute a Section 403 investigation on the PPM matter and notes the existence of the Commission’s NOI on the subject of whether there should be a Section

PPM Methodology, which is currently used in 25 markets and slated for implementation in another 8 markets, for a total of 33 markets. Of the 33 markets, Arbitron has earned accreditation from the Media Ratings Council (MRC) for only two – Houston/Galveston and Riverside/San Bernardino.

The Task Force spent the latter half of 2009 reaching out to stakeholders representing broadcasters, advertisers, and trade groups. Based upon those conversations, the Diversity Committee recommends that the Commission use its authority pursuant to Section 403 of the Communications Act of 1934 to institute an investigation to determine whether the ratings practices currently being employed in certain markets in the radio industry are having an inordinate negative effect on certain formats. Further, the Commission should investigate whether these ratings practices have any impact on diversity of ownership in radio. Specifically, the Commission should examine certain ratings methodologies and sampling procedures to determine if the ratings are accurate representations of the audience.

#### **Recommendations on Telecom and Broadband Issues**

Creating a Joint Native Nations/FCC Broadband Taskforce. The Diversity Committee recommends that the Commission create a joint FCC and Native Nations Broadband Taskforce to develop a comprehensive approach to resolving the significant barriers to broadband deployment and adoption on Tribal Lands when crafting the National Broadband Plan.

There are 564 federally recognized American Indian Tribes and Alaska Native Villages (“Native Nations”) in the United States, all sovereign entities with their own governmental structures and Tribal community anchor institutions. Native Nations share a unique government-to-government trust relationship with the federal government. Native Nations also face unique challenges in deploying broadband services to their communities and Tribal Lands have distinct geo-political histories that have fostered their lack of critical infrastructure build out. In addition to a broadband penetration rate that is estimated as low as five percent on Tribal Lands, Tribal homes have a telephone penetration rate of only sixty-nine percent. Challenges involving remoteness, low population demographics, terrain, and cyclical poverty require the examination of new programmatic and economic regulatory approaches to “Tribal centric” demand aggregation and the concepts of sustainability and community oriented networking.

The Diversity Committee recommends that the Taskforce be comprised of senior level FCC personnel and Tribal community leaders with expertise in the cultures of

---

403 investigation. The Diversity Committee believes it is worth reiterating its June 2008 recommendation because the Commission’s NOI was not issued in June 2008. .

Hon. Julius Genachowski  
December 15, 2009  
Page 5

Native Nations, and the legal, political, and economic complexities of federal Indian law and policy. The Taskforce should address the continued need for basic telephone service throughout Tribal lands as a necessary lifeline. The Taskforce should act as a sounding board for issues affecting Native Nations throughout the country, and draw upon input from other Commission advisory bodies, communications industry experts, visionaries from current successful Tribal broadband projects, and Tribal governments themselves, as it analyzes and develops solutions to finally close the digital divide on Tribal Lands.

\* \* \* \* \*

As Chair of the Diversity Committee, I thank all of its members for their continued efforts in developing these recommendations for consideration by the Commission. We are confident that expeditious Commission consideration and approval of the attached recommendations will advance the agency's goals of promoting diversity of ownership and employment and participation by encouraging minorities and women to seek opportunities in FCC-regulated industries.

Respectfully Submitted,



Henry M. Rivera

cc: Hon. Michael Copps  
Hon. Robert McDowell  
Hon. Mignon Clyburn  
Hon. Meredith Atwell Baker  
Thomas Reed, Esq.

Attachments:

Recommendation on Closing the Digital Divide  
Recommendations on Funding Acquisitions  
Recommendation on Equal Employment Opportunity Forum & Revisions  
Recommendation on Personal People Meter Taskforce  
Recommendation on Creating a Joint Native Nations/FCC Broadband Taskforce