

UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

In Re:)
)
EN BANC HEARING ON)
BROADCAST AND CABLE EQUAL)
EMPLOYMENT OPPORTUNITY RULES)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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BROADCAST AND CABLE EQUAL)
EMPLOYMENT OPPORTUNITY RULES)

Commissioners Meeting Room
Federal Communication
Commission
445 12th Street, S.W.
Washington, D.C.

Monday,
June 24, 2002

The parties met, pursuant to notice of the
Commission, at 10:03 a.m.

APPEARANCES:

On behalf of the FCC:

CHAIRMAN MICHAEL K. POWELL
COMMISSIONER KATHLEEN ABERNATHY
COMMISSIONER MICHAEL COPPS
COMMISSIONER KEVIN MARTIN
SECRETARY MARLENE DORTCH
FORMER COMMISSIONER HENRY RIVERA

Panelists - Panel I:

HUGH PRICE, President and Chief Executive Officer
National Urban League

JOAN E. GERBERDING, President
American Women in Radio and Television

MARILYN KUSHAK, Vice-President
Midwest Family Broadcasters

Heritage Reporting Corporation
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APPEARANCES: (Cont'd.)

Panelists - Panel I: (Cont'd.)

GREGORY HESSINGER, National Executive Director
American Federation of Radio and Television
Artists

ANN ARNOLD, Executive Director
Texas Association of Broadcasters

LINDA BERG, Political Director
National Organization for Women

ESTHER RENTERIA, President
Hispanic Americans for Fairness in Media

Panelists - Panel II:

CATHERINE L. HUGHES, Founder and Chairperson
Radio One, Inc.

BELVA DAVIS, Special Projects Reporter
KRON-TV, San Francisco, California

MICHAEL JACK, President and General Manager
WRC-TV, Washington, D.C.; and
Vice-President, NBC Diversity

REVEREND ROBERT CHASE, Executive Director
Office of Communications, United Church of Christ

CHARLES WARFIELD, President and Chief Operating
Officer
ICBC Broadcast Holdings, Inc.

SENATOR ART TORRES, Retired, President
Kaitz Foundation

TOM BAXTER, President, AOL/Time Warner
Time Warner Cable

STEVE WHITE, Senior Vice-President
AT&T Broadband

P R O C E E D I N G S

(10:03 a.m.)

CHAIRMAN POWELL: Good morning to everyone, and welcome to the Commission's En Banc Hearing on Broadcast and Cable Equal Employment Opportunity Rules.

We are honored to have so many take time out of their tremendously busy schedules to accommodate today's proceeding and give us the benefit of their collective experience. We especially want to thank former FCC Commissioner Henry Rivera for joining us today. We are fortunate to have him with us as he has a rich background in this area from his time at the Commission. Thank you, Henry.

I would also like to take this moment to recognize some other individuals who have contributed enormously to this subject. First, we have with us today Pluria Marshall, chairman of the National Black Media Coalition. Pluria, thank you. David Hoenig, executive director, Minority Media and Telecommunications Council, standing in the back. Phyllis Eagle Olson, president of the Emma L. Bowen Foundation. Where is she? There she is. And Felix Sanchez, executive CEO of the National Hispanic Foundation for the Arts.

Thank you all for being here. All have devoted a considerable amount of time and energy to equal employment

1 opportunity over the years, and we thank them.

2 I am also indebted to my fellow commissioners,
3 whose commitment to crafting constitutionally sound EEO
4 rules is evident by their enthusiastic participation in
5 today's hearing, and a special nod to Commissioner Copps,
6 who suggested last December that we convene this hearing.

7 At this point I'd like to ask my colleagues to
8 share their opening remarks, and we'll begin with
9 Commissioner Abernathy. Commissioner?

10 COMMISSIONER ABERNATHY: Thank you very much, Mr.
11 Chairman. I also want to thank everyone for being here
12 today and being part of this hearing on the proposed equal
13 employment opportunity rules.

14 Our goal is to ensure that all people from various
15 background within each community become aware of specific
16 job openings and opportunities in the media. In addition,
17 longer term recruitment initiatives, including scholarships
18 and internship programs, should help a wide array of people
19 develop the knowledge and the skills to pursue these
20 opportunities.

21 At the end of the day, I think that all of us will
22 benefit -- the media, consumers, employers -- so this is
23 basically a win/win situation for everyone. That became
24 clear to me last week when I had the opportunity to meet
25 with a talented group of college students who were working

1 in the industry as interns through the Emma L. Bowen
2 Foundation for Minority Interests in Media.

3 These amazingly talented kids -- I can call them
4 that because they're so much younger than me -- were all
5 concerned about the opportunities that lay ahead of them,
6 and I believe that the FCC's EEO rules, partly by fostering
7 the kinds of opportunities that the internship program
8 fostered, will ensure that these students and others become
9 a part of our vibrant media industry.

10 The other point I want to make is we were
11 overwhelmed with the number of people who wanted to come
12 here and talk with us today, and I think that's fabulous.
13 The insight and the viewpoint of the industry and the public
14 is always an important part of the process.

15 I'm hopeful that the proposal that we've set forth
16 will allow companies a considerable amount of flexibility
17 and discretion in how they achieve broad outreach and will
18 pass scrutiny by the Courts, but the benefit of today's en
19 banc is it provides us an opportunity to hear from all the
20 affected and interested parties so we can refine those
21 rules.

22 Thank you again. I look forward to hearing about
23 the various companies' best practices that you can share
24 with one another about all the industry efforts that are
25 already underway and how we can further refine those to

1 ensure that we come up with the best and the most effective
2 EEO rules possible. Thank you.

3 CHAIRMAN POWELL: Thank you.

4 Commissioner Copps?

5 COMMISSIONER COPPS: I am really pleased to
6 welcome all of today's panelists and participants to this
7 important meeting. Some of you have come a long ways to get
8 here today distance wise, and we thank you for that. Others
9 have come a long way fighting to break down barriers and to
10 open doors of equal opportunity to get here, and we thank
11 you for being here, too.

12 We have been many, many years getting to an en
13 banc hearing on equal employment opportunity. I'm told the
14 last one may have been 1973, so I want to commend the
15 Chairman for making it possible. I think this is a real
16 public service.

17 We at the Commission are in the middle of a
18 struggle to establish effective rules to ensure that the
19 doors to employment in our media industry are open wide for
20 all Americans. The fact that the D.C. Circuit has twice
21 struck down our EEO rules does not mean that we should shy
22 away from a strong commitment to a proactive program of
23 equal opportunity. That would be constitutionally
24 unnecessary and morally unforgivable. What the Court's
25 action does mean is that we have to work harder, be more

1 creative and discover together how to reach our goal.

2 To be frank, there are counsels of caution, even
3 in some quarters a feeling that we best not push very hard
4 for fear of yet another Court rejection, but that approach
5 is not sound counsel. It is instead a formula for retreat
6 and defeat, and it is at odds with the whole direction and
7 progress of America over the past 40 years.

8 By now we should all understand that America's
9 strength is its diversity. Diversity is not a problem to be
10 accommodated. It is an opportunity to be developed. We
11 will succeed in the twenty-first century not in spite of our
12 diversity, but because of our diversity.

13 As our friends in the Congressional Hispanic,
14 Black and Asian Pacific American Caucuses remind us in their
15 insightful letter of June 21, "Diversity is the backbone and
16 strength of our great nation, and diversity provides the
17 opportunity for us to become an even greater nation."

18 Of course we have to act in light of the D.C.
19 Circuit Court's decisions, but we must not allow these
20 decisions to halt our progress towards true equal
21 opportunity in the media industry. Our first panel will
22 give us more insight into the critical role that our EEO
23 rules have played in these industries and information about
24 the obstacles that stand between success and us.

25 We will hear clearly and frankly, I trust, about

1 the problems that many have had in learning about job
2 openings and getting hired, about the state of diversity in
3 our licensees' companies today and about the wide
4 differences in various companies' dedication to making equal
5 opportunity a reality.

6 Our second panel will help us find solutions to
7 these problems. I believe in these industries and in the
8 ingenuity and good citizenship of American broadcasters and
9 cable companies. Our second panel is living proof that a
10 number of companies are aggressively continuing their
11 outreach efforts, even after the Court's ruling. Their hard
12 work in connecting with their communities has improved their
13 work forces and improved the diversity of their companies.

14 We need to distill from these successes best
15 practices that other companies can employ, so I look forward
16 to hearing from people actually trying to achieve equal
17 opportunity, about what they think could work and about what
18 they think won't work.

19 I welcome hearing good news, but I want to know
20 about the bad and the ugly, too. We've got a big job to do
21 and a long ways to go, so I hope today no one will pull any
22 punches and that you will tell us how we can work together
23 to open wide the doors of opportunity.

24 Why is this so important? Here's one reason.
25 Just two years ago, an FCC Commission study by the Ivy Group

1 found that women and minorities faced pervasive
2 discrimination in the media industries over the last 50
3 years. The study found that the loosening of the ownership
4 caps made these barriers nearly insurmountable for small
5 minority and women owned businesses attempting to thrive or
6 even enter the broadcast industry.

7 The report concluded that government actions or
8 inaction on particular regulatory and market issues have
9 exacerbated the barriers. These actions and inactions
10 include the uneven enforcement of EEO policy.

11 In that same Ivy Group study, former Commissioner
12 Henry Rivera, who I am so pleased to see here today because
13 he has been such a real leader on this, explained how EEO
14 rules are critical not only to jobs today, but to new voices
15 in the media tomorrow. He explained that new people hired
16 for positions in the media companies are the farm team for
17 the future of the industry, and he correctly noted, "Those
18 are the folks that you look to in the future to get into
19 ownership."

20 If the doors to jobs with our licensees are not
21 open today, the doors to diverse ownership and a
22 multiplicity and diversity of voices in the media are
23 already closed for the future.

24 Let's not look on this hearing as an isolated
25 proceeding. It is in fact related to so many other things

1 we do. How we craft these rules will affect not just
2 employment in the ranks, but employment in the upper
3 management ranks and in ownership, too. How we craft these
4 rules will have much to do with our ability to enhance
5 diversity in programming. The two go together. Note that I
6 said diversity in programming and not variety. There's a
7 big and substantive difference.

8 How we craft these rules is also related closely
9 -- intimately connected -- to the public interest that both
10 the FCC and broadcasters are charged to promote. This is
11 not something we do at the fringes or something divorced
12 from our other ongoing work. It is rather at the heart of
13 what we do, and how we do here will affect how we do across
14 the board.

15 We can do better than we're now doing. This
16 includes the industry. This includes the FCC. We must all
17 do better both as trustees of the people's spectrum and as
18 citizens of this land of ever greater opportunity, so let's
19 roll up our sleeves and get to work. Thank you.

20 CHAIRMAN POWELL: Thank you, Commissioner.
21 Commissioner Martin?

22 COMMISSIONER MARTIN: I, too, want to thank all of
23 you for the considerable time you've taken out of your
24 schedules to be with us this morning and help educate us
25 about the challenges and opportunities that we're facing.

1 You are each in a unique position capable of
2 explaining to us both the challenges and opportunities
3 inherent in crafting rules that can promote equal employment
4 opportunity in the cable and broadcast industries.

5 Certainly creating EEO rules that will withstand
6 the Court's scrutiny is an extremely important
7 responsibility of the Commission. I believe we all share
8 the same goal -- designing a broad outreach program that is
9 comprehensive, effective and constitutional. I believe it
10 is also important to remember that a successful EEO program
11 can be a valuable tool to promote not just diversity, but
12 also true competition.

13 Broad outreach will benefit our society
14 tremendously by enabling the media to take advantage of the
15 rich diversity of our nation. By expanding our recruitment
16 efforts, broadcasters and multi-channel video programming
17 distributors are more likely to find the best qualified
18 candidates. When the media has the most talented work force
19 possible, we all reap the benefits.

20 I, therefore, am particularly interested in
21 hearing from all the witnesses today who are able to speak
22 about what tools actually can create such broad outreach
23 programs, and I know many of you have had such successful
24 programs in place for some time, and I commend you for it.
25 I appreciate your taking the time to share with us today how

1 those programs have been effective.

2 I also look forward to hearing from you what you
3 think would constitute the best practices that we could
4 adopt in expanding those equal employment opportunity
5 programs to others.

6 While I'm confident that we will succeed in
7 creating an effective outreach program, I am cognizant of
8 the Commission's history in this area. Twice the Courts
9 have struck down this agency's EEO rules as
10 unconstitutional. This time as we draft EEO rules we must
11 make sure that we give proper heed to the Court's
12 instructions, and in that regard I also hope that our
13 witnesses address any particular weaknesses that they might
14 see in our proposed rules.

15 Again I thank you for your time and your
16 willingness to share your concerns and insights, and I look
17 forward to hearing from all of you this morning. Thank you.

18 CHAIRMAN POWELL: Thank you, Commissioner Martin.

19 Before we begin with the panelists, I'd like to
20 invite our FCC secretary, Marlene Dortch, to give us the
21 rules of the road, if you will, with some recognition that
22 we have a lot of panelists, and we need to stick to them in
23 order to get through them.

24 Madam Secretary?

25 MS. DORTCH: Good morning, Mr. Chairman,

1 Commissioners and invited panelists. Following are the
2 procedures for today's en banc hearing. We will utilize a
3 time keeping machine located in front of Chairman Powell to
4 maintain time limits on each presentation.

5 Each panelist will have a total of six minutes to
6 make their individual presentation. The green light will
7 signal for the first five minutes of your remarks. When the
8 yellow light signals, you have one additional minute to sum
9 up your presentation and close your remarks. The red light
10 signals the end of your allotted time. Please conclude your
11 remarks at that time.

12 We will adhere to these procedural rules for both
13 panels. Thank you.

14 CHAIRMAN POWELL: Thank you.

15 Before we begin, I'd like to acknowledge
16 Commissioner Copps made reference to a letter that we
17 received from members of the Congressional Hispanic Caucus,
18 the Black Caucus, the Asian Pacific American Caucus that
19 "...urging the Commission to take affirmative steps to
20 ensure that broadcasters and cable entities do not
21 discriminate against current and prospective employees and
22 that they eliminate barriers predicted upon race, ethnicity
23 and gender." I will have this letter entered into the
24 official record.

25 We would now like to begin with a historical

1 overview. The en banc, of course, will focus on issues
2 raised in the rule making, and we'll hear many
3 recommendations from panelists on best practices and
4 successful outreach programs, but we thought it important to
5 try to provide an opportunity to frame the discussion by
6 getting a historical overview of the EEO rule, and we've
7 asked former Commissioner Henry Rivera to perform that task.

8 I can't do justice to Henry's varied and
9 successful career, but, just to name a few highlights, he
10 has currently since 1998 been a partner in the law firm of
11 Shook, Hardy & Bacon, also was an assistant managing partner
12 in the law firm of Ginsberg, Feldman & Bress, and prior to
13 that a partner in Dahl, Lonas and Albertson.

14 Mr. Rivera served as FCC Commissioner from August,
15 1981, to September, 1985. During his tenure at the
16 Commission, Henry served as Chairman of the Advisory
17 Committee on Alternative Financing for Minority
18 Opportunities in Telecommunications. Henry is the recipient
19 of numerous awards, including the Donald Magnan Award for
20 Advancing the Cause of Women and Minorities in the Media.
21 He is currently chairman of the board of the Catholic
22 Charities of Washington and a board member of the Minority
23 Media and Telecommunications Council.

24 Commissioner Rivera, welcome.

25 COMMISSIONER RIVERA: Thank you, Mr. Chairman.

1 Good morning, Mr. Chairman and Commissioners. It's a
2 pleasure to be here, although I must confess to feeling a
3 little odd being on this side of the dais.

4 I have been given the job of providing you with a
5 little history of these important regulations. Speaking of
6 history, I gather that we are making it today by
7 participating in this unique en banc hearing that brings
8 together representatives from the cable, broadcasting and
9 public, supporters and opponents of EEO.

10 My own history with these rules began almost
11 immediately upon my arrival at the Commission. I can assure
12 you that when I came here it was not with the intention of
13 being the focal point of EEO efforts at that time. However,
14 as my tenure unfolded I encountered a large number of people
15 who went out of their way to tell me how important these
16 rules were, how their careers in the media were attributable
17 directly to these rules and how important it was that they
18 be preserved. As Commissioner Copps has just pointed out,
19 many people told me how important it was to their efforts to
20 become media owners.

21 Time does not permit me to recite a comprehensive
22 history of 35 years of FCC EEO regulation or list all of the
23 chairmen, commissioners and general counsels who have been
24 committed to these rules, but I commend that history to you.

25 Some of the names on that list might surprise you. The

1 jurisprudential background is already in the record of this
2 docket, so I will focus on how these rules came to be
3 adopted and how they were called into question.

4 The Commission's EEO efforts began in 1967 when
5 the Office of Communication of the United Church of Christ
6 petitioned the Commission to prohibit stations that engaged
7 in employment discrimination from holding a license. In
8 response, the Commission announced a new policy requiring
9 broadcast licensees to show nondiscrimination in their
10 employment practices.

11 The Commission recognized, as articulated in the
12 Civil Rights Act of 1964, the national policy against
13 employment discrimination on the basis of race, religion,
14 sex or nationality and that deliberate discrimination would
15 be inconsistent with the responsibility of each broadcaster
16 to serve all elements of the community.

17 In further explaining the basis for its new
18 policy, the FCC cited the Kerner Report, which was the
19 federal government's first official written document
20 concluding that racism existed and that it was a problem.
21 The report cited the mass media's failure to foster
22 interracial communications as one of the causes of the
23 1960's civil disturbances and found that the media had not
24 shown an appreciation of black culture or history, had not
25 employed or trained enough blacks in decision making

1 positions and recommended that television develop
2 programming integrating blacks in order to foster positive
3 race relations.

4 In 1969, the FCC adopted rules requiring equal
5 opportunity in the employment practices of broadcast
6 licensees. The Commission required stations to establish,
7 maintain and carry out a continuing program of specific
8 practices designed to assure equal employment opportunity in
9 every aspect of station employment and that the EEO programs
10 address issues such as program dissemination, recruitment,
11 managerial accountability and self-evaluation.

12 The Commission stated that a formal EEO rule was
13 necessary to emphasize its policy, make it specific and
14 provide remedies for noncompliance. The Commission also
15 reiterated the bedrock principle that discriminatory
16 employment practices are incompatible with the operation of
17 the station in the public interest.

18 A year later the Commission refined its EEO rules
19 and instituted reporting requirements. These rules required
20 each licensee with five or more full-time employees to
21 submit with its license renewal application a written equal
22 employment opportunity program designed to ensure
23 nondiscrimination in station recruitment, hiring, placement
24 and promotion.

25 The Commission also adopted a rule requiring each

1 licensee with five or more full-time employees to file an
2 annual statistical profile report, known as FCC Form 395.
3 The Commission explained that these changes would provide
4 useful statistical data and ensure that licensees focused on
5 the best method of assuring effective equal employment
6 practices.

7 Later years saw the extension of the rules to
8 include gender and to cover the cable industry. The
9 Commission fine tuned its program as it developed experience
10 in the area, most notably by entering into a 1978 memorandum
11 of understanding with the EEOC outlining the jurisdictions
12 of each agency in handling complaints of discrimination
13 against licensees, thus avoiding regulatory duplication.

14 In 1994, the Commission designated for hearing the
15 license renewal applications of the Lutheran Church Missouri
16 Synod for failing to recruit minorities and for possible
17 misrepresentation or lack of candor. Among other things,
18 the licensee explained that it had not recruited minorities
19 because its station employees required classical music
20 expertise.

21 Ultimately, the Commission fined the licensee
22 \$25,000 for allegedly misrepresenting whether classical
23 music expertise was a job requirement. The licensee
24 appealed the FCC's decision to the U.S. Court of Appeals for
25 the D.C. Circuit. In 1998, the Court ruled that the

1 outreach provisions of the broadcast EEO rule were
2 unconstitutional and vacated other aspects of the FCC's
3 Order.

4 The Court held that the FCC's internal processing
5 guidelines, which compared a station's minority and female
6 employment to minority and female representation in the
7 local labor force, pressured licensees to hire minorities.
8 In response, the Commission adopted new EEO rules for the
9 broadcasting and cable industries to provide them with
10 significant flexibility and control over the development of
11 their outreach programs.

12 Upon review, the Court eventually affirmed the
13 Commission's statutory authority for its new EEO outreach
14 rules, but found unconstitutional one of the provisions
15 designed to achieve broad outreach.

16 That brings us to where we are today. Last
17 December, the Commission sought comment on a proposal for
18 new EEO rules. The Commission reiterated its commitments to
19 prohibiting discrimination in broadcast and cable employment
20 and to requiring broadcasters and cable entities to reach
21 out to all segments of the community when filling vacancies.

22 It is against the backdrop of these Court
23 decisions that you and the panelists here today must craft
24 new rules that will pass judicial muster. I have every
25 confidence that you and this institution are up to this

1 challenge.

2 And now, before I have to leave, I want to offer a
3 few words of praise for the Commission's sometimes under
4 appreciated, usually under compensated and always
5 underestimated staff. I like to think that this
6 Commission's staff is the smartest, most capable and most
7 creative of any federal agency. Its integrity and
8 commitment to developing, explaining and enforcing the
9 agency's regulations is unparalleled. Its hard work will be
10 invaluable as the agency strives to meet the challenges you
11 face in this arena.

12 Thank you again for the opportunity to be a part
13 of this historical event.

14 CHAIRMAN POWELL: Thank you, Henry, for that
15 outstanding overview. On behalf of Commission staff, thank
16 you for that public recognition, which I share
17 wholeheartedly.

18 Before turning to the panelists, we do have a
19 brief videotape address from Reverend Parker from the United
20 Church of Christ. As you heard in Henry's opening remarks,
21 they played a pivotal role in the original petition that
22 brought EEO's rules into being. We can run the videotape.

23 (Whereupon, a videotape was shown.)

24 REV. PARKER: Mr. Chairman, Honorable
25 Commissioners, my name is Everett Parker. In 1967, the

1 Office of Communication of the United Church of Christ,
2 which I headed at the time, successfully petitioned the
3 Commission to issue EEO rules for broadcasting stations.

4 When the first station reports were published in
5 1971, executives set about making changes. By 1973, when
6 the first en banc hearing on EEO was held, blacks and women
7 were beginning to be seen in prominent on-air roles.

8 It's heartening that in the years since the FCC
9 has never wavered in its commitment to equal employment
10 opportunity. I believe that every Commissioner save one has
11 endorsed EEO regulations.

12 Responsible broadcasting and cable companies
13 support EEO rules, realizing that our diverse population
14 requires that a variety of views and voices be involved in
15 communication decision making. It is shameful that there
16 are still those who spread the myth that the FCC's EEO
17 program is a kind of quota system or an imposition on
18 business. Actually, giving employment to everyone is one of
19 the best things government can do.

20 I believe it is especially important that
21 broadcasting and cable companies concentrate, as some are
22 doing now, on opening entry level jobs to inner city and
23 remote area minority youth, grooming them to be decision
24 makers in the future.

25 Please keep in mind that today's minorities plus

1 women constitute tomorrow's overwhelming majority. We're
2 not yet at the halfway mark of achieving full equal
3 employment opportunities for them. I know I won't be around
4 to see you finish the job, but I urge you never to give up
5 trying.

6 Thank you.

7 (Whereupon, the videotape was concluded.)

8 CHAIRMAN POWELL: Very nice. Thank you.

9 We have an ambitious agenda, so let's begin. If I
10 could ask that you please state your name and company or
11 organization you represent before sharing your remarks?
12 We'll start with Mr. Hugh Price.

13 MR. PRICE: Thank you very much, Chairman Powell.

14 My name is Hugh Price. I'm president of the National Urban
15 League. I'd like to thank you and Commissioners Abernathy,
16 Copps and Martin for convening this historic en banc
17 hearing, which I believe is the first in more than a
18 generation.

19 It's also delightful to see the tape of Everett
20 Parker and a relief to know he still has vinegar coursing
21 through his veins. He is very much in this game.

22 I particularly want to salute the Commission for
23 keeping the issue of equal employment opportunity on the
24 radar screen of the Commission itself despite the judicial
25 setbacks and, more importantly, on the radar screen of the

1 industry and of the public. Certainly promoting diversity
2 and inclusion through outreach is an effective way to
3 accomplish those ends.

4 I bring several perspectives to the comments that
5 I want to offer this morning. First, as president and CEO
6 of the oldest and largest community based movement devoted
7 to empowering African Americans to enter the economic and
8 social mainstream, we see all across the country in our more
9 than 100 affiliate communities the vital importance of
10 making sure that young people in our community are aware of
11 the industry and the opportunities in the industry. They
12 are eager to participate in the labor market and in the
13 communications field, and we know that we can provide those
14 opportunities and that access through the kind of outreach
15 that's envisioned by the FCC.

16 Secondly, through the work that we do as Urban
17 Leaguers around the country, we understand the critical
18 importance of the composition of labor forces in
19 communications decisions and the choices that are made about
20 which stories to cover, how to cover them, whether they're
21 given the kind of importance that's necessary in order to
22 convey a full picture of our community, so from the vantage
23 point of the Urban League I understand the importance of
24 outreach and inclusion.

25 Secondly, from 1982 to 1988 I was a senior

1 executive in public broadcasting with Channel 13 in New York
2 City. I initially oversaw all local programming and
3 scheduling for the station, and then I ran all national
4 production for the station. As an executive, I saw up close
5 that this is indeed a word of mouth industry and that people
6 who make critical hiring decisions tend to want to rely upon
7 known quantities and are more resistant to opening it up to
8 those who are unfamiliar than we need.

9 This is also an industry that increasingly relies
10 on freelancers and subcontractors, and without outreach to
11 help young people understand how the industry works to see
12 what the opportunities are not only with primary
13 broadcasters, but also with those who supply programs and
14 perform services, they will not be fully aware of the
15 possibilities in communications.

16 Thirdly, I'm a member of an African American men's
17 organization in Westchester County called the Foundation of
18 Westchester Clubmen. A few years ago, we took a number of
19 our young people who were in middle school on a tour of
20 Channel 13. I can't begin to tell you what a revelation it
21 was for them to see not only minorities and women on air,
22 but to see them in the editing suites, behind the cameras
23 and to know that this is an industry that truly can be
24 exciting.

25 For many perspectives we believe that outreach and

1 recruitment are critically important in achieving EEO goals.

2 We believe that diversity and inclusion are important to
3 the industry and to the country because that work force
4 needs to be robustly inclusive so that our young people know
5 that this sector of our society is open. We know that it's
6 critically important in the editorial process and story
7 selection, presentation, framing of stories, the editing of
8 stories and in the mix of programming that is offered on
9 air, be it television, radio or cable.

10 Lastly, the exposure sets the stage for promoting
11 diverse ownership in the industry. In an evolving world
12 with our multi-channel world with digital television and web
13 radio and all the many new options, we've got to have many,
14 many voices there.

15 I can only tell you as the president of the Urban
16 League that the existence of Radio One, the existence of
17 Inner City Broadcasting and others you will hear from today
18 vastly enriches our society because in many respects those
19 outlets serve as the town meeting on the air for our
20 community. They promote civic engagement in our community.

21 Therefore, having those kinds of entities owned by women
22 and by minorities in our society it vastly enriches the way
23 in which our society functions.

24 We think that promoting diversity and inclusion
25 helps to fulfill the goal which is the theme of our annual

1 conference each year that opportunity plus equality equals
2 one America, and we believe very strongly that the outreach
3 initiatives envisioned by the FCC will help to accomplish
4 that end.

5 Thank you very much, Mr. Chairman.

6 CHAIRMAN POWELL: Thank you, Mr. Price.

7 Ms. Gerberding?

8 MS. GERBERDING: Yes. I am Joan Gerberding,
9 president of National Media Partners and national president
10 of American Women in Radio and Television. Mr. Chairman,
11 Commissioners, I want to thank you today for having AWRT
12 here to discuss these issues, although I find it hard to
13 believe that in the year 2002 we still have a need to
14 discuss these issues.

15 The world of broadcasting and communications has
16 undergone rapid changes in the recent years, yet as these
17 changes in technology and ownership heighten competition
18 among broadcasting companies, it seems that one needed
19 change has been overlooked. Women, a vital resource, are
20 still not present in the world of broadcast management as
21 much as they should be.

22 Even the newest media conglomerates seem to be
23 reflecting old boy attitudes in their executive suites.
24 Women are rarely represented among the top executives or on
25 their boards of directors. According to the recent study by

1 the Annenberg Public Policy Center entitled *Progress Or No*
2 *Room At The Top*, out of all the executives in media, telecom
3 and the e-companies, only three percent were women with
4 clout titles, clout titles being defined as chairman, CEO,
5 vice-chairman, president, COO, senior EV-P and EV-P.

6 AWRT, whose mission is to advance the impact of
7 women in the electronic media, is very concerned that the
8 perpetual glass ceiling in the broadcasting industry has had
9 too few cracks in recent years. Thus, while many state
10 broadcasters associations have implemented on-line
11 recruiting, job fairs and the like, AWRT believes that the
12 FCC's proposed EEO rules are necessary to ensure that all
13 non-exempt broadcasters offer equal employment opportunities
14 through broad outreach to and recruitment of all candidates
15 regardless of gender, race or ethnicity. Otherwise, the
16 substantial progress still needed in the development of a
17 diverse broadcast industry won't happen as rapidly as it
18 should.

19 AWRT's comments in this proceeding cited
20 employment statistics that we believe demonstrate the
21 continuing need for regulatory overlay by the FCC in the
22 area of EEO. For instance, in the year 2000, in the 3,000
23 plus radio stations in the top 100 markets in this country,
24 only 13 percent of all general managers were women, only 25
25 percent were sales manager, and only ten percent were

1 program directors. The average percentage of women in the
2 upper four job categories was up by only 0.5 percent since
3 1995.

4 In 2001, we saw some slight improvements. In
5 those same radio stations in the top 100 markets, the number
6 of women in the general manager position rose from 13 to 15
7 percent, sales managers went from 25 to 30 percent, and
8 female program directors stayed the same at ten percent.

9 While AWRT is encouraged by the slight increase in
10 the number of radio stations with female general managers,
11 we certainly do not believe that these figures in and of
12 themselves are laudable. Indeed, one of the most
13 discouraging facts revealed by the employment data compiled
14 in 2001 by M Street Productions' Most Influential Women in
15 Radio Group, nearly one-half of the 32 groups that owned
16 between 12 and 49 radio stations have no female general
17 managers at all.

18 The numbers are a bit better with television with
19 17 percent female general managers and 31 percent females as
20 sales managers. Women make up 44 percent of TV news
21 anchors, but only 26 percent of news directors.

22 So what do we need to do? All owners and managers
23 of television and radio stations should determine whether
24 they encourage or discourage women from advancing within
25 their companies or organizations. Does their corporate

1 culture encourage retention of women? Are there women who
2 are qualified to move into positions of greater authority?
3 Are there female friendly training programs? Are management
4 meetings female friendly? Are women encouraged by company
5 executives from the top down to seek advancement? If not,
6 they should be.

7 Broadcasters should identify successful training
8 programs both inside and outside the company and
9 organization and encourage their rising stars, both female
10 and male, to participate. Broadcasters should ask whether
11 their male managers are even trained to identify rising
12 female stars within their ranks. If not, they should be.
13 Mentoring opportunities with senior executives are important
14 for the vital growth of men and women and for their success.
15 Are women employees encouraged to join organizations that
16 give them leadership training?

17 Can all of the above be accomplished without the
18 FCC's anti-discrimination rule and proposed EEO regulations?
19 As much as we'd like to say yes, I think that the statistics
20 still say no. AWRT therefore urges the FCC to continue to
21 be the driving force to create a level playing field for
22 women in the broadcast and cable industries through EEO
23 rules that require stations and cable systems not only to
24 engage in broad outreach and recruitment, but also to be
25 accountable to the FCC and to the public for their efforts.

1 It has taken the broadcast industry way too long
2 to break out of the bad habits of the old boys' network and
3 the word of mouth recruitment that have limited
4 opportunities for advancement by well qualified women.
5 Without the FCC's regulatory push to ensure that these old
6 habits cease immediately, the glass ceiling will be
7 perpetuated.

8 Thank you.

9 CHAIRMAN POWELL: Thank you very much.

10 Ms. Kushak?

11 MS. KUSHAK: I'm Marilyn Kushak. Mr. Chairman and
12 Commissioners, thank you for the opportunity to appear at
13 this historic en banc hearing on equal employment
14 opportunity. I am vice-president of sales and marketing and
15 also a partner in a group of four small and medium market
16 radio stations based in Springfield, Illinois, actually
17 Lincoln's hometown.

18 The Springfield market is part of Midwest Family
19 Broadcasters, which also serve four other markets in the
20 midwest. We operate all four of our radio stations with
21 only 44 full-time employees, of which 12 of them are sales
22 and marketing professionals. My stations have always
23 believed in having a diverse staff because it's in our best
24 interest, and it just makes good business sense. It is
25 merely the activities and the strategies used to meet our

1 mutual goal where we differ.

2 At this hearing today, I appreciate the
3 opportunity to share with the FCC the activities we have
4 found to be most effective and most efficient to achieving
5 our mutual goal of work force diversity. In a typical year,
6 we usually hire between six and eight new full-time
7 employees. Given the size of our company, we just simply
8 cannot justify having a personnel director or human
9 resources department.

10 We found that complying with the FCC's previous
11 rules often were very difficult since my employees are
12 already taking on a maximum number of duties in order to
13 serve best our stations and our community. Specifically, we
14 have found it very burdensome to track, collect and report
15 the information needed for the many forms required.

16 We found that for many of our vacancies,
17 recruiting in our community is unrealistic and fruitless.
18 In the past year, we have had vacancies for an engineer, a
19 midday personality and a news person. Each of these
20 positions require a different strategy for identifying
21 qualified candidates.

22 Placing an ad in a newspaper or making on-air
23 announcements simply do not attract candidates for these
24 specialized positions, although we sometimes have success
25 finding employees in this way for other types of jobs such

1 as the sales and marketing, clerical jobs, support staff.
2 My stations have found that widely disseminating information
3 on these specific job vacancies is very often a waste of
4 resources.

5 On the other hand, we have experienced great
6 success in identifying superior job candidates through our
7 ongoing general outreach efforts. I'd like to share a few
8 of those examples with you today.

9 First, we produce a job fair in central Illinois
10 every January and July. Our stations heavily promote this
11 approximately eight weeks in advance, also on our website,
12 and we also distribute educational information about this to
13 our educational institutions.

14 As a result, the expos have attracted an average
15 of 1,000 job seekers in a small market and routinely are a
16 major source of new employees at our stations and other
17 participating companies in our community. In addition, we
18 have noted that the expos attract an extremely diverse mix
19 of attendees.

20 We also perform continuous ongoing outreach on our
21 radio stations' websites. We maintain a current list of
22 available job openings, and as a matter of course we post
23 all vacancies on NAB's electronic career page and also on
24 the Illinois Broadcasters Association's website.

25 We also make on-air announcements describing

1 particular vacancies. In fact, we've identified that our
2 on-air announcements are one of the most effective ways of
3 attracting quality job candidates for certain types of jobs
4 such as the sales support staff and promotions. We
5 encourage listeners to visit our websites for additional
6 details on these vacancies.

7 Finally, we make a concerted effort to establish
8 partnerships within our community organization. One very
9 worthwhile successful partnership is forging the partnership
10 with the annual Women's Professional Conference, which is
11 made up of about seven women's organizations within the
12 community. Several of the women we've hired over the past
13 several years have noted that our presence at this
14 conference was one of the ways our stations came to their
15 attention for the first time.

16 I believe these examples demonstrate how much more
17 successful that ongoing general outreach can be as compared
18 to job specific recruitment. From my perspective as a
19 female broadcaster in management with many years in the
20 business, I have never witnessed or experienced
21 discrimination against anyone. It simply is not a
22 characteristics of our industry, and not because the FCC
23 tells us not to discriminate, but rather because it is good
24 business to have a diverse work force. We have a common
25 goal, and we are very committed to executing results

1 oriented strategies that achieve workplace diversity.

2 Again, thank you for the opportunity to share my
3 experiences with you. I appreciate your attention and
4 consideration, and I would be pleased to respond to any
5 questions that you may have.

6 CHAIRMAN POWELL: Thank you, Ms. Kushak. We'll
7 ask questions at the end of all the panelists.

8 Mr. Hessinger?

9 MR. HESSINGER: Thank you. My name is Greg
10 Hessinger. I'm the national executive director of the
11 American Federation of Television and Radio Artists known as
12 AFTRA. AFTRA is the national labor union that represents
13 employees working at television and radio stations and
14 networks nationwide. We represent approximately 80,000
15 members, and we negotiate over 300 collective bargaining
16 agreements with stations and networks throughout the
17 industry.

18 I want to thank you for the opportunity to speak
19 to you about these issues as they are immensely important to
20 our members in their working lives. I want to thank you for
21 reaffirming the Commission's anti-discrimination policy,
22 which we obviously endorse.

23 We also support the proposed new EEO rules that
24 are designed to promote broad outreach to all qualified
25 applicants for job vacancies. As set forth in my written

1 statement and our written comments, we do believe the rules
2 could be improved with some clarifications and
3 modifications, but we applaud you for continuing to promote
4 the public interest.

5 If there is one thing that I would really like to
6 emphasize to you today it is that our members, who after all
7 are most directly impacted by the Commission's policy in
8 this area, report both the perception and the real life
9 experience that meaningful EEO rules are absolutely
10 essential to ensure that the broadcast and cable industries
11 remain accountable and responsible to the communities they
12 are obligated to serve.

13 What our members tell us is that the need for
14 strong, meaningful and legally sound EEO rules is greater
15 now than ever. It's partly a function of the deregulation
16 and consolidation that has occurred over the past few years.

17 It's undeniable that as the industry continues to
18 consolidate there are certain cost and efficiency pressures
19 placed on the corporations that ultimately are shouldered by
20 the employees. There are simply fewer jobs and less
21 resources within these companies to devote to the practice
22 of equal opportunity employment.

23 If you read the response of broadcasters, I think
24 you can essentially sum the response up in this fashion. We
25 should be treated like any other employers in any other

1 industry. Even if you do conclude that our industry
2 deserves special scrutiny, they will argue that
3 alternatively the market will protect the public interest or
4 that we should trust the employers based upon the practices
5 that have taken place in the past.

6 I would submit to you that we, the public, cannot
7 afford to take these kinds of risks of relying upon the
8 market or relying upon trust in the employers that operate
9 in these industries. When you talk about the market, you
10 need to be honest about the marketplace that exists. The
11 licensees in these industries are for-profit corporations by
12 and large. They are in business to make a profit for their
13 shareholders. The CEOs of these companies are held
14 accountable for generating those profits. That is the
15 interest that they serve. They are in the business to make
16 a profit.

17 The compact that we, the public, have with these
18 broadcasters is that in exchange for utilizing a public
19 resource we demand only that they serve the public interest.
20 That is the fundamental compact between broadcasters and the
21 public. Our interest, the public interest, is in promoting
22 diversity of voices over the airwaves and promoting equal
23 opportunity in employment in these industries.

24 Those interests, while I would argue are largely
25 compatible with a profit interest in most cases, we believe

1 that promoting equal opportunity in employment is something
2 that is very compatible with making a profit, but there's
3 also no denying that it is interest that is different than a
4 purely economic interest in profit.

5 Given these realities of the market, it is
6 obviously not responsible to simply trust employers to do
7 the right thing. There is already some evidence that absent
8 meaningful EEO rules the commitment in the industry will
9 tend to wane. There are employers who have already removed
10 the equal opportunity employer label from their websites.
11 We have seen a reduced participation in job fairs throughout
12 the industry, and we receive reports from members that
13 insular hiring practices are on the rise.

14 You need not impugn anyone's character or intent,
15 however, to reach the conclusion that these rules are
16 necessary. As I said before, sometimes the profit interest
17 and the public interest simply collide, and it's our job to
18 protect the public interest.

19 As I said at the outset, AFTRA does support
20 specific outreach and record keeping rules that have been
21 proposed, but we also believe that there are important
22 modifications and clarifications that should be adopted to
23 best further the Commission's goals. The specific
24 recommendations are set forth in my written statement, but I
25 will say in sum that we have deliberately designed those

1 recommendations to minimize the burden on employers.

2 For example, with regard to the proposed rules
3 that licensees be required to distribute job announcements
4 to any organization that requests them, we have suggested
5 that organizations only need request that information once,
6 after which they would be part of a regular distribution
7 list. That is a suggested rule that we believe would
8 minimize the burden on employers. Once somebody has
9 requested the information, they're on a regular distribution
10 list, and the administrative burden is minimized.

11 Finally, and I know I'm running out of time, while
12 age is not currently part of the Commission's anti-
13 discrimination mandate, the Commission does have authority
14 and responsibility to continually monitor the industry to
15 ensure that licensees are serving the public interest.

16 At AFTRA, we have seen increasing evidence of age
17 discrimination practices in this industry. We believe that
18 the time has come to investigate the scope of this problem.

19 After all, we are talking about an industry whose business
20 model is undeniably based upon selling the eyeballs of
21 younger viewers to advertisers at a profit, at a premium.
22 Given this undeniable fact, coupled with the rise of
23 complaints, we urge you to take seriously this problem and
24 to investigate it thoroughly.

25 Thank you for the opportunity to speak to you

1 today, and I look forward to answering any of your
2 questions.

3 CHAIRMAN POWELL: Thank you, Mr. Hessinger.
4 Ms. Arnold?

5 MS. ARNOLD: Thank you. I'm Ann Arnold. I'm
6 executive director of the Texas Association of Broadcasters.
7 We represent the free, over-the-air broadcasters in Texas,
8 834 radio stations and 197 television stations. Today I
9 also represent the other state broadcasters' associations.
10 I organized the unanimous effort of the state associations
11 in successfully challenging your last EEO rules and
12 coordinated the state associations' joint comments in this
13 proceeding.

14 I'm grateful to be invited to speak to you today.
15 In the past six years that I have been concerned about the
16 FCC's actions in this area, this is the first time that
17 there has been an opportunity for all parties to talk
18 directly to the FCC Commissioners about our concern, the
19 numerous efforts we already undertake to promote diversity
20 in broadcasting, the unwarranted burden bureaucratic
21 regulations impose on broadcasters and the unfair impact of
22 the rules, making radio and television operators targets for
23 attack and the reasons that we believe the FCC should
24 routinely defer to the EEOC, the Courts and state
25 authorities on questions of unlawful employment

1 discrimination in the general area of the EEO.

2 I commend all the members of the Commission, as
3 well as the able Commission staff, for arranging this forum
4 where we can express our views. I'm not a lawyer, so I'm
5 not here to talk about the law. Our written comments fully
6 address the legal issues, and our lawyers would be happy to
7 provide you anything additional that you need.

8 What I'm here today to do is to give you the real
9 world impact of your previous attempts to impose stricter
10 requirements on broadcasters than other American businesses
11 face and the misuse of the entire regulatory process in an
12 abusive way that I cannot imagine you ever envisioned or
13 countenanced.

14 I want to stress that we're in total agreement
15 with your goal of equal employment opportunity and the
16 critical importance of ensuring that no one is discriminated
17 against on the basis of their color, their country of
18 origin, their ethnic heritage or their sexual orientation.
19 We support diversity, and I believe our record in Texas and
20 the Texas stations demonstrates that we believe in reaching
21 out to the entire qualified population in our job searches.

22 Where we differ is the need for the Federal
23 Communications Commission to take a heavy handed role and
24 attempt to dictate specific requirements for radio and
25 television stations and how they seek out employees, whether

1 a broadcaster must advertise in a newspaper or meet some
2 arbitrary requirement with regard to how many minority
3 organizations are solicited or how many minorities are
4 interviewed for each job opportunity.

5 We think broadcasters do a good job of reaching
6 out to minorities, providing diverse programming to meet the
7 needs of a diverse interest and promoting the values of a
8 multi-ethnic society with opportunities for all. The
9 broadcast industry lived three decades under FCC
10 administered nondiscrimination and affirmative action rules.
11 For all practical purposes, those affirmative action or
12 broad outreach rules have been off the books for three years
13 now without any evidence of radio and television stations
14 acting to curtail equal employment opportunity for all or to
15 discriminate against any minorities.

16 The broadcast industry continues to reach out for
17 qualified employees from the entire population. Outreach
18 efforts have in essence become institutionalized, and we
19 question why anyone would assert that there is any true need
20 for any industry wide re-regulation in this area. I don't
21 know of any allegations of discrimination against actual
22 individuals.

23 The real concern we have about re-regulating is
24 the way the rules are used. I'm here today to tell you the
25 ugly truth about how the EEO rules you promulgate are

1 misused to abuse, threaten and blackmail radio and
2 television stations.

3 There's a reason why the state associations have
4 taken the lead in this fight. Most broadcasters and many
5 groups and organizations that traditionally represent radio
6 and television stations' interests are wary of
7 repercussions. Some tell me they fear they would be branded
8 as racist to object to any of the FCC's EEO regulations or
9 actions.

10 Individual broadcasters are actually afraid to
11 complain to you about it, but they tell me about the calls
12 they get asking for thousands of dollars for preparation of
13 "minority recruitment plans" for their station in exchange
14 for dropping protests of their license renewals.

15 Even those who paid and got the two or three page
16 boilerplate plan still found themselves caught up in an
17 enforcement action in 1994 when the Commission adopted rules
18 one day and applied them the next day retroactively to
19 stations whose license renewals were still pending from four
20 years earlier. They were all expected to have records of
21 actually interviewing minorities in two-thirds of their
22 hiring opportunities when no one had ever talked about that
23 or discussed it before that point.

24 Some stations in the midst of sales or other
25 actions requiring FCC approval quietly pay the forfeitures,

1 only to be contacted again asking for several thousand
2 dollars in exchange for a group not appealing the FCC's
3 final decree to Court. Whether they paid or refused to pay,
4 the unlucky broadcasters targeted for attack face legal
5 bills totaling tens of thousands of dollars.

6 The undue pressure to hire from a particular
7 ethnic group that the Court cited last year in striking down
8 the latest version of the FCC's EEO rules is real. The
9 pressure is there. Broadcasters tell me and sometimes they
10 even tell white male applicants that they cannot hire anyone
11 but a minority.

12 Rightly or wrongly, in the face of the regulatory
13 environment created by the FCC regulations the broadcasters
14 believe they must find a minority for an opening, especially
15 if the economic downturn has caused them to downsize or have
16 fewer openings. I have agonized truthfully at the prospect
17 that these broadcasters will be caught in a Catch-22
18 situation, a trap, and find themselves sued for reverse
19 discrimination.

20 TAB has also documented the incredible paperwork
21 burden imposed by some FCC regulatory schemes. In 1994, we
22 conducted a statewide survey of the costs of the paperwork
23 regulations by the then EEO rules. On average, it cost
24 radio stations \$15,775 and television stations \$9,500 to
25 deal with all the bureaucratic requirements.

1 We broadened our outreach efforts at that point.
2 We already had those underway, but we did broaden it to try
3 to especially recruit minorities to positions for other than
4 traditional air jobs that many young people regard as the
5 only opportunities in broadcasting. We went to more job
6 fairs. We created more job fairs. We did all kinds of
7 things.

8 We try to recruit minorities and other qualified
9 applicants to business administration jobs, sales positions
10 and every other opening available in radio and television
11 stations. In the current economic downturn, however, I
12 wonder if the repeated job fairs give applicants a false
13 hope of employment in an industry where the work force is
14 being downsized.

15 Consequently, we have grave concerns about the
16 likely impact of the proposed new FCC regulations along the
17 lines that you're considering. We're most troubled at the
18 proposed requirement that stations have to report specific
19 numbers of ethnics on their 390 report and make that public.
20 Even if you wait three years, that will be used by people in
21 the way that I'm talking about to abuse the process.

22 If you find that your reasons and rationale
23 outweigh our very serious arguments against further
24 regulation, we sincerely implore you to consider restraint
25 in imposing regulations so that what broadcasters are

1 required to do is as clear cut as possible, as
2 straightforward in what stations must do to comply and least
3 susceptible to the misuse I have described at the stations.

4 I would like at this point to ask the long-time
5 chair of Texas EEO efforts to tell you about the special
6 things Texas broadcasters do in this regard and the outreach
7 efforts we undertake jointly for the members of our
8 association without any FCC rules in force.

9 Ernie Jackson served a number of years as a member
10 of our board of directors and last year was unanimously
11 elected to move on to the executive committee. He has
12 deferred temporarily moving up to become TAB president to
13 devote himself full-time to a hugely successful public
14 service effort that he pioneered as general manager of
15 Houston's KBXX and KMJQ.

16 If it's all right, Mr. Chairman, I'd like for
17 Ernie to speak. He's right here.

18 CHAIRMAN POWELL: Ms. Arnold, I'm sorry. Your
19 time is up. If we could finish the panelists and then come
20 back around, if you don't mind?

21 MS. ARNOLD: All right.

22 CHAIRMAN POWELL: Thank you.

23 Ms. Berg?

24 Ms. BERG: Thank you. Thank you, Mr. Chairman and
25 Commissioners. My name is Linda Berg, and I am the

1 political director of the National Organization for Women,
2 which is the largest grassroots feminist organization in the
3 country.

4 NOW's 500,000 contributing members reside in every
5 media market across the nation. As one of NOW's missions is
6 to work to achieve pay equity and economic equality for
7 women, we are extremely concerned with the implementation of
8 equal employment opportunity rules in the broadcasting and
9 cable industries. We very much appreciate the opportunity
10 to testify at this vital hearing.

11 Employment statistics in the aftermath of EEO
12 Court decisions and the suspension of the EEO rules clearly
13 demonstrate the continuing need for EEO regulations by the
14 Federal Communications Commission. Women and minorities are
15 still under represented in broadcasting cable industries,
16 particularly in upper level and management positions. After
17 years of slow but steady progress towards parity, the
18 numbers are slipping for the first time in the wake of the
19 Lutheran Church decision and the subsequent EEO rule
20 suspension.

21 A study by the Radio Television News Directors
22 Association noted that in the year of 2000, "The white male
23 world of TV general managers is actually a bit more white
24 and a bit more male this year than last." The study shows
25 that the percentage of minority radio news directors has

1 also dropped from eight percent in late 1998 to
2 approximately 4.5 percent in 2000. In television, the drop
3 was from 14 percent to eight percent.

4 While women are represented in radio and TV
5 broadcasting, they tend to be clustered in clerical,
6 administrative, support and sales areas, often trapped below
7 the glass ceiling. In the year 2000, close to 75 percent of
8 office and clerical workers in broadcast stations were
9 women. In contrast, in a study by the Annenberg Public
10 Policy Center, only ten percent of top executive officers
11 were women.

12 For this reason, NOW seeks broad outreach
13 regarding job openings, as well as other creative solutions
14 to reverse this alarming trend. NOW has worked with the
15 Commission for years to develop fair gender and sex neutral
16 EEO rules, and NOW fully appreciates the Commission's
17 initial proposals and supports their goals.

18 We do, however, have suggestions to expand the
19 outreach of these proposed rules. We ask that part-time
20 jobs, as well as full-time jobs, be included in the
21 requirement for full dissemination of information and notice
22 of job openings. We also suggest that stations be required
23 to make public service announcements which inform the public
24 and community organizations of their right for information
25 on job openings. We further request that any EEO reports

1 that stations must already make available to the public be
2 posted on the stations' websites or a central website.

3 Requiring outreach for part-time jobs would
4 advance parity in the industry. Part-time positions
5 constitute a significant portion of the total work force at
6 most broadcasting stations -- 31 percent for radio news
7 staffs and 13 percent for TV news staffs. According to the
8 National Association of Broadcasters, these positions are
9 important for gaining entry to and training in broadcasting,
10 which is particularly crucial for women who frequently
11 re-enter the work force via part-time jobs after having
12 their children.

13 Without wide dissemination of information about
14 part-time positions, a significant avenue of entry into
15 broadcasting may be unavailable for many potential
16 applicants. While broadly disseminating job information and
17 granting community organizations the right to be notified of
18 job vacancies is a good start, these requirements will be
19 ineffective if the groups do not know of their entitlement
20 to that information. NOW therefore asks that broadcast
21 stations be required to issue public service announcements
22 which inform the community organizations of their right to
23 be notified of job vacancies.

24 Finally, NOW suggests requiring increased public
25 access to filed EEO reports. As the Commission itself has

1 noted, meaningful ongoing communication between a
2 broadcaster and the public will result in a more effective
3 outreach program. To allow for easier access to the
4 reports, the Commission should require stations to post them
5 on their websites and perhaps also in a central location,
6 such as at the Commission's website. Because most stations
7 already maintain extensive websites, any additional burden
8 would be minimal and outweighed by the benefits of
9 facilitating public access.

10 While NOW supports using the internet for wide
11 dissemination of vacancy notices and aiding access to EEO
12 reports, traditional forms of notices appearing in
13 newspapers and trade publications are still essential. Only
14 54 percent of Americans have access to and use the internet,
15 and only 7.5 percent of Americans search for jobs via the
16 internet.

17 Additionally, while about 60 percent of white
18 Americans have access to the internet, only 40 percent of
19 African Americans and 32 percent of Hispanics have internet
20 access. Allowing radio and television stations to advertise
21 jobs only through the internet would not meet the
22 Commission's goals of broad outreach.

23 Thank you.

24 CHAIRMAN POWELL: Thank you, Ms. Berg.

25 Ms. Renteria?

1 MS. RENTERIA: Mr. Chairman and fellow
2 Commissioners, I commend you for holding this hearing. Many
3 of us were terribly disappointed when the Court of Appeals
4 struck down the 30-year-old rules in 1998. We feel very
5 strongly that until television and cable programs look like
6 America looks, there needs to be a mechanism for change and
7 a reason for broadcasters to do it.

8 I have had a very long association with the media
9 first as an employee from 1959 through 1983 and later as a
10 community advocate for change from 1986 to the present. In
11 1959, I was a newspaper reporter, and in 1968 I was
12 recruited by KNX Radio to become the first Hispanic woman on
13 their staff. They called three different organizations and
14 asked for recommendations for a Hispanic reporter, and they
15 were given my name by all three groups.

16 They called and offered me a job, and I took the
17 job as a news writer and desk editor. If I hadn't been
18 recruited, I would not have gone into broadcasting. There
19 were very few women and no Hispanics outside of the Spanish
20 language media at that time. There were no role models for
21 me at all.

22 In late 1969, I transitioned to television,
23 working as a writer, producer and host on a KCET series
24 about Mexican Americans. I thus became the first Latino
25 host of an English language program in Los Angeles. That

1 was 1969, and I was told that I was the 200th woman on the
2 air in the United States.

3 As you may recall, the 1960s were turbulent years
4 with many civil rights issues and some civil unrest. That
5 was a time when few women and even fewer people of color
6 were employed in the media industries. For example, during
7 the Watts riots of 1965 the *Los Angeles Times* had to
8 instantly promote a mail room employee to be a reporter to
9 cover the event. They had no black writers. I am happy to
10 tell you he is still working there as a reporter.

11 Then we got the Kerner Commission and the
12 Christopher Commission Reports, which documented the blatant
13 racism then existing across America. The FCC, among other
14 governmental institutions, called for equal employment
15 opportunity rules and regulations.

16 We believe that these rules were very helpful in
17 opening broadcasting to women and minorities in the 1960s
18 and the 1970s. However, by the middle 1980s many station
19 managers had adopted the idea that EEO rules were no longer
20 that relevant. We'll come back to this statement in just a
21 few minutes.

22 In 1986, a group of us looked around and saw that
23 Hispanic American faces were disappearing from LA television
24 stations. A few of us got together, and we founded the
25 National Hispanic Media Coalition as a non-profit

1 educational foundation. I worked very closely with Armando
2 Duron, the founding chairperson, and in 1990 I succeeded him
3 as the national leader of the group.

4 As I mentioned before, some general managers were
5 no longer really taking the EEO obligation seriously. We
6 met with the general manager of one Los Angeles station who
7 later wrote to us saying that "because he didn't believe in
8 affirmative action or equal employment opportunity" he
9 didn't need help from the Coalition to find good recruitment
10 sources. Fortunately, his network headquarters did not
11 share his opinion. The next general manager at KCET -- at
12 KCBS -- was happy to meet with us and reinstitute equal
13 employment opportunity rules.

14 From 1988 to 1996, the Coalition filed about 60
15 petitions to deny license renewals against radio and
16 television stations for the most egregious violations of EEO
17 rules. We could have filed many others, but our pro bono
18 legal counsel only had so much time.

19 The Coalition routinely reviewed EEO performance
20 at stations, and we found some very strange things. In one
21 instance, we noticed that a New York City station had very,
22 very few minority employees. When we visited the station
23 and asked what newspapers and magazines they used for
24 recruitment, we were told they didn't. They simply posted
25 the job openings on their employee bulletin board, and the

1 employees referred their friends, their relatives and their
2 neighbors to apply for the open positions. That's not equal
3 employment opportunity. We filed against WNET in New York,
4 and it received a conditional license renewal with serious
5 reporting conditions from the FCC.

6 We've noticed some backsliding by stations in
7 their EEO efforts since the Appeals Court voided them in
8 1998, and we find them to be very tragic at several levels.

9 Hispanic American children need to see good role models on
10 television to provide them with goals and aspirations.
11 Other children need to see Hispanic Americans because they
12 will be competing with them in the future. Latinos remain
13 severely under represented on prime time. While we make up
14 12 percent of the U.S. population, we are only four percent
15 of the prime time populous.

16 We applaud your December, 2001, draft. We feel
17 that the oversight of the broadcasting industry is
18 definitely a federal responsibility since broadcasters are
19 essentially migrant workers who go from city to city and
20 state to state as they move up to bigger media markets.
21 However, we disagree with your thought that stations with
22 less than five employees should be exempt from these rules.

23 If America is truly to be the land of opportunity
24 for everyone, then we need to level the playing field by
25 adopting these equal employment rules. They are needed now

1 more than ever. Communities of color have grown from 16
2 percent of the national population in 1970 to 31 percent in
3 2000. The minority population has doubled in 30 years, and
4 the Latino population has tripled in the same time period.
5 The problem is that employment opportunities for minorities
6 have decreased.

7 CHAIRMAN POWELL: Thank you very much.

8 We are running slightly behind on time so, Ms.
9 Arnold, if you could submit your manager's testimony for the
10 record as opposed to having a presentation? He's welcome to
11 join you at the panel for Q&A if you'd like.

12 We're going to enter the process of questions and
13 answers now. I'd like to take the prerogative to ask one
14 set of questions.

15 I was struck, Ms. Arnold, by your presentation in
16 that without knowing any of the facts of the particular
17 things that you allege, it seems to me ironic to suggest
18 that the FCC rules are the coercive element of that kind of
19 activity should it exist. It seems to me that the FCC's
20 rules are a dramatic subset of the kind of legal recourses
21 that exist generally in the population, including Title VII
22 litigation and the like.

23 The FCC rules last time, though struck down in one
24 component, were largely process, the requirement that one
25 reach out broadly. The FCC tried to make clear that it

1 didn't have an intention of using the coercive aspects of
2 its regulatory authority for the enforcement of alleged
3 claims discrimination.

4 I'm sort of curious why the FCC rules are a source
5 of that potential sort of shakedown, if you will, as opposed
6 to the general rules of discrimination in society, so why
7 aren't you just like every other institution who faces those
8 sorts of challenges?

9 MS. ARNOLD: Well, the discrimination, if there
10 were any, would be the subject of a complaint of the EEOC.
11 I don't know of any complaints that are being filed, but
12 these regulations give these certain groups and individuals
13 a power over stations who are fearful of having some sort of
14 action or complaint filed with you.

15 CHAIRMAN POWELL: If we are making clear that we
16 don't use the process to entertain complaints and take
17 regulatory enforcement, why don't you just not pay?

18 MS. ARNOLD: Whether you entertain or announce
19 that you're not going to use them for those purposes or not,
20 they in effect end up being used that way because you
21 collect the information on what races are at a station and
22 how many there are and how many they interviewed. That ends
23 up being a subject for someone to complain about.

24 CHAIRMAN POWELL: Surely, but they have recourse
25 for complaints in many other places than they do here at the

1 Commission.

2 MS. ARNOLD: Yes, and if there were legitimate
3 claims of discrimination they would be able to file those
4 complaints and to have some action, but there aren't any
5 complaints of discrimination. All there are are these
6 groups that are trying to push an agenda to have certain
7 entities or certain groups favored over other groups, and it
8 amounts to reverse discrimination.

9 CHAIRMAN POWELL: My only reaction is if they are
10 false and unsubstantiated, there is nothing to fear, and
11 people shouldn't pay.

12 MS. ARNOLD: You might not think they should pay.
13 However, in the business perspective of a broadcaster who
14 is looking at whether or not he can sell his station,
15 whether or not there's some pending action against him, when
16 the license renewal thing drags out for four years and then
17 somebody can complain even further and it goes on forever
18 and you have to get those sort of things resolved before you
19 can sell your station or take some other actions, that's a
20 real problem for businesses.

21 Literally some of the businesses that were fined
22 in Texas told me they felt like they had to pay because they
23 were in the process of some sale or action that needed your
24 approval.

25 CHAIRMAN POWELL: I appreciate that, but at some

1 level you have to sort of be believed in what it puts into
2 law and says, as opposed to what it might do.

3 I wanted to ask a separate set of questions before
4 turning over to my colleagues. Many of the panelists
5 focused quite heavily on the broadcast base, and certainly
6 the EEO rules are borne and come out of the broadcast base.

7 It seems to me one of the questions that's always
8 presented in the context of this debate is why does this
9 industry need a level of regulatory intervention in EEO
10 above and beyond what the rest of business is and society
11 is, and the answer is, as Mr. Hessinger pointed out, in the
12 context of broadcasting was that broadcasters receive
13 licenses for free and as a condition of that license serve
14 the public interest.

15 What's becoming increasingly challenging, however,
16 is that similar claim can't necessarily be said about the
17 cable industry to whom we extend these rules. We did not
18 provide the core license functionality. While the cable
19 companies have franchise licenses, the public interest model
20 that's traditional of broadcasting is not the core of
21 regulatory authority in that industry.

22 One could talk about direct broadcast satellite,
23 who purchases spectrum at auction, as opposed to the
24 traditional public interest model. They certainly in some
25 kind of general sense are trying to serve the public, but to

1 the extent you have that hooked in broadcasting.

2 I would invite anyone on the panel to talk about
3 why media is different in a way that can reach or justify
4 the rules with respect to other industries, as opposed to
5 specifically broadcasting.

6 MR. HESSINGER: I can certainly take a crack at
7 it. It's absolutely a very valid question to ask, and it's
8 a distinction worth noting.

9 One of the rationales that broadcasters will cite
10 for why the regulatory scheme as applied to broadcasters
11 should be loosened not only with respect to EEO rules, but
12 other rules, is that there has been an explosive growth of
13 other media that consumers have available to them and,
14 therefore, our attention on broadcasters is in a sense
15 misplaced because it reflects the reality when there were
16 only three broadcast networks that everyone watched, and
17 those broadcasters uniquely influenced the public.

18 I think you have to take a global perspective and
19 recognize that the media, whatever it may be, whether it's
20 just the broadcast network, so the broadcast networks plus
21 the stations or the networks and the stations and cable or
22 the network stations, cable and the internet, and who knows
23 what's going to come along in the future.

24 The media has a unique influence on this country,
25 on its citizens, on our democracy, and I think you have to

1 start there. It becomes a question of what is it that we
2 stand for as a country? What kinds of democratic ideals are
3 we trying to promote? If we don't have policies and
4 regulatory schemes in place that promote the continued
5 dissemination of diverse points of view, I think it's a very
6 dangerous thing for our democracy.

7 I think you can get away from the traditional
8 analysis of the quid pro quo of the broadcast spectrum for
9 serving the public interest and take a larger view of what
10 are we really trying to promote as a country when we talk
11 about this resource of the media that reaches the eyes and
12 ears of our citizens. I think it's very important that we
13 continue to grow our thinking with the growth in technology.

14 CHAIRMAN POWELL: Hugh?

15 MR. PRICE: Mr. Chairman, I would only add as a
16 criminal defense lawyer and not as a communications lawyer
17 by any stretch of the imagination that I think that the same
18 kind of oversight and encouragement should be applied to all
19 sectors of the communications industry.

20 I think there is an artificiality emerging because
21 of evolving technology, and I think that the cable industry,
22 the over air industry, should be equally encouraged to
23 promote outreach and inclusion.

24 CHAIRMAN POWELL: I'll end here and turn over to
25 my colleagues. I purposely would sort of be edgy here as

1 devil's advocate here because in maintaining some
2 sustainability before the Court one could easily say isn't
3 the argument equally true of the newspaper industry and who
4 provides an additional level of oversight there or other
5 components of industry that have an important impact on
6 society.

7 I think that's an important question to be
8 focusing on as we develop the rules in terms of the
9 rationale. The why is it different component is always one
10 of the most challenging aspects of rationale underlying the
11 rules.

12 Questions or comments in any order?

13 COMMISSIONER ABERNATHY: I have a couple quick
14 questions. I'm curious to better understand the percentage
15 and numbers of part-time employees that are involved in the
16 broadcast industry so we can have a feel for just what role
17 that plays in the recruitment efforts.

18 I thought maybe, Mr. Price or Ms. Kushak, you
19 might be able to tell me generally the percentages of part-
20 time employees that broadcast entities employ and the kinds
21 of jobs that are generally recruited for on a part-time
22 basis. Are they on-air personalities, engineers,
23 administrative or all of the above?

24 MS. KUSHAK: And that is an important question.
25 We have, and I haven't called into my office today so it

1 changes from hour to hour, but for part-time we range around
2 ten part-time people. Those are in various capacities.

3 It's when we have clearly maximized all of our
4 other full-time employees that we are able to benefit with
5 part-time employees, which would be some on-air, there are
6 some support staff and in various positions. They become
7 very valuable.

8 It's a great time many times for the interns to be
9 able to move in to our industry and get some very valuable
10 experience and from the part-time then be promoted into
11 full-time. It works very well.

12 MR. PRICE: Commissioner, I don't have the data to
13 answer your question. I would only say from my
14 understanding, having been in the broadcast industry for a
15 spell, that it's not only a question of part-time and full-
16 time. It's a question of freelancers who don't count as
17 part-time in the many production companies that subcontract
18 for the creation of programming that broadcasters run.

19 When you look at the importance of the issue, it
20 reaches to not just who's working and who isn't, but also
21 one of the critical aspects of it is what kinds of programs
22 are chosen, what's the vantage point of those programs, et
23 cetera.

24 The Commission would have to wrestle with the
25 question of the reach of your authority obviously, but the

1 way the industry works it stretches out far beyond part-time
2 and full-time, but it's critically important in all of the
3 ramifications.

4 MS. GERBERDING: Commissioner, if I could add to
5 that as well?

6 COMMISSIONER ABERNATHY: Sure.

7 MS. GERBERDING: Since consolidation has happened,
8 many radio stations now are using many more part-timers than
9 they did prior to that in order to be more efficient in
10 their staffing of their radio stations.

11 COMMISSIONER ABERNATHY: Okay. I have one last
12 question for Ms. Kushak, which is the statement that you
13 made about recruitment efforts. You said ongoing general
14 outreach is far superior to job specific outreach. I think
15 that was your statement.

16 My question there is if you have ongoing general
17 outreach, when a job opens up how do the job fair folks know
18 that a specific job has opened up? I'm a bit confused about
19 what you were trying to say there. How would you envision
20 it working in the real world?

21 MS. KUSHAK: Thank you for the opportunity to
22 clarify that.

23 Our different specific jobs, for example, that I
24 had mentioned -- engineer, on-air prime time personalities,
25 some of those individuals -- are not available in our own

1 community, so having to recruit for those positions we have
2 to use different strategies to achieve the results to get
3 the work force diversity.

4 Very, very important would be our ongoing outreach
5 with our job fairs, with our internet, over the air where at
6 any time individuals in our community know that we do have
7 the positions available and, if positions are not available,
8 at least how to contact us and apply for positions, so
9 keeping people as we call in a pool, in a benchmark, is
10 very, very effective not only for the job seeker, but also
11 for us.

12 MS. ARNOLD: Commissioner, could I address that
13 for a moment?

14 COMMISSIONER ABERNATHY: Sure. Thank you.

15 MS. ARNOLD: That was actually one of the things
16 that I wanted Ernie to talk about is that we have had a job
17 site that I think is probably one of the more successful in
18 the country. We have today 800 plus individuals who are
19 being notified about any listing that applies to their
20 particular expertise or the kind of things they're
21 interested in doing.

22 We have 210 resumes posted on our job site, and we
23 have 113 jobs, so there's a continual pool for people to
24 access if they're looking for a particular kind of person
25 with a particular expertise.

1 Because of the FCC's requirements, we have
2 attempted to try to go out and find large groups of
3 minorities that we could include in the bank by job fairs in
4 particular areas, and then because we are not able to tell
5 people you're looking at a minority when you pull up this
6 person we tell them if you pull ten people who were at this
7 job fair, you'll have 60 percent of those be minorities or
8 whatever.

9 It's a complicated thing when they're trying to
10 look at both meeting the expertise requirements and also
11 getting a certain race.

12 COMMISSIONER ABERNATHY: Thank you, Mr. Chairman.

13 COMMISSIONER COPPS: Well, I must say I'm still in
14 kind of a state of shock listening to this that the old
15 lines are as clearly and starkly drawn as they seem to be.
16 I thought we were coming here today to talk about options
17 for dealing with a problem that most of us agree exists in
18 one fashion or another, but I've heard a couple of the
19 panelists say don't worry about it. There is no problem.
20 We can all go home. The situation will take care of itself.

21 I was reading something over the weekend, and I
22 wrote it down. I said well, I won't need this quote in this
23 day and age. It says, "After nearly five decades of
24 operation, the broadcast industry does not seem to have
25 grasped the simple fact that a broadcast license is a public

1 trust subject to termination for breach of duty."

2 That was said by Warren Berger, hardly a paragon
3 of judicial activism, in 1966. He referred to five decades.

4 You can add three and a half decades on that now. We're 85
5 years into this and still debating some of these issues.

6 I suppose it does lead to a legitimate problem or
7 question on how do we find discrimination? You know, I
8 think discrimination is out there. I think it's probably
9 under reported, but I'd like to hear if any of our panelists
10 have some suggestions on how we find out about
11 discrimination.

12 You know, for a lot of our rules we wait for the
13 competitors to come in and say well, so and so built a tower
14 over there. It's too tall. Get them to take it down. Then
15 you go up and down the whole agenda that we have here, all
16 of the rules that we have here. We can rely on the
17 competitors to do that, but I'm not sure that that happens
18 with regard to discrimination.

19 Even employment candidates I think often don't
20 know they're being discriminated against, and if they do
21 know they're being discriminated against how will they know
22 that the FCC, which they've probably never heard of, has a
23 whole lot to do with it?

24 I'd like to know a little bit how we get the
25 information we have on discrimination and what we can do to

1 get a better inventory of information without running afoul
2 of the Court.

3 Mr. Price, would you have any thoughts on that?

4 MR. PRICE: Well, I think one of the challenges
5 is, to use the phrase, to flood the ramparts with qualified
6 people and then see whether they're hired. That's why
7 outreach is so critically important.

8 I think if more pools of qualified applicants can
9 be developed, if more people can be introduced to the
10 industry, that puts less pressure on the industry to shop
11 around all over the country to fill slots.

12 Secondly, of the subtler aspects of
13 discrimination, which is hard to get a handle on, but the
14 NAACP with its study I think was trying to get at it. It
15 would be interesting to document the choices that
16 broadcasters make about what's carried and what isn't, what
17 kinds of stories are broadcast and which aren't, how many
18 stories are constructed and which aren't.

19 I realize that that's uncomfortable terrain, but I
20 think it's terrain that we on this side of the table
21 probably have to explore and then have to bring that to the
22 attention, but I can only say as someone in a field where we
23 are perpetually trying to tell stories about what is moving
24 forward, tell stories about what the problems are. The
25 responses of folks in the communications industry are often

1 dispiriting, and we need to do a better job of documenting
2 that and helping the broadcast industry understand the
3 implications of the choices they make.

4 It is alleged that folks in the African American
5 community, for example, do not care about academic
6 achievement. The examples of programs in the Urban League
7 and the NAACP and many, many others that are promoting
8 academic achievement are legion. Getting those stories
9 told, which is an exercise of discretion on the part of
10 broadcasters, is very, very difficult.

11 I think it would be interesting to examine what
12 are the choices that are made and what are the ethnic and
13 other implications of those choices. I think you're only
14 getting the tip of the iceberg, and I appreciate the
15 delicacy of the legal situation that you face, and I think
16 on our side we need to be more helpful in lifting the lid on
17 that.

18 COMMISSIONER COPPS: Ms. Kushak, do you believe
19 that your recruitment program or the representation of
20 diversity in your organization is something that should be
21 of any interest or concern to the FCC at license renewal
22 time?

23 MS. KUSHAK: That's again a very important
24 question, and we've never had any problem with it. In the
25 last two and a half years or so when there were no

1 requirements, nothing changed.

2 I'm very proud of our diverse work force. We've
3 always been committed to that, and I would have no problem
4 at all keeping the FCC informed.

5 COMMISSIONER COPPS: But you think it's a
6 legitimate area for us to have an interest in and to be
7 looking at?

8 MS. KUSHAK: I think that the tracking is
9 something that, you know, I'm unqualified to say in terms
10 of, you know, I think it's a legal issue. You know, I have
11 nothing to hide, and I would never do that. We're committed
12 to a diversified work force, and we have the same mutual
13 goal that you all have.

14 MR. JACKSON: Commissioner Copps, if I might?

15 COMMISSIONER COPPS: Yes, sir.

16 MR. JACKSON: If I might just add to that? Before
17 I do that, you mentioned another issue, and that is the
18 issue of public service. In addition to the issue of EEO,
19 broadcasters in our industry also face this concern about
20 public service. Broadcasters are being criticized for not
21 doing public service.

22 As Ann mentioned, I was in broadcasting for 27
23 years, and I am currently working with broadcast companies,
24 specifically Inner City Broadcasting, Clear Channel,
25 Cumulus, Radio One, Infinity, Hispanic Broadcasting and

1 Emmus Broadcasting, and I am testing African American and
2 Hispanic listeners for what is the most critical health
3 issue facing African American and Hispanic communities in
4 this country, and that's HIV and AIDS.

5 In the past year, Project Way, which I'm the
6 executive director of, has tested 7,000 people for the HIV
7 virus around the country using radio station T-shirts as
8 incentives for getting tested. It's an unprecedented
9 program. The reason that's important, sir, is that there
10 are 450,000 people walking around today with the HIV virus
11 that don't know they have it.

12 Now, let me go on the record to say that I am an
13 advocate of affirmative action. Most Texas broadcasters I
14 work with are advocates of affirmative action. In 1995, in
15 the City of Houston on the ballot was an amendment to do
16 away with the city's affirmative action program. My radio
17 station created a public service campaign that created the
18 largest turnout of African American voters in the city's
19 history, and the affirmative action initiative which was on
20 the ballot was saved.

21 What I am here to talk about is that when I was
22 called by the Texas Association of Broadcasters, we created
23 a very innovative, a very successful program using job
24 fairs, using internet, using other recruiting activities,
25 working with the local urban leagues. My posture is, going

1 back to your original question, that broadcasters should be
2 given credit for those kinds of activities, for
3 participation in those kinds of activities.

4 As you think about rules and regulations, it seems
5 to me that broadcasters in Texas and other places who are
6 doing this should be given credit for those kinds of things.

7 COMMISSIONER COPPS: Thank you.

8 MR. HESSINGER: Commissioner?

9 COMMISSIONER COPPS: Let me just comment on that
10 for a second. I agree 100 percent with you that
11 broadcasters should be given credit for the thousands of
12 good actions and programs that they undertake. I think
13 there are many, many of them.

14 Also, I think they need to do a better job
15 sometimes in telling us what they're doing. That's one of
16 the problems we're dealing with right here right now.
17 People come by and say well, you don't know what we're still
18 doing. We don't know because nobody has told us a lot of
19 these things.

20 I applaud the public service activities of
21 broadcasters and cable, too. I don't think we're where we
22 need to be yet on that. I think the recent Kaiser study
23 told us that when it comes to public service announcements
24 on the air waves we've looking at about 15 seconds an hour
25 and that those come primarily between midnight and 6:00.

1 Not primarily, but in overwhelming force.

2 Yes, there are a lot of success stories. This is
3 an industry that's doing a lot of good, but, like I tried to
4 say in my remarks earlier, we've got to do more. We've got
5 to do better. God knows, there's enough room for
6 improvement.

7 You had a comment?

8 MR. HESSINGER: Yes. I'm sorry, Commissioner. I
9 would just like to underscore the importance of the point
10 that was made about outreach requirements and how you have
11 to start there as an important ingredient in dealing with
12 these problems.

13 You know, these issues, as you can see, a lot of
14 time invoke intense feelings and emotions in people, and
15 sometimes we lose sight of the fact that I really believe
16 that most people who are out there doing the hiring would
17 like to do the right thing, want to do the right thing and
18 think they're doing the right thing.

19 The problem is that the industries that these
20 people work in, there's a lot of pressure being imposed on
21 everyone involved, intense pressures of profit and
22 efficiency. When you're in a position when you need to fill
23 a position, you've got 16 other things you need to do, you
24 can't spend the money to engage in real outreach activities.
25 You tend to fall back on the more insular practices of

1 hiring. It's just the fact of the pressures that are
2 imposed on the people involved.

3 I once worked on the employer's side of the
4 broadcast industry, and I have some experience with how it
5 works. I can remember when a particular company that I
6 worked for was taken over by another company, and there was
7 a new CEO in charge. I was talking to a general manager of
8 one of the stations about the new budgeting process and how
9 he would go line by line through the budget and say the
10 Christmas party. Tell me how that generates revenues for
11 the stations.

12 That was a funny anecdote until about a year later
13 when the individual who was in charge of human resources at
14 the station, who was in charge of the program for equal
15 opportunity employment, was laid off because there was not
16 perceived to be a need for that particular position because
17 it was not a revenue generating position.

18 I believe that equal employment practices
19 ultimately lead to profits because the public wants to see a
20 diverse work force in front of them on the television
21 camera. I really believe that, but I also believe that the
22 Commission needs to lead broadcasters and cable operators to
23 that conclusion.

24 I believe that if you impose a requirement that
25 you actually do the hard work and expend the limited

1 resources that are necessary to do the outreach that the
2 people who make the hiring decisions will do the right
3 thing.

4 If they're exposed to a diverse pool of
5 applicants, they will in fact engage in diverse hiring
6 practices, but you've got to impose the obligation to do the
7 outreach because absent that it will simply fall by the
8 wayside as difficult choices are made about resources and
9 what can be done in a very competitive environment.

10 COMMISSIONER COPPS: Thank you, Mr. Chairman.

11 COMMISSIONER MARTIN: I wanted to follow up on
12 some of the comments in Ms. Arnold's testimony. She was
13 talking about the importance of providing flexibility to the
14 broadcasters to meet these kinds of opportunities, and I
15 think you just talked about getting credit as well for the
16 flexibility.

17 Isn't it helpful still, though, to have some
18 regulations that would establish some kind of safe harbor
19 for the kinds of outreach efforts that we would be expecting
20 in part to minimize those challenges that can occur on the
21 renewal side so that you would recognize that if you had
22 taken these certain steps then you would be presumed to be
23 meeting the expectations that would come across from holding
24 that public interest license?

25 In the absence of those, won't it actually lead to

1 further exacerbation of the kind of challenges that are
2 being filed in the context of your renewals? I actually
3 viewed some of our steps in this regard as trying to
4 actually minimize that and trying to provide some helpful
5 floor or a safe harbor so to speak; not trying to not
6 recognize the additional flexibility and give you credit so
7 to speak for the other steps you've taken, but maybe I'm
8 missing something in my analysis.

9 MS. ARNOLD: I agree that having specific
10 requirements and clear cut options would be an improvement
11 over what you've done in the past. We've proposed something
12 that we think is a good balance of those in suggesting that
13 you do require at least 50 percent.

14 If you want to look at the numbers or come up with
15 some different number, we're not tied to that, but have some
16 certain number that people have to post either on the
17 internet or on their own website or something like that and
18 then allowing them to promote those websites so people have
19 notice of the availability of jobs and that be essentially
20 the requirement without all these other things that get into
21 how many minorities you interviewed and keeping records on
22 where the applications come from.

23 COMMISSIONER MARTIN: Maybe I'm starting to
24 appreciate. So some of the concerns you have are not as
25 much on the regulatory requirements that might be posed on

1 the outreach side, but some of the record keeping
2 requirements?

3 MS. ARNOLD: Very much so.

4 COMMISSIONER MARTIN: One of the --

5 MS. ARNOLD: Although the outreach can be a
6 problem, too, when you go to the extent that you insist that
7 a minority be interviewed in two-thirds of the hiring
8 opportunities.

9 COMMISSIONER MARTIN: On our record keeping and
10 forms, on the Form 395, which I think you mentioned in your
11 opening testimony as well, you thought that some of the
12 proposals to not have that information available for three
13 years was insufficient to kind of provide protection from
14 the kinds of concerns that you were raising.

15 I know that I think Mr. Hessinger in his written
16 testimony -- he didn't mention it in his oral testimony --
17 talked about the Commission could be collecting that
18 information, but not be making it available to the public.
19 I think that was his proposal to try to address some of
20 those concerns.

21 Do you have any other thoughts on what the
22 Commission could do to try to make the information available
23 on an industry wide basis, but trying to protect against
24 some of the concerns that you've raised about the potential
25 misuse at times of that information by others?

1 Is there anything else you could do in trying to
2 minimize the likelihood of that occurring while still trying
3 to gather industry wide information to make that available?

4 MS. ARNOLD: If that's the only way that you can
5 collect the information, I would suggest that there are
6 other entities that could give you that kind of information
7 without even subjecting stations to that.

8 The BIA and some of these people that do these
9 kinds of number crunching for other things could give you
10 those kinds of figures, I believe, especially if you would
11 ask them to do that specifically. Obviously not having it
12 subject to investigation and review in the individual
13 stations' case would be an improvement over the alternative.

14 COMMISSIONER MARTIN: I didn't mean to exclude any
15 of the other panelists if they wanted to comment on an
16 important subject, but I did want to focus on it because you
17 had raised specific concerns with collecting that
18 information. Thank you.

19 CHAIRMAN POWELL: Thank you. Just one final
20 comment before we take a break. We're going to abbreviate
21 the break in the interest of time to five minutes.

22 One of the challenges we have, and I urge people
23 to try to explore some of this precision, is there are two
24 components to rules and the worthiness of them. One has to
25 do with actual discrimination cases, which is unquestionably

1 unlawful and is a serious question of enforcement. Whether
2 the FCC has a role to play in that or not is a legitimate
3 question, as opposed to the general.

4 The other thing we're talking about is what used
5 to be called affirmative action, but is a component of an
6 affirmative choice because you think the media industry is
7 important or benefitted in some meaningful advancement of
8 communication policy objectives to justify trying to reach
9 out.

10 I think the outreach programs were designed to
11 provide increased representation to advance communication
12 policy objectives, not specifically for the purposes of
13 rooting out discrimination, though there could be a
14 secondary effect of having a healthy recruitment process.
15 Just thinking about the tradeoff or the balance between
16 actual discrimination and something akin towards an
17 advancement of a communication policy objective I think is
18 important.

19 With that, I think we'll take a brief five minute
20 break. If I could urge everyone to come back at 11:50, and
21 then we'll go to the next panel. Thank you.

22 (Whereupon, a short recess was taken.)

23 CHAIRMAN POWELL: Let's reconvene the hearing and
24 jump right in with our first panelist, Ms. Cathy Hughes.

25 MS. HUGHES: Thank you, Mr. Chairman. I am very

1 grateful that I was invited by the FCC to provide testimony
2 this morning, and I pray that God will place in my mouth and
3 upon your ears words and facts that will be agents of change
4 for this great broadcasting industry.

5 I have been a broadcaster for over 30 years, and I
6 am very proud to support the FCC's proposal to lift its
7 suspension of EEO rules because I am without question a
8 living example of what equal opportunity in broadcasting can
9 produce for women, for people of color and for this great
10 country.

11 I have sold air time. I have programmed and
12 created formats. I have managed facilities, and this
13 morning as I appear before this distinguished hearing I am
14 the only African American woman to ever head a publicly
15 traded corporation.

16 Radio One is a radio corporation that employs over
17 1,600 broadcasters, 70 percent of whom are African American,
18 42 of whom are women, and you can rest assured that as I am
19 speaking my HR director is diligently working on getting our
20 number of women up to 50 percent because that is a true
21 representation of the population we are licensed to serve.

22 The reality is that women have made far more
23 progress in basketball than they have in broadcasting. The
24 WNBA is a viable enterprise that in some cities attracts
25 more attendance than its heritage male counterparts, yet

1 when I attend sessions at the National Association of
2 Broadcasters I am always the only woman and only one of a
3 few African Americans to be seated among the major broadcast
4 owners of America.

5 My career in broadcasting has been the exception
6 to the rule, not because I am exceptional, but because the
7 Federal Communications Commission pried open the window of
8 opportunity that afforded me an equal chance to prove my
9 worth in value to the broadcasting community. It is
10 painfully evident that other members of my gender and my
11 ethnic group have not been afforded the same opportunity,
12 and I am obligated to do everything in my power to correct
13 this disparity.

14 Perhaps Radio One's greatest contribution to EEO
15 has been our willingness to provide first time opportunities
16 to women and people of color. Over the last couple of
17 years, we have hired seven African American and three women
18 first time general managers. At the executive level, Radio
19 One has provided first time opportunities for our CEO, who
20 is an African American, and our general counsel, who is a
21 woman.

22 We understand that consolidation has caused a
23 reduction in job and management opportunities, particularly
24 for women and people of color, and that experienced
25 management is usually the preference of any industry.

1 However, we remain committed to the old tried and proven
2 principle of recognizing potential, and we recognize the
3 potential not only applies to the employee, but also to the
4 opportunity to better serve our audiences, which has
5 directly impacted our ratings and revenue.

6 In 1980, we acquired our first radio station and
7 changed its format from R&B to talk during a period when
8 Washington, D.C. was starting to experience a substantial
9 Spanish population increase. We saw the potential to
10 attract listeners outside of our target audience, and we
11 hired the first full-time Hispanic air personality to host a
12 talk show in the nation's capital.

13 Broadcasters and trade associations who oppose EEO
14 rules are limiting the potential of not only qualified
15 applicants for broadcasting opportunities, for also limiting
16 their own growth and success. Many may think that EEO has
17 been easier for Radio One because we are African American,
18 but the opposite is the reality. The 30 percent of our work
19 force that is not African American did not just one day
20 mysteriously appear at their positions. We have had to
21 apply the same techniques and procedures for identifying and
22 recruiting applicants throughout all ethnic groups, and
23 sometimes it's really more difficult for us because we are
24 African American.

25 Before consolidation and taking our company

1 public, I shudder to remember how many times a non-black
2 applicant spent the majority of the interview questioning
3 our financial viability. Our overtures for recruitment were
4 often times met with objections over our format, location of
5 our facility, apprehension about having to do promotions in
6 the community or the reluctance to service our local
7 accounts.

8 I maintain that while EEO sometimes has
9 challenging aspects for all broadcasters, commitment and
10 creativity are the keys to its success. Since the first of
11 this year, Radio One has sponsored and promoted job fairs in
12 Philadelphia, Boston, Baltimore and Detroit, as well as
13 participated in those sponsored by other companies and
14 organizations.

15 Our HR booth is set up at non-traditional events
16 like concerts, health fairs, vendor malls, remotes and
17 wherever we know our audience will be in attendance. We
18 stay in constant contact with high schools, colleges, and we
19 offer both intern opportunities and volunteer slots. We
20 recruit for every vacancy. Our list of job openings is
21 posted throughout the company and e-mailed to churches,
22 organizations, agencies, companies, clubs and anyone who
23 contacts us. Technology makes it a lot easier for everyone
24 to know when you are recruiting.

25 We advertise in national, as well as local

1 newspapers and magazines, and we have a policy of requiring
2 our staff to respond to all inquiries concerning employment.
3 Additionally, we have used our air waves to announce
4 opportunities at Radio One, knowing that if other companies
5 trust us to advertise in finding qualified applicants for
6 them then certainly it should work for us, and it has.

7 In all of our recruitment efforts, it is our
8 policy to make it clear that we are an equal opportunity
9 employer. Diversity in the workplace is much easier to
10 achieve when a company makes it clear that all applicants
11 are welcome. Last year we were named by Fortune magazine as
12 one of the best companies in America to work for, and we
13 attribute that recognition to the diversity in our work
14 force and management team and our reputation that we give
15 everyone equal opportunity.

16 In closing, I would like to stress the importance
17 of all broadcasters having active EEO efforts. This
18 industry is a seamless web with an interdependence on each
19 and every facility in each and every market regardless of
20 size. Broadcast professionals in small and medium markets
21 bring their experience and expertise to the major markets.
22 Broadcast professionals in major markets become executives
23 who run our consolidated corporations and become equity
24 players and owners.

25 When you take a survey of those of us who own and

1 operate the broadcasting outlets of America, you quickly
2 realize that broadcast operation and broadcast finance are
3 the common denominators we share. You will also find an
4 embarrassing absence of women and people of color.

5 How can anyone own and operate a company that they
6 have not been allowed to work in is the question. Too much
7 time and energy and money has been spent fighting EEO, and
8 yet so little has been spent in an effort to correct the
9 discriminatory practices that limit our collective potential
10 and safeguard our future.

11 New technologies threaten our old ways of doing
12 business, and we ask the FCC to do as they have done so many
13 times in the history of broadcasting, and that is to move
14 our great industry in the positive direction that is
15 required of us at this time to assure our healthy and
16 prosperous future.

17 Thank you.

18 CHAIRMAN POWELL: Thank you, Ms. Hughes.

19 Ms. Davis?

20 MS. DAVIS: Thank you and good morning. My name
21 is Belva Davis, and I would like to join all the others in
22 thanking the Commission for this opportunity to speak today.
23 In particular, I would like to thank Chairman Powell for
24 keeping his word to continue the dialogue on this subject
25 and the FCC staff members who assisted me in getting here

1 from quite far away to take part in this very important
2 occasion.

3 I have worked in broadcasting now for 35 years.
4 I've been a reporter, an anchor, a program host, done
5 politics, done most of what can be done on air. At the
6 present time, I host a current affairs program at KQED-TV,
7 the public station in San Francisco. I also continue to
8 work part-time at KRON-TV doing special projects for them.
9 I worked full-time there over 20 years and announced my
10 retirement three years ago. I'm also a national vice-
11 president of AFTRA and its national EEO chair.

12 I have seen tremendous change in the industry.
13 When I began my career, broadcasting was almost totally a
14 segregated industry. My first job was for black owned
15 newspapers. I then moved to work for black programmed radio
16 stations that were white owned. I speak to you today as one
17 who knows personally what it was like to seek employment in
18 broadcasting before there was a government willing to open
19 the door of opportunity for all of us. I've seen the hugely
20 positive change after pressure from citizens through this
21 agency forced fairness.

22 I believe with all my heart that the electronic
23 mass media is far too critical to democracy to let it return
24 to segregation. This is America's signature industry
25 serving as the mirror through which not only the citizens of

1 this country, but those of the rest of the world, form their
2 opinions about who we are.

3 My three decades in local television has taught me
4 that our immigrants and our international visitors and
5 tourists all look to us for leadership in this area. My
6 husband, William Moore, also recently retired after nearly
7 three decades working as a television news photographer.
8 Just like me, when we decided to pursue our dreams and look
9 for a job in TV, there were no road maps, nothing for us to
10 follow.

11 In those early days, the broadcast industry and
12 its unions were closed to us. Thank God the unions have
13 changed. Now we must bring industry along. Part of my
14 union with AFTRA has been in the vanguard of keeping those
15 doors open for minorities and women.

16 As part of our collective bargaining agreement,
17 AFTRA has been able to achieve mandated meetings to discuss
18 the employment of minorities on daytime television dramas.
19 Using employment numbers kept by show producers, we've been
20 able to track the inclusion of women, minorities, seniors
21 and performers with disabilities that explore ways to be
22 more inclusive in their employment.

23 While this area of work does not fall directly
24 under the rules that we are discussing today, I believe,
25 though, that the positive results came from the policy

1 direction of the FCC and its EEO rules.

2 We started down this path in large part because of
3 the interest and power of one man, and I want to emphasize
4 that it takes interest and good people to make these things
5 happen. This man, his name was Jim Cochran. In the 1980s,
6 he was the vice-president of Proctor & Gamble. They were
7 the largest buyer of time on soap operas in this country.

8 Our union sponsored a conference in New York in
9 the 1980s. Mr. Cochran came to that conference without
10 invitation, without letting any of us know that he was in
11 the room, listened to our grievances during the day. After
12 the lunch break we asked who are you, and what are you doing
13 here, and he explained. He thereafter wrote a letter to his
14 advertising agency saying that he wanted change. From that
15 day forward, daytime soaps began to have color. One man can
16 make a big difference.

17 In the 1960s, a few good men like Don McGannin,
18 the former president of the Westinghouse Broadcast Company,
19 also set an example through a directive to his general
20 managers to reach out to minorities and women and let them
21 know they were welcome to apply for jobs. Consequently, in
22 1965 I was interviewed, along with 64 other women, for a job
23 I finally landed.

24 Let me tell you what it was like before the FCC
25 EEO rules put fairness on every manager's mind. In 1965, I

1 also applied for an open position at the ABC ONO in San
2 Francisco where civil rights leaders had been pressuring
3 them to hire a person of color. I finally got my interview
4 with the manager, Dave Sachs, who at the time was a very
5 nice man, very friendly.

6 I waited more than two hours, though, to see him,
7 and I knew I was in trouble. At the end of my short time he
8 said to me I want to thank you very much, but we are not
9 hiring negresses yet. If we ever do, I will certainly keep
10 you in mind.

11 Those hurtful words relegated me to jungle status.
12 It commits me today to be here with you, and I still choke
13 up over it. It was an emotional moment, a turning point in
14 my life, and I was determined that if I got in I would
15 certainly work hard to make sure that others did, too.

16 Various managers have supported all kinds of
17 programs, mentoring programs, drawing from our colleges with
18 diverse student population. Minority staff members have
19 been given time off to speak at college conferences and
20 participate in seminars. My station even financially
21 supported a summer scholarship program in my name at a
22 junior high school in a predominantly black neighborhood as
23 a way of reaching students early and letting them know they
24 had to prepare themselves if they wanted to be part of this
25 industry.

1 Even with those successful programs, it was
2 difficult to make sure we didn't slip back in the old habit
3 of cronie-ism or word of mouth recruitment would still
4 prevail. The minorities in the newsroom were told to be
5 proactive and to also let their friends know what was going
6 on.

7 It is critical for there to be someone at the top,
8 someone committed to this chore. That is why I continue to
9 be proud of my association with KRON-TV in San Francisco,
10 who just won the RTNDA award, as well as the Unity award,
11 for continuing to reach out, continuing to cover the
12 populations in our area.

13 They do it because there is a diversity committee
14 to discuss stories, culture, ideas, staffing. It takes that
15 to succeed in America. We do it with everything else. We
16 certainly can do it in broadcasting.

17 Thank you very much.

18 CHAIRMAN POWELL: Thank you, Ms. Davis.

19 Mr. Jack?

20 MR. JACK: Thank you, Your Honor. Good afternoon.
21 My name is Michael Jack. I am the newly appointed president
22 and general manager of WRC-TV here in Washington, D.C.

23 I am also the newly appointed vice-president of
24 diversity for NBC Television where I replaced Paula Madison,
25 who is the president of our TV stations in Los Angeles and

1 continues on the Diversity Council with me where she
2 spearheads our efforts in the area of entertainment. Most
3 recently, for the past three and a half years I've been
4 president and general manager of WCMH-TV in Columbus, Ohio,
5 also an NBC station.

6 It is a pleasure for me to be here with all of you
7 to discuss an issue that is crucial to GE and NBC and
8 something that is personally very important to me.
9 Diversity at NBC is a moral and economic imperative. Moral
10 because it's the right thing to do. Economic because NBC
11 realizes that in order to succeed, we must service the
12 communities we live in and have a work force that is
13 reflective of the diversity of these communities.

14 We have made unprecedented progress with our
15 on-air efforts in the past three years. I wanted to share
16 some of the highlights with you. Our on-air diversity has
17 increased by 51 percent across prime time, daytime, late
18 night and Saturday morning teens since the 1999-2000 season.

19 In prime time series, we're up 38 percent from that same
20 year for series regulars, and that figure jumps to a
21 whopping 54 percent when combined with reoccurring roles.

22 While much attention is paid to prime time
23 programming, it is our local TV stations that have the key
24 relationship with our communities. We know that it is of
25 utmost importance that we represent our communities at the

1 local level with relevant programming, community
2 involvement, representative anchors and reporters and a
3 diverse management team.

4 While we are proud of the progress we have made
5 among our management and employee ranks throughout the
6 company, we realize that our future leadership will come
7 from those who are just now beginning their careers. One of
8 our key focuses has, therefore, been on increasing minority
9 presence among our entry level positions.

10 There are five distinct programs that I'd like to
11 share some best practices with you right now. The first is
12 the associates program. NBC has created a year long program
13 within our news, entertainment, sales, finance, information
14 technology and HR departments in order to give professionals
15 an opportunity to learn the broadcast industry from the
16 inside out.

17 Based on the success, we are now actually even
18 rolling it out in the summer of this year to the NBC agency
19 which is our internal advertising and promotions
20 organization. In 2002, NBC will have 30 minority associates
21 up from 24 in 2001.

22 Secondly, the Emma Bowen Foundation scholars. We
23 are proud to be the sponsor of the Emma Bowen Foundation for
24 Minority Interests in Media, which offers paid internships
25 for high school and college students with interests in the

1 broadcast industry and is housed at our NBC corporate
2 offices in Washington, D.C.

3 The Foundation's programs are unlike other intern
4 programs in that students work in our company during the
5 summers and school breaks from the end of their junior year
6 in high school until they graduate from college. Mentoring
7 is a key component, and these students are mentored by
8 various leaders within the divisions that they are placed
9 in. In 2002, NBC will have 37 Emma Bowen scholars, up from
10 26 in 2001. All are minorities.

11 We have internship programs, the third program I'd
12 like to speak about. Our programs give students the
13 opportunity to apply course work learning to the workplace.

14 Students are placed throughout our company in positions
15 related to their major and career goals. It is in practice
16 a feeder program that identifies high potential talent for
17 future employment. During the fall/winter school season, 28
18 percent, as many as 78, of our interns are minorities.

19 Fourth is the page program. The page program has
20 been at NBC for many years. It offers college graduates the
21 opportunity to take the first step in broadcasting. Pages
22 learn many aspects of the network television business from
23 the ground up. They are primarily involved as a liaison
24 between NBC and the general public and have the opportunity
25 to work in different departments within the company on

1 either short or long-term assignments. As of June, 2002, 30
2 percent of the pages at NBC in Burbank and New York where
3 the majority are employed are minorities, up from 20 percent
4 in the year 2001.

5 Finally, the fifth program is the second year
6 writers program. In the 2000 and 2001 season, NBC initiated
7 a second year writers program in which any show returning
8 for a second season would have a writing position filled by
9 a minority. We've expanded the program this year to include
10 all 21 of our Fall, 2002, shows. It is the network's hope
11 that increasing diversity behind the camera will result in
12 the development of additional minority characters and story
13 lines.

14 We are making good progress. We are proud of the
15 progress, but are energized and committed to seeing that
16 these results grow. We believe it is imperative that we
17 become more diverse in all facets of our business. The
18 merger with Telemundo has instantly made us a more diverse
19 company, but this merger will not in any way be a substitute
20 for our commitment to incrementally increasing diversity in
21 the future.

22 Ultimately our success at NBC is measured
23 quantitatively. It is measured by talented people from
24 diverse backgrounds who have assumed leadership positions.
25 Bob Wright and the senior management team at NBC will not

1 rest and will not be complacent until our leadership,
2 employee base and on-air programming is representative of
3 the diversity of all people in this country.

4 CHAIRMAN POWELL: Thank you.

5 Rev. Chase?

6 REV. CHASE: Mr. Chairman, esteemed Commissioners,
7 it is an honor to participate in these historic proceedings.
8 It's an honor further to speak in my capacity as successor
9 to Dr. Everett Parker, who so eloquently addressed us on
10 videotape this morning.

11 I serve as director of the Office of
12 Communication, Inc., of the United Church of Christ or UCC,
13 a mainline Protestant church of more than 1.3 million
14 members in almost 6,000 congregations in every state and
15 Puerto Rico.

16 I also speak to you today on behalf of the
17 National Council of Churches, the leading organization in
18 the movement for ecumenical cooperation among Christians in
19 the United States. The NCC's 36 Protestant, Anglican and
20 Orthodox member communions and denominations include more
21 than 50 million persons in 140,000 local congregations in
22 communities across the nation.

23 As you know, the UCC has had a long partnership
24 with the Commission in the quest for equal employment
25 opportunity dating back to 1955 when we first began to call

1 the Commission's attention to discrimination at broadcast
2 stations. It was in fact the UCC that first filed the
3 petition for rule making that led to the original EEO rules.

4 Not only in our churches, but many in the nation's
5 mainstream religious community have been steadfast in their
6 support for the Commission's efforts to prevent
7 discrimination. For us, at its heart it's a question of
8 justice.

9 Once again the agency displays great statesmanship
10 in proposing to lift the suspension of the EEO program.
11 Your EEO enforcement efforts have helped the broadcast
12 industry move past its worst impulses and begin to offer
13 opportunities at all levels for women and people of color.
14 Since 1969, virtually every FCC Commissioner has supported
15 this effort.

16 You have heard anecdotes about proactive efforts
17 broadcasters have undertaken, and I applaud such efforts,
18 but I, too, can cite anecdotes. In more than 20 years in
19 video production and dozens and dozens of crew members, I
20 have worked with only one female camera person, with no
21 African American editor or technical director and with no
22 Latino/Latina, Pacific Islander, Asian American or Native
23 American technicians in any discipline.

24 I am both personally and professionally aggrieved
25 by this experience, which in part is why I am before you

1 today. I long for this reality to change.

2 Partly in response to Commission Copps' question
3 at the first panel, for 30 years it has been voluntary
4 public participation in broadcast regulation that has rooted
5 out lawbreakers and kept the industry honest. According to
6 the Minority Media and Telecommunications Council, which
7 studies such things, there were 251 FCC EEO enforcement
8 rulings from 1994 to 1997. In 62 percent of these cases,
9 involving 155 licensees, the Commission found that the
10 licensee had fallen short of the agency's minimal standards
11 for effective EEO programs.

12 In few other areas of FCC regulation has public
13 intervention been so helpful in rooting out law violators.
14 Every one of these 155 EEO cases were brought because
15 citizen groups, assisted by a handful of counsel who usually
16 work without pay, came forward and brought evidence of
17 misconduct to the Commission.

18 As explained in the EEO supporters' comments in
19 which we joined, research has found that across a broad
20 spectrum of industries about 20 to 25 percent of companies
21 discriminate covertly against minority job applicants. For
22 argument, let us assume that only one percent of
23 broadcasters discriminate. That would be about 150
24 broadcast stations, none of which under longstanding
25 precedent is entitled to have a broadcast license.

1 Would the IRS tolerate 150 tax cheats among 15,000
2 businesses? Would a town of 15,000 tolerate 150 drunk
3 drivers or looters or polluters? Even a little unemployment
4 discrimination should be unacceptable, just as a little
5 housing discrimination or a little police misconduct is
6 unacceptable. It drives bright, creative people away from
7 an industry whose very health is dependent upon talent and
8 creativity.

9 Reports of unremedied discrimination are sure to
10 frighten impressionable college freshmen away from broadcast
11 majors and into other pursuits. It would hardly be
12 reassuring to them to learn that only 150 broadcasters
13 discriminate.

14 In a recent study by MMTC, since the set aside of
15 the rules in 1998, 42 percent of the listings on state
16 association websites do not have EOE notices. Forty-two
17 percent. That's a cause of great concern.

18 One of the most absurd arguments our opponents
19 have made is that the FCC has caught few discriminators, so
20 we don't need the rules anymore. It is not surprising that
21 the FCC catches few discriminators. The EEOC catches less
22 than one one-hundredth of one percent of discrimination as
23 identified in scholarly research.

24 The reason? Discrimination is done covertly so
25 that almost all of it escapes detection. How would a job

1 applicant know if her application was thrown into the trash
2 or that it wasn't true that the job was just filled?

3 Simply because someone has not been caught does
4 not mean that laws have not been violated, people have not
5 been hurt, communities and whole institutions have not been
6 damaged. One need look no further than the tragic current
7 events in the church to be reminded that unreported events
8 do not mean that such events have not taken place.

9 In closing, we want to encourage broadcasters to
10 stop fighting anti-discrimination laws and start fighting
11 discrimination. Deploy your vast resources and skills to
12 expose the lawless ones in your midst. Turn over evidence
13 of discrimination to the FCC just as you tell the FCC when
14 you see other broadcasters violating antitrust laws or over
15 modulating or broadcasting out of band.

16 We want to applaud the FCC in its determined
17 effort to reinstate the EEO rules for race neutral
18 recruiting. As our society moves relentlessly toward a day,
19 some estimate little more than 40 years away, when people of
20 color will constitute the majority of our population, this
21 is a small but essential step toward ensuring all citizens,
22 irrespective of race or gender, a voice over the air waves,
23 a public trust held on behalf of all of us.

24 Thank you.

25 CHAIRMAN POWELL: Thank you, Reverend.

1 Mr. Warfield?

2 MR. WARFIELD: Thank you. Good afternoon. I,
3 too, thank you for this opportunity to participate in this
4 historic hearing. I, too, personally and on behalf of Inner
5 City Broadcasting Corporation salute Chairman Powell and the
6 Commission for your ongoing commitment to diversity,
7 nondiscrimination and equal opportunity in our industry.

8 As stated, I am Charles Warfield, and I'm the
9 president and chief operating officer of ICBC Broadcast
10 Holdings, Inc., a subsidiary of Inner City Broadcasting
11 Corporation in New York City. Our company is the second
12 largest black owned and operated radio company in America.

13 My broadcast career covers 25 years, beginning in
14 1977. Inner City Broadcasting Corporation hired me as its
15 first comptroller. The company and its founding family
16 members, Percy and Pierre Sutton, provided me an opportunity
17 to learn the radio business and the opportunity to advance
18 to the position of vice-president and general manager of its
19 flagship stations, WBLS and WLIB, in New York City.

20 At that time, there were three African American
21 general managers in New York City, and black owners employed
22 two of us. In the past 20 years in New York City, there
23 have not been more than two African American general
24 managers, and at all times they have been employed by black
25 owners.

1 Since my initial tenure with Inner City
2 Broadcasting Corporation, I've held senior management
3 positions with Summit Broadcasting Corporation as vice-
4 president and general manager of WRKS-FM in New York and
5 also as senior vice-president and regional manager for AM/FM
6 Radio with responsibility for management oversight for a 30
7 station cluster.

8 In those two companies, I was the most senior
9 African American employee. In both companies, senior
10 management was responsible for, committed to and involved in
11 efforts to identify, recruit and hire employees from diverse
12 ethnic backgrounds. While this effort was ongoing, we were
13 continually challenged to identify suitable candidates due
14 to a shortage of very high quality job applicants; that is,
15 people with extraordinary creativity, long-term dedication
16 to and passion for broadcasting as a profession, not just a
17 career.

18 There are a number of reasons for this difficulty.
19 First, broadcasting is not all that highly regarded,
20 unfortunately, in the minds of young people making their
21 career decisions. A highly motivated person wants to rise
22 to the top, but when a young minority person considering
23 whether to pursue radio or some other career looks at the
24 top of our profession, he or she doesn't see a lot of people
25 who look like him or her except at minority owned station.

1 As reported by the Minority Media and
2 Telecommunications Council, just over half of the minorities
3 in radio work for minority owned stations. Minorities only
4 own 4.2 percent of the radio stations. Thus, minority owned
5 stations simply don't have enough top positions to which
6 young people coming into the industry can aspire to.

7 The record of this proceeding includes extensive
8 evidence of the gross under deployment of minorities and
9 women and under utilization of their talent in our industry.

10 For example, EEOC data for 2000 discloses that for
11 broadcasters with over 100 employees, minorities were only
12 15 percent of officials and managers and 15 percent of sales
13 workers. Women were only 18 percent of the technicians.

14 The Radio and Television News Directors
15 Association has found that between 1994 and 2001, the
16 percentage of minorities among radio journalists declined
17 from 14.7 percent to 10.7 percent, and the percentage of
18 minorities among radio news directors declined from 8.6
19 percent to 4.4 percent. Most of the few minority news
20 directors were at Spanish language or minority owned
21 stations.

22 From my own experience, in 1997 at a meeting of
23 corporate executives and general managers of a 96 station
24 group, there were only six African Americans in attendance.
25 We represented six percent of the general managers in

1 attendance, and as a result of consolidation only three of
2 us are employed today in the broadcast industry.

3 A second reason we have difficulty attracting
4 talent is that too many companies disregard their
5 obligations to provide equal opportunity. I'm not talking
6 about intentional discrimination, although there's no
7 question that there is a lot of that. I'm talking about
8 broadcast stations that simply do the bare minimum or
9 nothing at all to show that they care at all about bringing
10 persons historically excluded from our profession into the
11 fold.

12 When the EEO rule was originally adopted in 1969,
13 the Commission said that the best hope for equal opportunity
14 was the voluntary efforts of broadcasters to do training and
15 mentoring, efforts that should be taken above and beyond the
16 bare minimum requirements of the rules. That's still true
17 today. However, most of today's broadcast managers were
18 kids in 1969 or weren't even born then, so they don't
19 remember the tradition of public service that we as
20 broadcasters took for granted.

21 A young person trying to decide what to do with
22 his life will go where he thinks he will have a fair chance
23 to compete. Thus, the decision by the FCC to lift the
24 suspension of the rules will go a long way towards
25 reassuring our young people that the broadcast industry

1 offers them real opportunity, an opportunity free from
2 discrimination and a process open to all.

3 The rules you have proposed remind me of the days
4 of voluntary public service a generation ago -- my
5 generation -- when most of us today were participants in the
6 start of the industry. One of your proposals is that we
7 pick four means of outreach from a list of 13. I suggest
8 that that be expanded. Let's look at what's on the list.
9 Job fairs, mentoring programs, internship programs,
10 participation in job banks, scholarships, speaking to groups
11 of young people. Our industry should be doing all of these
12 things.

13 There are also a few additional steps I would
14 propose. First, you might encourage broadcasters to work
15 with minority and women's groups to help them develop
16 training programs and mentoring and job referral programs
17 targeted to broadcasting.

18 Second, you might encourage broadcasters to do
19 their own in-house training on EEO so that junior broadcast
20 managers will acquire a conscious understanding of how to
21 provide equal opportunity.

22 Third, you should encourage broadcasters to
23 participate in joint, industry wide programs such as the
24 Walter Kaitz Foundation and the Emma Bowen Foundation for
25 Minority Interests in Media, which we all support within our

1 company.

2 EEO isn't something our industry should be cheap
3 about. It is our legacy, and this is the least of what we
4 have to do to maintain our industry's competitiveness today.

5 Thank you for this opportunity of being here
6 today.

7 CHAIRMAN POWELL: Thank you very much, Mr.
8 Warfield.

9 I thank everyone for trying to stay within the
10 time. I would just remind people to keep their eye on the
11 red.

12 MR. WHITE: Did you say that just for me?

13 CHAIRMAN POWELL: Yes, I did.

14 MR. WHITE: Thank you, Mr. Chairman and
15 Commissioners, for the opportunity to be here with you this
16 morning. It is an honor to be here. My name is Steve
17 White. I'm the senior vice-president for AT&T Broadband in
18 Atlanta, Georgia.

19 I have the honor of supporting 1,600 employees in
20 serving almost 800,000 customers with video, internet and
21 telephone services. Prior to joining the Atlanta team
22 during the summer of 2000, I served as regional vice-
23 president for AT&T Broadband in Chicago and its predecessor
24 company, TCI, serving the greater Chicago area and northwest
25 Indiana.

1 I grew up in the State of Indiana, one of four
2 boys raised by a single mother to this day who still works
3 as a high school custodian. We lived in government housing
4 projects, and as the oldest son my mom wanted me to go to
5 college and be successful. One of the reasons I selected
6 this industry was that it embraced the notion of diversity.

7 I worked at Colgate-Palmolive and Pepsi Cola, and this is
8 one of the industries, the cable industry, that certainly
9 embraced diversity.

10 Through the efforts of the NCTA, NAMIC and other
11 organizations, we have seen women and people of color
12 aggressively recruited, developed and promoted to the
13 highest levels of leadership. I'm an example of that.

14 As you know, AT&T Broadband is the nation's
15 largest broadband services company, providing a variety of
16 communication and entertainment services to about 14 million
17 cable customers nationwide. As you look out across our
18 markets, you can see examples of the progress we've made in
19 the areas of diversity and equal employment opportunities.
20 Women and people of color serve in the most senior
21 leadership positions in Atlanta, Denver, Boston, Miami,
22 Dallas, Los Angeles and Seattle.

23 We're proud to say that women and other minorities
24 lead in the areas of finance, sales and marketing, customer
25 care, advanced product services, media services and

1 commercial business development at our corporate offices in
2 Denver. At AT&T Broadband, our commitment to diversity
3 starts with recruiting, finding the right people for the
4 right jobs regardless of race, culture, lifestyle or other
5 differences.

6 In Atlanta, 66 percent of our 1,600 employees are
7 minority. Forty-one percent of our senior management are
8 minorities. I've personally interviewed our top leaders to
9 ensure that we are maintaining a diverse work force.

10 In this high tech world, many companies rely
11 heavily on the internet to recruit employees. However,
12 while the web may reach the world, we've found that personal
13 relationships and face-to-face time with community
14 organizations often make the difference.

15 For example, in Chicago I had the pleasure of
16 personally working with a group called Jobs for Youth. It's
17 a group that focuses on minority youth age 18 to 14 where we
18 hired and mentored members of this group. They received
19 training both in business skills and life skills. The
20 organization recognized AT&T Broadband as its employer of
21 the year.

22 In Atlanta, we recently developed a multi-lingual
23 recruitment plan where we regularly reach out to employment
24 prospects through organizations like the Latin American
25 Association, the Hispanic Chamber of Commerce and local

1 colleges and universities. The Hispanic population of metro
2 Atlanta has grown to seven percent. We now have four
3 percent in our employee group, obviously an opportunity. In
4 addition, we have developed relationships with NAACP, the
5 National Organization of Women, the Urban League and other
6 organizations.

7 Once we have recruited the right people, we place
8 a strong emphasis on training and development from front
9 line employees at our call center and in field operations to
10 management and senior leadership. Our new hire orientation
11 is more than a handshake and directions to the break room.
12 It's a three day intensive training program on the basis of
13 our basis, our vision and what we're trying to do as an
14 industry.

15 Once you're introduced into the business, our
16 commitment is for continued training and development. For
17 example, we call it high performance leadership and leading
18 the broadband way. AT&T Broadband also requires all leaders
19 throughout our company at supervisor level or higher to
20 participate in extensive training on managing inclusion.
21 Our commitment is to create a work culture where our core
22 value is respect for others and inclusion is lived out in
23 the workplace.

24 Beyond our employees, at Broadband we also place a
25 great deal of importance on diversity among our suppliers

1 and business partners. Since diversity is an inherent part
2 of serving our employees and our customers, everyone
3 involved in delivering our products and services must share
4 this emphasis. In Atlanta, we spend on average 20 percent
5 of our discretionary budget each month with minority
6 vendors.

7 In closing, I was raised to believe that every
8 person deserves a seat at what my mother calls the table of
9 prosperity, but first they must receive an invitation to the
10 table. Mr. Chairman and Commissioners, thank you for the
11 opportunity to allow me to sit at this table today to talk
12 proudly about my company's record and my personal beliefs
13 and values.

14 I am honored and proud of your leadership in
15 creating a tent wide enough for people of all color. Thank
16 you again for the opportunity to be with you.

17 CHAIRMAN POWELL: Thank you very much, Mr. White.
18 Mr. Baxter?

19 MR. BAXTER: Mr. Chairman, fellow Commissioners,
20 my name is Tom Baxter. I am president of Time Warner Cable.
21 I work out of our Stamford, Connecticut, corporate offices.

22 I also represent the cable company on the AOL/Time
23 Warner Diversity Council, which was set up by our parent
24 company so that each division could share experiences and
25 success stories in terms of seeking greater diversity in our

1 employee base, management and third party business
2 relationships.

3 I appreciate the opportunity to be here this
4 morning to share with you our experience in terms of
5 expanding diversity of our work force, as well as among
6 vendors with whom we do business. For the record, I'd like
7 to point out that Time Warner Cable, in conjunction with the
8 NCTA, continues to voluntarily comply with the Commission's
9 EEO regulations because we wholeheartedly agree with the
10 policies behind them.

11 Cable television is fundamentally a local
12 business, a wire line distribution network built for an
13 individual community that we construct, operate and maintain
14 under a franchise granted by a municipality. People from
15 the community staff it. Local management selects
16 programming based on the assessment of its local viewing
17 preferences. We work in partnership regularly with local
18 associations and organizations as a member of the local
19 business community.

20 At Time Warner Cable, we have long favored a
21 highly decentralized management approach which will not get
22 in the way of localism, but rather serve to nurture it. It
23 is against this backdrop I would like to briefly talk about
24 Time Warner Cable's approach to increasing the talent pool,
25 as well as expanding the list of people we do business with.

1 Some examples from our local operating divisions would be
2 instructive.

3 In our Memphis division, we have partnered with
4 the YMCA since 1993 in an effort to help women either enter
5 the work force for the first time, return to the work force
6 or find their way into a non-traditional job. In 1999 and
7 2000, our partnership took the form of creating a special
8 training class for cable installers, hardly a traditional
9 work opportunity for women.

10 That one year program yielded 15 graduates who
11 joined our work force in Memphis. Each year the partnership
12 helps women find employment in the community and provides
13 solid hires for Time Warner Cable. Four women have been
14 placed so far this year in this Memphis YMCA program.

15 The division also works closely with the Mid South
16 Minority Business Council in hosting annual expos that seek
17 to enlarge the circle of minority vendors with which we do
18 business. In our Memphis division alone, over \$2 million
19 was spent on firms owned by minorities and women last year,
20 an increase of 19 percent over the year before. That
21 increase was in large part due to the success of this
22 relationship we enjoy with the Mid South Minority Business
23 Council. Across the 28 states where we do business, Time
24 Warner Cable spent over \$136 million last year with minority
25 vendors, about ten percent of our total expenditures in that

1 area.

2 Last year, our Cincinnati division initiated a
3 plan to increase the direct sales staff from 17 to 50
4 associates. Through carefully targeted job fairs, a new
5 sales management team was recruited that had the effect of
6 tripling the representation of women in that job category.

7 In Houston, we participate with the Houston
8 Community College and Texas Southern University in job fairs
9 and regular seminars designed to help students become more
10 marketable. We do the same with local military job fairs,
11 usually two a year.

12 One of the most successful projects in Houston has
13 been the production of recruitment spots, which are run
14 across channels in unsold advertising inventory. The spots
15 feature a diverse work force and promote a fun and
16 satisfying work environment, and it provides a substantial
17 number of leads for us in our recruitment efforts.

18 Of course, in states like New York, Ohio, North
19 Carolina and Texas where we are the largest cable operator,
20 we recruit actively from local colleges and state
21 universities with two goals in mind. We are looking for the
22 next generation of talent, and we keep a special eye on
23 developing people of color and women as a part of that
24 group.

25 Internship programs have also proven useful tools

1 to increase diversity in our work force. We were involved
2 with historic black colleges and universities in many areas,
3 including Jackson State and the University of South Carolina
4 to name two. These are simply two examples of kinds of
5 community outreach efforts which each of our divisions are
6 involved in.

7 When you look across our 39 divisions, we work
8 with more than 400 community groups in terms of recruitment
9 and training efforts targeted at women and minorities. Each
10 of these efforts is successful because each of us draws on
11 community resources, works through established institutions
12 and organizations, most importantly, that best reflects the
13 community itself. Efforts in this area are not undertaken
14 in a vacuum. A diverse work force is not just a social
15 goal. It's a business imperative.

16 Our customer care center in Queens, New York, for
17 example, is staffed by people capable of speaking a dozen
18 languages, including Hindi, Greek, Russian and Portuguese.
19 That operation has direct dial customer service numbers in
20 Korean, Spanish and Chinese.

21 Our systems serving communities in the Rio Grande
22 Valley in Texas reflect the Hispanic culture that exists in
23 those cities. We could not serve our customers if it were
24 otherwise. Our 24 hour news channel in Tampa, Bay News 9,
25 also operates a 24 hour Spanish language news feed. We need

1 editors and reporters fluent in Spanish to staff that
2 operation.

3 Cable television, after all, is in the cultural
4 transformation business. Our early promise in the beginning
5 was to bring diverse programming to people that traditional
6 broadcasting networks could not. Cable was responsible for
7 making television not only a tool for mass entertainment,
8 but also a source of niche programming and serving the needs
9 of each segment of our audience.

10 We're bringing our promise of the internet in an
11 increasing number of homes today with the role of our
12 broadband service. Incidentally, through a program called
13 Power Up we provide access and training to young people,
14 especially those in inner cities who may not otherwise have
15 the opportunity to go on line.

16 Change is part of cable's DNA. That is not only
17 right, but it is absolutely appropriate that cable
18 television companies like ours should take an active role in
19 helping change the employment landscape as well. These
20 efforts put Time Warner Cable ahead of the cable industry in
21 terms of the number of minorities in our work force, 39
22 percent, and the number of minorities in our top four
23 management levels, 31.6 percent.

24 They have contributed to a track record for women
25 that is at parity with the overall cable industry against

1 both of those calibrations. To do anything else, from my
2 point of view, would simply be wrong. It would be wrong
3 from a social responsibility perspective, and it would be
4 wrong from a business perspective.

5 Thank you, Mr. Chairman.

6 CHAIRMAN POWELL: Thank you, Mr. Baxter.

7 Senator Torres?

8 SEN. TORRES: Mr. Chairman and members, it's a
9 pleasure to be with you. Thank you for continuing your
10 leadership and staying awake throughout all these panels.

11 I am president of the Walter Kaitz Foundation and
12 took the foundation over in late 2000 during a very
13 difficult time, but I want to say thanks to Robert Sachs,
14 who is the president and CEO of the NCTA, Michael Wilner,
15 who is our chairman, and Glenn Britt, who is the chairman
16 and CEO of Time Warner who is the current chair of the Kaitz
17 Foundation, and the CEOs that form the basis of this
18 Foundation's board, which have never provided an obstacle,
19 but rather encouragement to look at how we develop many of
20 the initiatives that you've talked about, Mr. Chairman, and
21 members of the Commission, as well as what we can do
22 essentially in terms of the future.

23 I believe that dividing the cable industry's
24 approach is both acute and preventive care. Like a good
25 doctor in the country, we want to make sure we take care of

1 the emergencies, and you've heard some of those emergencies
2 today. We want to make sure we take care of preventive care
3 as well.

4 I want to talk about diversity in programming. We
5 always talk about employment in the management field, and
6 we're lacking there. As Mahatma Gandhi said, "Without a
7 struggle there is no movement." Well, we're definitely in a
8 struggle when it comes to higher management replacing Tom
9 Baxter with a Spanish surnamed individual, but the fact of
10 the matter remains that that is still a struggle because
11 he's a pretty good guy.

12 We're also in a movement, and the movement
13 encourages us to look at what we've been doing in
14 programming. We far exceed the broadcast industry. My
15 apologies to my colleagues there. Look at HBO. Look at
16 Showtime. Look at BET, Lifetime, A&E, Oxygen, Discovery,
17 Telemundo, Weather, Nickelodeon. Yes, the Weather Channel.

18 There are more women on that channel than most people
19 realize through the good efforts of Decker Angstrom.

20 Nickelodeon, The Rainbow, MTV with gay and lesbian
21 programming, Turner Broadcasting, even Turner CNN News
22 providing an incentive, especially during Hispanic Heritage
23 Week, during Affirmative Action Week, during African
24 American Week, providing programming and initiatives to
25 those.

1 The second issue is what does the cable industry
2 do in terms of its foundations? We don't even talk about
3 that. We've heard references earlier, about millions --
4 untold millions -- of dollars on a regional basis, as Tom
5 well knows and others here at AT&T on a regional basis, in
6 terms of contributing for scholarships, internships, et
7 cetera, et cetera, et cetera, which go on on a regional
8 basis, which if you mounted a total initiative could reach
9 clearly almost in the billions of dollars.

10 Lastly, I want to talk to you about what we're
11 doing in terms of preventive care. The Walter Kaitz
12 Foundation was founded about 18 years ago, and it was
13 founded to deal with diversity in the industry. The cable
14 television industry was far ahead of everybody else talking
15 about the fact of what Esther Renteria talked about earlier
16 -- she was my instructor years ago as well in Los Angeles --
17 trying to figure out where do we go from here? How do we
18 provide more incentives?

19 What the Walter Kaitz Foundation is now doing is
20 providing three essential elements. Number one, awarding
21 grants to innovative projects, some of whose directors are
22 here. The Emma Bowen Foundation. Stand up, Phyllis. The
23 Women in Cable Television. Stand up, Anita, Olympic
24 champion, gold medalist. People who are concerned about the
25 future not only in their communities, but in an industry.

1 What do we do with these organizations? We have
2 awarded grants to AFTRA to develop a master course to help
3 human resource people understand how to recruit people.
4 Number two, we've developed at the initiative of the NCTA
5 and Robert Sachs' leadership a diversity supplier network.

6 Commissioner Copps was there and gave a very
7 enlightening speech, even in the heat of New Orleans, at our
8 national conference talking about where we're going to move,
9 how we're going to provide incentives to diversity
10 suppliers. It was like a Christian meeting, wasn't it?
11 There was even testimony from diversity suppliers who had
12 received contracts from the cable television industry as a
13 direct result of the NCTA's efforts, one which we've taken
14 up.

15 What does that mean? Today a diversity supplier
16 can go to our website and find out what RFPs are available.

17 A procurement officer in the cable television industry can
18 look and see who do I need to hire in my area and connect on
19 a real basis.

20 The same thing is true in terms of a job bank. A
21 human resources professional can provide access to that
22 website and find out who the candidates are -- there are
23 over 1,000 now resumes that have been updated -- and provide
24 an incentives to make sure what kind of jobs they have
25 available and what kind of connection to make.

1 We heard today that internet is not enough.
2 That's true. Not everybody has access to the internet, and
3 that's why on our website right now we have over 50 ethnic
4 media. We're increasing those numbers day by day. In
5 California alone, there are over 500 ethnic media outlets --
6 radio, television. In Los Angeles alone, there are six Thai
7 speaking newspapers, for heaven's sake. We haven't even
8 begun to scratch the surface in terms of outreach. This
9 website will help to do that.

10 We also want to make sure that we list within this
11 website the calendar of events. The people know where to go
12 to job sites in their regional area, number one. Number
13 two, we also highlight a list of all universities and
14 campuses from Bay Mills Community College in Montana, which
15 has the highest Native American student population, where
16 people can go and search out for Native American
17 professionals that might work in the cable television
18 industry, to where Latinos and Asian and Pacific Islanders,
19 African Americans and others may reside as well.

20 What are we doing on the preventive side as well?

21 As our very, very wonderful chairman of the Women in Cable
22 understands, we're providing funding to make sure that
23 executive leadership programs continue. We're also
24 providing to make sure that the mentoring program continues
25 with the Emma Bowen Foundation and to make sure that we work

1 with NAMIC, which is another organization designed to help
2 minorities with a tremendous leader, Pat Keenan out of
3 Chicago, trying to make sure that they know how to access
4 the internet and, most importantly of all, how do we get
5 those kinds of mentoring programs, of which they have had
6 260 pairs so far of mentors -- I was one of them -- with
7 CEOs and of minority professionals and also how to make sure
8 that we provide an incentive to do that.

9 Lastly, we want to make sure that we talk about
10 the future, and that is where are we going to find the
11 engineers for the future? We have just signed a contract
12 and a grant with Polytechnic University, which is probably
13 the urban MIT. Those of you from New York will understand
14 that. A lot of their young people are young people of
15 color.

16 We will establish this summer for the first time
17 in the history of the industry a cable television specific
18 scholarship program with high school students with express
19 interest in becoming engineers and relating them to the
20 cable industry. You can't just rely on the current pool of
21 people that are out there. You're going to have to reach
22 out and create new pools of opportunities and new pools of
23 candidates as well.

24 My light is on.

25 COMMISSIONER ABERNATHY: It's only yellow.

1 SEN. TORRES: Thank you, Mr. Chairman.

2 CHAIRMAN POWELL: Most admirable from a former
3 legislator.

4 Questions and comments?

5 COMMISSIONER ABERNATHY: Just a quick question.
6 As I've been listening, and, by the way, the programs that
7 all of you are talking about are absolutely fabulous. We're
8 struggling with how do we get the most bang for our buck
9 with the initiative and with the EEO rules we'll ultimately
10 adopt.

11 My question is when you look at some of the
12 programs involving job fairs and scholarships and internship
13 programs, which I think in many instances are promoted and
14 advocated by the trade associations, as opposed to outreach
15 and recruitment efforts which I think come more at the radio
16 station or the broadcast station level, on balance are some
17 more effective than others? Are they all part of a pool
18 that is necessary in order to see some changes in the
19 industry? Anyone can answer this.

20 What do you think about basically public/private
21 partnerships that go more towards away from some of the
22 mandates, but more towards encouragement of the internship
23 and the scholarship programs and the educational efforts
24 that seem to be too great for some of the smaller
25 broadcasters to do on their own? That's it.

1 SEN. TORRES: Yes, Commissioner Abernathy. If I
2 may, I think your question is very complex and requires a
3 complex answer.

4 COMMISSIONER ABERNATHY: Okay.

5 SEN. TORRES: Number one, you need regulations or
6 statutes --

7 COMMISSIONER ABERNATHY: Right.

8 SEN. TORRES: -- because a lot of people don't
9 have a historical frame of reference, and you're not going
10 to be able to take the time to educate somebody in Fresno,
11 California, for example, or some other rural community about
12 what the incentives or initiatives ought to be, but rather
13 give him a set of regulations by which to follow.

14 The other answer to your question is that we need
15 all of what you've heard today because not one organization,
16 not even the great FCC, can provide all of these answers.
17 You're going to need the efforts that are happening in
18 Texas, in Colorado, in Arizona, in New York, in California,
19 all working together.

20 What we're trying to do with the cable industry in
21 terms of the Kaitz Foundation is to make sure we support
22 organizations like WIC, Emma Bowen, NAMIC and CATHRA and
23 others because they are much more able to deal with specific
24 interaction with potential candidates, but also to make sure
25 that other professionals have an access where they may not

1 have the opportunities in their own communities, at least a
2 website of where to go.

3 Let's say you're in a community. What kind of
4 ethnic media can I advertise this job in? They can go to
5 the Kaitz website, find out who those media outlets are in
6 their own communities and utilize a resource they may not
7 have literally on the reservation or in the barrio or in the
8 ghettos of America.

9 COMMISSIONER ABERNATHY: So the idea then is to
10 build on the steps. You've got the regulations, and then
11 you push and go beyond that as you work with the trade
12 associations, as you work with the internships and the
13 scholarships?

14 SEN. TORRES: And membership organizations who you
15 know are here in this audience and who are outside of this
16 room who are trying to do the best they can to reach out and
17 to continue to support that. The only way you can ensure
18 that is if in fact you have a framework by which to follow
19 that others can proceed thereafter.

20 COMMISSIONER ABERNATHY: Okay. That's all. Thank
21 you very much. In the interest of time, I'm going to defer.

22 COMMISSIONER COPPS: I guess our progress here,
23 rather than having one silver bullet set of rules and
24 regulations to solve this problem, is going to have to be a
25 number of practical, targetable, achievable success.

1 Let's just take one item. I think most of us
2 agree that there needs to be better interaction with
3 minority recruiters, minority owned recruiters, yet there is
4 a legal caution now that we really can't mandate that
5 broadcasters reach out with every job notice to the
6 recruiters.

7 How do we come up with a program to ensure that
8 that loop is closed and that we really have communication
9 between the broadcasters, the cable companies and the
10 minority recruiters?

11 You know, I'm always a big believer in the
12 government not trying to do everything and public/private
13 partnerships. It seems to me if we could get to the
14 realization that there is a problem among all the
15 stakeholders and then try to take some practical steps, I
16 could see some public/private partnering or just private
17 partnering really to reach out and make sure that the
18 minority recruiters, minority owned recruiters, know that
19 there are openings, know what the problem is and are brought
20 into the extent of the problem so they can be part of the
21 solution.

22 Do any of you have any ideas how we can maybe
23 encourage that?

24 MR. WARFIELD: Mr. Commissioner, I think that when
25 we talk about, you know, minority recruiters, and I think

1 we're all sensitive about forcing individuals to use
2 specific individuals. What we're all looking for here is
3 finding the best and the brightest of our young people and
4 giving them an opportunity.

5 I think that when you look for the best and the
6 brightest, you can't afford to leave any segment of our
7 community, of our country, unaddressed, unspoken with. I
8 think that the regulations require broadcasters to identify
9 where these individuals can be reached. Word of mouth, and
10 I think we talked about the statistics in our industry that
11 word of mouth is just not done enough. There's still a lot
12 more to be done.

13 We're all looking for as we talk about driving the
14 profitability of our company, the way that we do that is
15 through having the best and the brightest employees in our
16 company. I think that when we talk about the public/
17 private, we talk about minority recruiters, we're not trying
18 to exclude anything here. What we're asking the
19 broadcasters to do is just be aware that there are many
20 sources out here that they may not have tapped into before.

21 There are many resources out here for them to
22 utilize, and we're asking them to continue that process; not
23 feel that it's required to do that or there's any advantage
24 for them to do that.

25 MR. BAXTER: At Time Warner, one of the

1 participants in the first session talked about kind of the
2 pressure of hiring, that all of a sudden a job comes open,
3 and the executive has ten other things to do plus then fill
4 this slot. Sometimes they don't take the time to do the
5 proper recruiting.

6 What we're doing at Time Warner Cable is what we
7 call build the bench. We're actually organized into six
8 operating areas, each one run by an executive vice-
9 president. This year we've told each one of them you must
10 hire, you know, a young executive from a diverse background,
11 and you've got to make that hire with the following
12 understanding; that they're going to work for you for a
13 year, and then within a year they're going to be moved
14 someplace else so that, you know, they're going to have to
15 be moved. You build a bench. Then when jobs come open
16 you've got good candidates.

17 I think one of the problems here is pretty
18 legitimate that things are moving so fast now that unless
19 you build a bench when all of a sudden jobs come open,
20 people won't take the time to do the full recruiting job you
21 should do. The way to really solve that I think is to build
22 a bench.

23 If you do this every year, you know, a company
24 like Time Warner all of a sudden within a couple years can
25 have a pretty substantial number of talented young men and

1 women to pull from when jobs do open up, so I think you've
2 got to do some, as Art would say, preventative work here.

3 COMMISSIONER COPPS: Well, it just seems -- I'm
4 sorry.

5 MR. WHITE: I would just like to make the point
6 about the uniqueness about our business, whether it's cable
7 or broadcasting. We're local companies. We might be part
8 of larger companies, but we're paid to be in tune with
9 what's happening in our local community.

10 The value of knowing what's important in your
11 community actually drives your business, so we're uniquely
12 prepared and set up to do that because we are locally there,
13 and we're local businesses.

14 COMMISSIONER COPPS: I would encourage a
15 multiplicity of ways to reach out, but it seems to me if we
16 could get the industry together, everybody who agrees that
17 there is a problem here, with some kind of an outreach
18 program to make that first hook up and make sure all of
19 these recruiters are in the loop, I think once they're all
20 in the loop they'll stay in the loop. Let's get them in. I
21 think that would be a great first step.

22 Let me ask Kathy Hughes or Belva to comment. What
23 is the relationship between diversity and programming and
24 diversity and ownership in your mind?

25 MS. HUGHES: Why don't you go first?

1 MS. DAVIS: Well, I can tell you I tried to
2 mention the program at KRON where I worked. We had a
3 problem. One day I looked in my newsroom, looked around my
4 newsroom, and it was the shock of my life. I was the only
5 person of my color in a newsroom where I thought we had a
6 very high awareness of what it meant to serve our community.

7 We formed a diversity committee, which is open to
8 all employees, to come once a week. The news director
9 always attends. We discuss story content, our slant on
10 stories, the inclusion of communities and look at our
11 employment group to see who within our bank who may not be
12 at that week's meeting could help us pursue that story.
13 That's how we get a diversity of opinions, culture and
14 outlook on our stories.

15 It took active participation by our managers to
16 say this is something we're going to do. We're going to
17 serve this community. That's reflected in our programming,
18 and that is why it is an award winning station in this area
19 because they have an interest. It's your programs that
20 cause them to have an interest.

21 COMMISSIONER COPPS: Ms. Hughes?

22 MS. HUGHES: I think that probably the most
23 obvious evidence of the benefit of diversity in programming
24 deals with women's health issues, which have always been of
25 key importance in our community, but you didn't hear about

1 them. You didn't know about them because there were not
2 women in positions to disseminate that information. Now
3 that there are a few women, you're seeing more and more
4 information.

5 In terms of diversity in ownership, it's what has
6 made America great. Without it, we continue to always turn
7 on our news, and if it bleeds it leads is still too common
8 with little regard for what is really important to this
9 local community. What's really important to the people who
10 live in this community?

11 It's been so interesting with consolidation how
12 although the numbers of stations that are now under minority
13 control has increased, the number of us has in fact
14 decreased. That greatly affects our ability to exchange
15 ideas, to form teams to help with the scarcity of personnel.

16 It is very difficult, particularly in the Hispanic
17 and African American communities, for us to even compete to
18 attract managers of our own community when they're working
19 for one of the larger broadcast corporations with benefit
20 plans that we hope one day to get large enough to offer to
21 them.

22 With us being the only public corporation, a lot
23 of people assume that just going public would automatically
24 catapult us into that position. It doesn't. It takes years
25 of being public to get to that economic level.

1 I was very naive about it, Mr. Commissioner, when
2 I started because I thought the same way; that now that
3 there's WNBA that there would be a WNAB in that women
4 broadcasters would be able to come together and share.

5 A lot of what gets criticized about the "old boy
6 network" kind of disregards that there were certain benefits
7 and are certain benefits to a fellowshipping and sharing of
8 information, a sharing of talent, a sharing of resources
9 that today those of us in the communities of people of color
10 and the communities of women have not been allowed to form
11 those type of coalitions that would greatly benefit not only
12 ourselves and our facilities, but ultimately greatly benefit
13 the United States of America.

14 COMMISSIONER COPPS: Thank you.

15 COMMISSIONER MARTIN: Briefly, I wanted to ask Mr.
16 Warfield, who had mentioned the importance of potentially
17 adding to the outreach programs and outreach efforts under
18 our rules and making additional requirements.

19 Do you think that that would in any way be
20 sufficient, and how do you judge the effectiveness of that,
21 or can you judge the effectiveness of those programs without
22 also keeping track of the ethnicity and gender of the work
23 force by the companies and the kinds of forms that we've
24 also required and the concerns that have been raised about
25 those? Are those a necessary component, do you think, as

1 well?

2 MR. WARFIELD: I don't necessarily propose that we
3 have to quantify the ethnicity of the individuals that we're
4 talking to. I think that when we talk about additional
5 steps to be taken, if there are additional resources that
6 senior managers can utilize for identifying again, as I
7 said, the best and the brightest of those out there
8 available to join our industry.

9 I think that, you know, the difficulty, and I
10 constantly hear managers in major markets. Where do you
11 find qualified African American employees? Obviously with
12 black owned and operated companies we're able to find these
13 individuals, but the recruitment effort is an ongoing
14 process. You can't wait until you have an opening because
15 we always have the pressure of filling the position,
16 particularly a key position in an organization.

17 You're constantly farming out here. You're having
18 people not necessarily in your company on the bench because
19 we can't always afford that, but we have a list of potential
20 candidates that we can reach out to. You have to do more
21 rather than less.

22 You do remember the individuals that you talked
23 to, and people will leave an impression on you beyond their
24 ethnicity. Again, that's what we're really asking for here
25 is to put forth that effort to identify these individuals.

1 COMMISSIONER MARTIN: Thank you. I don't have
2 actually a question, but I did want to also just thank Belva
3 Davis for her personal testimony and for sharing the
4 poignancy of that with us. I thought that was particularly
5 compelling. I just want to thank her for that. Thank you.

6 MS. DAVIS: Thank you, Commissioner.

7 CHAIRMAN POWELL: I just have one question before
8 we move to wrap up the hearing.

9 One of the things that struck me as being
10 persistent throughout the day is the relatively low
11 representation numbers we've heard and how sort of
12 persistently stagnant they seem to be.

13 One of the things I'm curious about is I don't
14 know if anybody has this information, but it would be
15 interesting to know to what degree does that compare to the
16 representation experiences in so many of the industries that
17 are related to this medium? For example, the number of
18 minorities or women in the Hollywood studio community, the
19 number of minorities and women in the music industry.

20 My sense is, and I could be wrong, that those
21 individuals have done better in those communities, those
22 communities being the lifeblood of distributors ultimately.

23 I don't know if anybody knows that here. I'll just look
24 around. Is anybody raising their hand?

25 MS. HUGHES: I know a little, Mr. Chairman, about

1 the music industry. It has consolidated also, and there are
2 in fact fewer opportunities for people of color and women in
3 the music industry than there have been historically. I
4 guess that my counterpart in the music industry would be
5 Sylvia Rhone, who is the only woman chairperson of a music
6 company, Electra Records, and has been for many, many years
7 now. She's a stand alone.

8 Not only has the music industry consolidated, but
9 entire divisions that are dealing with African American or
10 what they call urban music have actually been shut down.
11 Only one music company now is still owned by an American
12 corporation. All of the rest of the music companies not
13 only have consolidated; they have all been sold to foreign
14 interests. They don't even reside in the United States.

15 It's really amazing how while urban music each
16 year increases in terms of the profit margin that they
17 provide for the music industry at the same time the music
18 industry has eliminated and continued to reduce the number
19 of opportunities that it provides in terms of employment for
20 women and people of color in the business of music.

21 Now, they open their doors and welcome any
22 recording artists that will sell, you know two, three, four,
23 five million copies of a song for them, but in terms of the
24 administrative input you do not find it.

25 As I said, Sylvia Rhone for at least -- what,

1 Charles, over a decade?

2 MR. WARFIELD: A decade.

3 MS. HUGHES: About a decade has been the only
4 woman and the highest ranking African American in the music
5 industry.

6 SEN. TORRES: Mr. Chairman, when I was in the
7 Senate I served as chair of the Entertainment Industry
8 Committee for California, and my dear friend, Sherry
9 Lansing, who heads up Paramount, was one of the few women
10 ever elevated to that level.

11 As you look at the other management levels within
12 the entertainment industry, especially in Hollywood, you'll
13 find very similar occurrences, as Catherine has indicated,
14 in the recording industry. Also, if you talk to actors of
15 color and producers of color, you'll find out how difficult
16 it is to get projects funded, number one, and especially
17 with Latinos that move into the Spanish language dimension.

18 More funding occurs out of Telemundo or Univision than
19 would occur from the major motion picture studies.

20 In addition thereto, I think what you'll find here
21 is when Tom talked about that diversity means good business,
22 he's absolutely on target. Demographics are finally
23 accentuating the line here in terms of where people are
24 going.

25 The other dynamic in the industry, at least the

1 Hollywood industry, is that the chronologically gifted
2 writers are the ones that are being discriminated against
3 more because more and more it's that Adam Sandler is looking
4 for a \$100 million picture hit to 14-year-old teenage boys
5 rather than hiring the older writers, which are, quite
6 frankly, in my opinion, much more wise, et cetera.

7 The fact of the matter is there is still that kind
8 of discrimination, so I think it would be interesting to
9 have a hearing like that at some point.

10 CHAIRMAN POWELL: I don't want to open up that can
11 of worms. We have enough problems with our little piece of
12 the universe.

13 We're going to proceed now to closing comments,
14 which I hope will be brief, and call it a day. Commissioner
15 Abernathy?

16 COMMISSIONER ABERNATHY: Thank you, Mr. Chairman.
17 I just want to say thanks again to everyone who
18 participated today. I've heard personal stories about the
19 lengths and the efforts that people made to be here to share
20 their stories with us.

21 It's critical to our evaluation, and I think what
22 I've heard today about consolidation in the industry and
23 normal business pressures in today's economy I think has
24 elevated the importance of our task versus what it may have
25 been five or six years ago, and that's been a nuance that I

1 think I didn't fully appreciate until hearing from all of
2 you today.

3 We are going to continue to move forward. We are
4 going to work on all these, take all the information that
5 you gave us today, and I think it's safe to say, looking at
6 all of the talented individuals who participated today, that
7 none of us women or minorities want anything better. We
8 just want an equal opportunity, and I think that's what
9 we're all about as we're working on this proceeding.

10 Thank you.

11 COMMISSIONER COPPS: I think this has been a good
12 and helpful hearing, and I'm grateful to everybody on both
13 panels who took the time and went to the trouble to
14 participate.

15 I guess I would kind of end where Reverend Parker
16 began saying that he won't be around to see us win the fight
17 to use EEO rules to maximize opportunity. Probably none of
18 us will because this is an ongoing battle, an ongoing
19 struggle. As America develops, we have to be constantly
20 aware of it and react to it.

21 I do know that unless we're aggressive now, we
22 will live to be around to see the program fail, and I think
23 that's one message we should take away from here today. I
24 hope we come out of this realizing that there is a problem.

25 I don't know how anybody could listen to most of the folks

1 on this panel and realize or think that there's not a
2 problem.

3 I hope we'll keep our eye on the goal here. The
4 goal is not developing procedures so the FCC can reach out
5 and whack somebody every morning at sunset. The goal is to
6 deal with the systemic problem in this country that, as Mr.
7 Warfield I think said, women and minorities are grossly
8 under represented in this industry. We need as a country to
9 do something about it. We need to push the envelope.

10 I'm glad that most people support the proposal
11 that was put forward in the NPRM. I would hope that we
12 could develop between now and the time we get to further
13 determination even a more proactive stance, one that will
14 still pass Court muster, but will be even more aggressive.
15 I think we've had some good suggestions from the panelists
16 today and in their written testimony, too, and I think we'll
17 all be going back looking very closely at that.

18 I think we've got to realize that the FCC is
19 constrained here, too. It's not a problem in search of a
20 governmental solution. Our rules can help. We can have
21 clear, good proactive rules. We can enforce them swiftly
22 and surely so that everybody knows that we are certain about
23 them, but most of the action here is going to be with you
24 folks in the industry working among yourselves.

25 I would just hope that out of this dialogue we've

1 had today that we might have an enhanced dialogue between
2 the public and the private sectors, but even more than that
3 amongst all of the stakeholders in the private sector. We
4 need best practices, and we don't have those best practices
5 even outlined yet, but we need people working together and
6 reasoning together and dedicating themselves to getting this
7 job done together.

8 I hope that somebody after this meeting will
9 convene a meeting of the industry stakeholders and say hey,
10 let's follow up. Let's see what we can do in a practical
11 way to take a step here. As I said before, we're not going
12 to solve this problem in one fell swoop. Little steps along
13 the way will get us down the road, though, going in the
14 right direction to ensure our progress in the final
15 analysis.

16 Thanks to everybody for coming. Thanks again to
17 our Chairman for convening this. I for one, and I'm sure I
18 speak for all our colleagues, look forward to working with
19 all of you as we try to tackle this problem and do something
20 about it.

21 COMMISSIONER MARTIN: I'd just like to also thank
22 all the panelists from today for what I thought was a very
23 important and useful session to be able to hear all of the
24 experiences and the insight that you all can bring to this
25 process.

1 I also would like to thank the Chairman for
2 organizing this, which I thought was very helpful, and also
3 to Commissioner Copps for originally suggesting that we do
4 this, to both of them.

5 I would take issue with one thing that
6 Commissioner Copps did say, though. I guess I'm a little
7 more hopeful that maybe I would live to see the end of it.
8 I'm not sure that that's a difference in the degree of
9 optimism or age, but I am more hopeful I think in that.

10 Thank you.

11 CHAIRMAN POWELL: That was low. Anyway, let me
12 just take this opportunity to thank our extraordinary
13 panelists and all of you in the audience.

14 I mean, I've always believed quite deeply that
15 equality is achieved in a free and democratic society first
16 and foremost by discourse, dialogue and understanding and
17 for everyone's willingness to come and participate and that
18 this course dialogue and understanding is an important
19 testimony to the rightness of the cause.

20 It seemed to me as I listened today that one thing
21 stood clear. The amount of representation achieved over the
22 decades in this area is nothing to be proud of. I don't
23 know what all the solutions are. I mean, government can
24 contribute a portion to it, but one of the things that
25 strikes me is that at the end of the day it will always be a

1 modest contribution to making significant inroads at the end
2 of the day.

3 It will take leadership. It will take corporate
4 leadership that exercises a commitment and relentless
5 willingness, a strategic imperative to proving the
6 circumstances of their operation, their corporation, to ever
7 achieve the kinds of things that we would universally claim
8 as successful.

9 At the end of the day, we will do what we can do,
10 but I hope that one of the messages that goes away from that
11 is if you are a leader in the twenty-first century and
12 committed to the future and health of the country and its
13 industry, you will be as committed as some of the leaders we
14 saw today are in their programs and their commitment to this
15 what I think is a strategic priority for the nation and for
16 any industry that hopes to make money in a diverse future.

17 With that, this hearing is closed. We thank
18 everyone for their participation.

19 (Whereupon, at 1:10 p.m. the hearing in the above-
20 entitled matter was concluded.)

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