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May 14, 2019

Rep. Mike Doyle  
Chairman  
House Committee on Energy and Commerce  
Subcommittee on Communications and Technology

Rep. Robert Latta  
Ranking Member  
House Committee on Energy and Commerce  
Subcommittee on Communications and Technology

Dear Chairman Doyle and Ranking Member Latta:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, we write to thank the Subcommittee for holding an oversight hearing of the Federal Communications Commission (FCC). We are particularly encouraged that the hearing will focus on the consumer impacts of FCC decisions. We want to highlight two critical civil rights priorities under the FCC's purview for the Subcommittee's attention. We ask you to: (1) carefully review the FCC's quadrennial review process and its failure to address the dearth of ownership by women and people of color; and (2) closely examine the FCC's recent proposals to drastically cut the Lifeline program, the only program that helps low-income consumers access vital communications services, such as broadband.

### **Media Ownership and Equal Employment Opportunity**

Media diversity has long been a top priority of The Leadership Conference because we understand that meaningful protection of civil rights and advancement of key policy objectives rely in great measure on an accurate, independent, and diverse media that serves our constituencies. Racial, gender, and ethnic diversity in broadcast media ownership is essential to preserving a multitude of opinions and points of view in the marketplace of ideas that is accessible to all people. The Local Radio Ownership Rule, the Local Television Ownership Rule, and the Dual Network Rule (collectively the "Media Ownership Rules") serve the public interest and media diversity by assuring an accurate, diverse, and independent media and are the last bulwark against already abysmally low ownership diversity rates.

Despite their vitally important role in maintaining ownership diversity, the FCC proposes to modify or eliminate all of the Media Ownership Rules.<sup>1</sup> Its proposals to radically restructure the radio industry are particularly concerning following similarly detrimental changes to TV regulation in 2017. Moreover, the agency made these proposals without having collected sufficient data to know what effect eliminating the rules will have on ownership diversity.<sup>2</sup> The Commission has persistently failed to obtain reliable data on which broadcast outlets are controlled by women and people of color. The Commission has never corrected identified reporting gaps and numerical tracking errors, nor has it released a report summarizing the 2017 race and gender broadcast data, although it has had these data since March 2018.<sup>3</sup>

The numbers we do have, while unreliable, paint a dire picture of ownership diversity. Women own only 7.4 percent of all full power TV stations, Hispanics and Latinos control 4.5 percent of those stations, and all tracked racial groups collectively controlled 2.6 percent of all full power TV stations.<sup>4</sup> As the following examples show, these groups are, overall, not making progress. African-American ownership has had zero or negative percent increases in all television categories, with African Americans owning less than 180 stations in all categories.<sup>5</sup> In Commercial AM and FM radio, African Americans are experiencing fractions of even 1 percent of growth.<sup>6</sup> Asian full-power TV ownership dropped precipitously between 2013 and 2015, from 1.4 percent to .7 percent.<sup>7</sup> Female ownership growth is only 2 percent, with women now owning less than 11 percent of any industry despite making up over half the U.S. population.<sup>8</sup> In all, Hispanics and non-Hispanic minorities are experiencing no more than 3 percent growth in media ownership.<sup>9</sup>

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<sup>1</sup> MB Docket No. 18-349; FCC 18-179, 2018 WL 6589803 (2018) [hereinafter “2018 Quadrennial Regulatory Review”].

<sup>2</sup> Comments, Leadership Conference on Civil and Human Rights, 2018 Quadrennial Regulatory Review, at 2.

<sup>3</sup> Media Bureau Restricted FRN Public Notice, DA 17-1088, 32 F.C.C.Rcd.9330 (2017).

<sup>4</sup> *Federal Communications Commission’s* Industry Analysis Division of the Media Bureau. “Third Report on Ownership of Commercial Broadcast Stations from FCC Form 323 Ownership Data as of October 1, 2015.” May 2017. <https://www.fcc.gov/biennial-forms-323-and-323-e-broadcast-ownership-data-and-reports>.

<sup>5</sup> *Id.* [Full Power Commercial TV](#): “Black or African Americans owned 12 stations (0.9 percent) in 2015 and 9 stations (0.6 percent) in 2013” at 7. For Class A TV: “Black or African Americans owned 1 station (0.3 percent) in 2015 and 8 stations (2.0 percent) in 2013” at 9. For Low Power TV: “Black or African Americans owned 8 stations (0.7 percent) in 2015 and 16 stations (1.3 percent) in 2013” at 11.

<sup>6</sup> *Id.* citing Commercial AM Radio statistics: “Black or African Americans owned 87 stations (2.5 percent) in 2015 and 93 stations (2.5 percent) in 2013” at 13; Commercial FM radio statistics: “Black or African Americans owned 72 stations (1.3 percent) in 2015 and 73 stations (1.3 percent) in 2013” at 15.

<sup>7</sup> *Id.* at 7.

<sup>8</sup> *Id.* citing Broadcast ownership and gender statistics: “Women collectively or individually held a majority of the voting interests in 1,024 broadcast stations, consisting of 102 full power commercial television stations (7.4 percent) of 1,385 stations; 15 Class A television stations (9.3 percent) of 396 stations; 125 low power television stations (11.0 percent) of 1,137 stations; 314 commercial AM radio stations (8.9 percent) of 3,509 stations; and 446 commercial FM radio stations (8.1 percent) of 5,492 stations.”

<sup>9</sup> *Id.* citing “Hispanic/Latino persons collectively or individually held a majority of the voting interests in 671 broadcast stations, consisting of 62 full power commercial television stations (4.5 percent) of 1,385 stations; 53 Class A television stations (13.4 percent) of 396 stations; 152 low power television stations (13.4 percent) of 1,137 stations; 176 commercial AM radio stations (5.0 percent) of 3,509 stations; and 228 commercial FM radio stations (4.2 percent) of 5,492 stations” at 3; “Racial minorities collectively or individually held a majority of the voting interests in 402 broadcast stations, consisting of 36 full power commercial television stations (2.6 percent) of 1,385 stations; 7 Class A television stations (1.8 percent) of 396 stations; 27 low power television stations (2.4 percent) of

Given the apparent lack of broadcast ownership diversity, which we can only assume to be true without reliable data, we urge the Subcommittee to press the FCC to collect and publish thorough and reliable data on broadcast ownership by women and people of color before eliminating any of the remaining Media Ownership Rules. Furthermore, prior to adopting any further relaxation of the Rules, we hope the Subcommittee will insist that the FCC analyze any proposal specifically for its likely impact on increasing or decreasing media ownership diversity.

The Subcommittee should also consider legislative options, such as the minority tax certificate, to promote diversity in broadcasting and to work with appropriations colleagues to end budget restrictions on the Commission's ability to enforce its local television ownership rules, as those rules promote diversity of ownership.

Similarly, the Commission recently rejected a request to consider its failure to comply with its statutory obligation to collect equal employment opportunity (EEO) data in the broadcast and cable industries. While the FCC spent time and resources considering an inconsequential standardized form that was no longer needed,<sup>10</sup> it did not address its failure to implement a 2004 Bush Administration decision to collect employment data across broadcasting and cable as required by Sections 334 and 554 of the Communications Act.<sup>11</sup> The FCC has not complied with these laws in nearly twenty years.

### **Broadband Access for All**

The federal Lifeline program provides eligible low-income households with a \$9.25 monthly discount on qualified voice and/or broadband service.<sup>12</sup> It has never been more important to ensure that low-income people, communities of color, and other vulnerable populations have access to affordable communications services, especially high-speed broadband. Reliable high-speed broadband is essential for students of color to do their homework, for working mothers to earn their degrees online at night, and for senior citizens and people with disabilities to access tele-health services. Lifeline helps to provide those services.

The program began in the Reagan administration, in recognition that subsidized telephone service for low-income Americans was essential to full participation in the nation's political, social, and economic life. In the George W. Bush administration, Lifeline was modernized to include wireless phone service. The Obama administration further modernized the Lifeline program by extending its support to broadband service.

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1,137 stations; 204 commercial AM radio stations (5.8 percent) of 3,509 stations; and 128 commercial FM radio stations (2.3 percent) of 5,492 stations" at 4.

<sup>10</sup> Elimination of Obligation to File Broadcast MidTerm Report (Form 397) Under Section 73.2080(f)(2), Report & Order, FCC 19-10 (rel. Feb. 15, 2019).

<sup>11</sup> *Id.*, Statement of Commissioner Geoffrey Starks; 47 U.S.C. § 334(a) (mandating retention of broadcast reporting rules); see also 47 U.S.C. § 554(d)(3)(A) (imposing obligation on MVPDs).

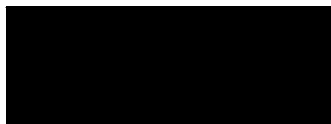
<sup>12</sup> USAC Spreadsheet, *LI08 Lifeline Subscribers by State or Jurisdiction*. Available at <https://www.usac.org/about/tools/fcc/filings/2019/q2.aspx>.

Despite this progress, the FCC is considering and has issued proposals that would gut the program. Recent news reports revealed the FCC was considering pitting the four universal service programs, including Lifeline, against one another with a budget cap.<sup>13</sup> Further, the FCC's proposed rulemaking in 2017 proposes to eliminate non-facilities-based providers, which would leave a majority of Lifeline subscribers with no service.<sup>14</sup> It also would also impose a "self-enforcing" budget cap, which would create unpredictability and drive eligible low-income households away from the program. Finally, the proposal would mandate a co-pay, which would effectively eliminate the most popular Lifeline services, leaving some of our most vulnerable communities unconnected. These proposed changes would devastate families currently enrolled in the program and further widen the digital divide. They have received virtually no support in the FCC's docket and at the same time, the mere possibility of their adoption is destabilizing the program. These proposals should be rejected, and the rulemaking should be promptly brought to a close. At the same time, it is unclear whether the FCC is placing a sufficient priority on the actions that would assist low-income people, such as ensuring access to the most complete databases for the new Lifeline national eligibility verifier and ensuring that the verification process is accessible and usable for low-income people.

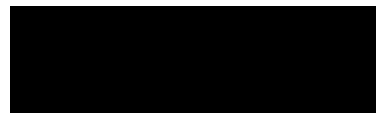
We urge the Subcommittee to inquire about the status of these proposals and urge the FCC Commissioners to commit to protecting the Lifeline program and ensuring access to broadband and other eligible communications services for everyone.

We look forward to working with the Subcommittee to encourage and promote media ownership opportunities for women and people of color, as well as to ensure the continued viability of the Lifeline program. Please contact Leadership Conference Media/Telecommunications Co-Chairs Cheryl Leanza, United Church of Christ, Office of Communication, Inc., at 202-904-2168, or Kate Ruane, American Civil Liberties Union, at (202) 675-2309, or Corrine Yu, Leadership Conference Senior Program Director at 202-466-5670, if you would like to discuss the above issues.

Sincerely,



Vanita Gupta  
President and CEO



Kristine Lucius  
Executive Vice President for Policy and  
Government Affairs

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<sup>13</sup> Eggerton, "FCC's O'Reilly Promotes Cap on USF Fund," *Broadcasting & Cable* (April 2, 2019).

<sup>14</sup> *Bridging the Digital Divide for Low-Income Consumers et al*, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 FC Rcd 10475 (2017) ("2017 NPRM").