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December 20, 2012

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Dear Chairman Genachowski,

I write to express my concerns with reports that the Commission intends to revive some form of the same lax media cross ownership rules that the Third Circuit Court invalidated in July 2011. In striking the Commission's rule, and effectively reinstating the current ban on newspaper-broadcast cross ownership, the Court ordered the agency to clarify how its proposed rule changes would impact media diversity and promote ownership opportunities for women and minorities. Since the Commission apparently has yet to conduct such a study, any effort to relax media ownership rules now would be in direct violation of the court's order. I therefore urge the Commission to complete its long overdue diversity analyses before proceeding with any proposed changes to the current ban on newspaper-broadcast cross ownership.

Section 257 of the Communications Act requires the FCC to submit triennial reports identifying and eliminating market entry barriers for entrepreneurs and other small businesses, including minority and women-owned businesses. Moreover, in previous FCC proceedings and the current ownership review, the Commission has affirmed the importance of diversity in national communications policy because the "widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." Unfortunately, the Commission's lax media ownership rules and deregulatory policies have resulted in just the opposite: a heavily-consolidated industry with scarce ownership opportunities for women and minorities.

Today, only five companies own the major broadcast networks; 90 percent of the top 50 cable networks produce three-quarters of all prime time programming, and control 70 percent of the prime time television market share. As these conglomerates have consumed large portions of the market, the opportunities for minority ownership have decreased. Since 1999, minority television ownership has decreased by 50 percent. In 2007, despite comprising 34 percent of the population, minorities owned just 3.2 percent of the U.S. television stations and 7 percent of the nation's full power radio stations. Minority radio ownership has declined by 9% just within the

last three years. Minority wireless and cable system ownership levels are near zero. Finally, minority radio journalism employment has plummeted to less than 1%, a level not seen since 1950.

In *Prometheus*, the Third Circuit Court of Appeals excoriated the FCC's failure to enhance media diversity, concluding that the "FCC's own failure to collect or analyze data, and lay other necessary groundwork, may help to explain, but does not excuse, its failure to consider the proposals presented over many years. If the Commission requires more and better data to complete the necessary *Adarand* studies, it must get the data and conduct up-to-date studies as it began to do in 2000 before largely abandoning the endeavor." In the end, the Third Circuit noted its expectation that the Commission would finalize this work "in time for the completion of the 2010 Quadrennial Review."

The court also noted Supreme Court statements recognizing that "the conclusion that there is a nexus between minority ownership and broadcasting diversity...is corroborated by a host of empirical evidence" and that "both Congress and the Commission have concluded that the minority ownership programs are critical means of promoting broadcast diversity."

The Commission's own recently-released ownership report provides some long-absent data, but the data falls short of satisfying the detailed analysis the Third Circuit ordered the Commission to conduct. According to troubling reports about the draft order on circulation at present, the Commission has not adequately addressed the likely impact of any proposed rule changes on diversity, as the Third Circuit has repeatedly required. I am concerned that the already low levels of ownership will be diminished even further by the proposed rule changes.

Lastly, claims that the Internet has lessened the need for polices that promote media diversity have been grossly exaggerated and disproven by the Commission's own studies. The FCC's report, *Less of the Same: The Lack of Local News on the Internet* (FCC Media Ownership Study #6) (June 2011), found: "almost no evidence that the Internet has expanded the number of local news outlets. Most television markets have fewer than a dozen local news Websites. Those sites that do receive an audience are overwhelmingly newspaper and local television station Websites, rather than new and independent sources of local news. . . . Online local news markets resemble downsized versions of traditional media news markets, with the same news stories produced by the same newspapers and television stations."

For all of these reasons, I respectfully request that the Commission not proceed with its proposed rule changes at this time, and that it conducts the court-ordered analysis on its recently released data before it acts on its media ownership rules.

Sincerely

A handwritten signature in cursive script that reads "Maxine Waters". The signature is written in black ink and is positioned above the printed name.

Maxine Waters
Member of Congress