

SEPARATE STATEMENT OF CHAIRMAN MICHAEL K. POWELL

Re: Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies (MM Docket No. 98-204).

I am proud that we have adopted this Notice of Proposed Rulemaking (NPRM), which looks for ways to revise the equal opportunity rules to be consistent with the holding of the D.C. Circuit in *Association*¹. It is imperative that the Commission forge ahead to establish effective, legally sustainable rules. Today we have taken an important step towards achieving that goal.

The public benefits of individuals in our society having equal employment opportunities, based on merit rather than discriminatory factors, are so numerous they are impossible to list. I believe few would disagree with this proposition. Thus, it is only right and proper for this agency to expect its licensees to afford equal opportunities for everyone. Indeed, I believe it is our obligation to attempt to widen the circle of those Americans that benefit from the fruits spawned by those licenses. If the public interest benefit means anything at all it cannot possibly tolerate the use of a government license to discriminate against the citizens from whom the license ultimately is derived. Thus, we will remain vigilant in our pursuit of establishing rules. While this has been a challenging endeavor, it is nonetheless a noble one well worth undertaking. I am confident that we are now heading in the right direction.

In the NPRM we adopt today, we introduce a broad outreach program that is squarely race and gender neutral and, thus, not constitutionally suspect. The proposed EEO rules focus on increasing the possibility that more minorities and women get the opportunity to compete fairly for employment. No one is entitled to rewards they did not earn. No one is entitled to jobs for which they are not qualified. But, *everyone* is entitled to an equal opportunity to vie for those rewards and compete for those jobs. The proposed outreach program provides for the simple opportunity to compete for employment vacancies. All Americans, regardless of stripe, benefit when our workforce captures the rich talent of our great nation.

¹ *MD/DC/DE Broadcasters Association v FCC*, 236 F.3d 13, *reh'g den.* 253 F. 3d 732 (D.C. Cir. 2001) *pet for cert. Filed, MMTc v MD/DC/DE Broadcasters Association. No. 01-639 (October 17, 2001).*