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6 LIFTING VOICES: LEGISLATION TO PROMOTE MEDIA

7 MARKETPLACE DIVERSITY

8 WEDNESDAY, JANUARY 15, 2020

9 House of Representatives

10 Subcommittee on Communications and

11 Technology

12 Committee on Energy and Commerce

13 Washington, D.C.

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17 The subcommittee met, pursuant to call, at 10:30 a.m., in
18 Room 2322 Rayburn House Office Building, Hon. Mike Doyle [chairman
19 of the subcommittee] presiding.

20 Members present: Representatives Doyle, McNerney, Veasey,
21 Soto, O'Halleran, DeGette, Butterfield, Cardenas, Pallone (ex
22 officio), Latta, Bilirakis, Johnson, Long, Flores, Brooks,
23 Walberg, Gianforte, and Walden (ex officio).

24 Also Present: Representative Rush.

25 Staff present: AJ Brown, Counsel; Jeff Carroll, Staff

26 Director; Parul Desai, FCC Detailee; Jennifer Epperson, FCC
27 Detailee; Evan Gilbert, Press Assistant; Waverly Gordon, Deputy
28 Chief Counsel; Alex Hoehn-Saric, Chief Counsel, C&T; Jerry
29 Leverich, Counsel; Dan Miller, Policy Analyst; Phil Murphy,
30 Policy Coordinator; Alivia Roberts, Press Assistant; Tim
31 Robinson, Chief Counsel; Rebecca Tomilchik, Staff Assistant; Mike
32 Bloomquist, Minority Staff Director; William Clutterbuck,
33 Minority Staff Assistant; Jordan Davis, Minority Senior Advisor;
34 Michael Engel, Minority Detailee, C&T; Peter Kielty, Minority
35 General Counsel; Ryan Long, Minority Deputy Staff Director; Kate
36 O'Connor, Minority Chief Counsel, C&t; Brannon Rains, Minority
37 Staff Assistant; and Evan Viau, Minority Professional Staff, C&T.

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38 Mr. Doyle. The committee will now come to order. The chair
39 recognizes himself for 5 minutes for an opening statement.

40 Well, good morning, everyone, and welcome to the
41 Subcommittee on Communication and Technology's legislative
42 hearing on Lifting Voices: Legislation to Promote Media
43 Marketplace Diversity.

44 I would like to thank our witnesses for appearing before
45 the subcommittee today.

46 Today, we will discuss four pieces of legislation that seek
47 to address a fundamental shortfall in our nation's media
48 landscape: the lack of female and minority employment in and
49 ownership of traditional media distribution outlets.

50 In the United States, women and people of color own less
51 than ten percent of all commercial radio and TV stations. We
52 know that media outlets reflect the values and priorities of their
53 owners and their employees. So, it is critical that we find ways
54 to make these distribution channels more reflective of our
55 country's racial and demographic makeup so that our media may
56 effectively serve the needs of the diverse communities that make
57 up our nation.

58 Studies have shown that broadcast television and radio
59 continue to be crucial sources of news, public safety information,
60 and entertainment for everyone, but especially so for minority
61 communities. It is critical that these outlets provide a diverse
62 array of local voices that speak to the needs of the communities

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63 they serve and that is where these statistics about female and
64 minority ownership are telling us that we are coming up short.

65 That is one reason I am happy that we will be considering H.R.
66 3957, the Expanding Broadcast Ownership Opportunities Act,
67 introduced by Mr. Butterfield.

68 [The Bill H.R. 3957 follows:]

69

70 *****INSERT 1*****

71 Mr. Doyle. This legislation would reinstate the Tax
72 Certificate Program for socially disadvantaged individuals at
73 the FCC. This program would incentivize sales of broadcast TV
74 and radio station to women and people of color.

75 We will also consider H. Res. 549 introduced by Ms. Demings.

76

77 [The Bill H. Res. 549 follows:]

78

79 *****INSERT 2*****

80 Mr. Doyle. This resolution affirms the commitment of the
81 House to media diversity and pledges that Congress will work with
82 media entities and diverse stakeholders to develop common ground
83 solutions to eliminate barriers to media diversity.

84 Next, we will consider H.R. 5564, the Enhancing Broadcaster
85 DIVERSITY Data Act, introduced by Ms. Clarke, which would require
86 the FCC to complete its rulemaking reviewing the Equal Employment
87 Opportunity rules.

88 [The Bill H.R. 5564 follows:]

89

90 *****INSERT 3*****

91 Mr. Doyle. The bill also requires the FCC to create a public
92 searchable database of the broadcast ownership data collected
93 by the FCC.

94 And finally, we will discuss H.R. 5567, the MEDIA Diversity
95 Act, introduced by Mr. Long and Mr. Veasey, which would require
96 the FCC to consider, with the input of its Office of Communication
97 Business Opportunities of the Commission, market entry barriers
98 for socially disadvantaged individuals in the communications
99 marketplace.

100 [The Bill H.R. 5567 follows:]

101

102 *****INSERT 4*****

103 Mr. Doyle. So, I look forward to the discussion on the
104 legislation before us today and I wish to yield the balance of
105 time to my good friend and a true leader on these issues, Mr.
106 Butterfield.

107 Mr. Butterfield. Thank you very much, Chairman Doyle, and
108 to you, Chairman Pallone. Thank you very much for your
109 willingness to put this up for a hearing today. We have been
110 talking about it for several months now and you promised me a
111 hearing and, today, you have made it happen. So, thank you so
112 very much.

113 Historically, Mr. Chairman, the number of minority- and
114 women-owned commercial broadcast stations has been abysmally low,
115 never rising above three and six percent, respectively. This
116 lack of racial and gender diversity in ownership stems directly
117 from past discriminatory barriers designed to exclude certain
118 groups from the market. The FCC, itself, routinely discriminated
119 against qualified African Americans, refusing to grant its first
120 broadcast license to an applicant of color until 1949, decades
121 after the first license was issued. Such obstacles have
122 frustrated the ability of women and minorities to access the
123 information, resources, and capital needed to purchase broadcast
124 stations.

125 In 1978, the Commission established the Minority Tax
126 Certificate Program, providing a tax incentive to those who sold
127 their stations to minorities. While in existence, the

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128 certificate boosted ownership exponentially, raising the number
129 of minority stations from 48 to 323. It is time for Congress,
130 and I hope in a bipartisan manner, to do its part to ensure that
131 women and minorities have equal access to the ownership market.

132 That is why I introduced 3957. The bill would reinstate
133 and expand the Tax Certificate Program at the FCC and increase
134 the Commission's ownership reporting requirements. I believe
135 that these actions, along with the other bills we considered here
136 today are important first steps toward a truly equitable media
137 marketplace.

138 I thank the witnesses for their testimony today. I thank
139 my friends on both sides of the aisle for embracing this
140 legislation and I look forward for it to have a good markup,
141 passing the House, passing the Senate, and being signed by the
142 President.

143 Thank you. I yield back.

144 Mr. Doyle. The gentleman yields back and I yield back my
145 time.

146 And the chair now recognizes Mr. Latta, the ranking member,
147 for 5 minutes for his opening statement.

148 Mr. Latta. Well thanks, Mr. Chairman, and good morning,
149 and welcome to our first hearing of the New Year.

150 I would like to start by thanking my Democratic colleagues
151 for continuing to work with us last year to complete many of the
152 bipartisan priorities that began under the leadership of the

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153 committee Republicans. Our multi-Congress effort is now close
154 to bearing fruit on issues like broadband mapping and supply chain
155 security. We will continue to push these measures forward.

156 But for now, I want to thank my friends across the aisle
157 for committing to hold today's hearing in that same bipartisan
158 spirit.

159 I also wanted to note that, during our majority, we tended
160 to have educational hearings dedicated to understanding the
161 issues we sought to legislate. Although we are moving straight
162 to a legislative hearing today, I appreciate my colleagues
163 reaching across the aisle to hold a hearing on such important
164 topic as we have today, just before the Martin Luther King holiday.

165 Traditionally, discussions on Capitol Hill and over at the
166 Federal Communications Commission about the media marketplace
167 have focused on the examination of media ownership rules. And
168 I know, Mr. Chairman, we may have differing views on that topic
169 but, today, we are here to discuss ideas on how we can promote
170 diversity in the media marketplace, a goal all of us share on
171 this dais.

172 The FCC regulates broadcast stations with the goal of
173 promoting a diversity of voices that best serve the public
174 interest. Therefore, in an ever-changing media marketplace, it
175 is essential that the FCC consistently take a look at how its
176 rules and regulations reflect the media landscape and see if they
177 continue to promote diversity. That is why I am pleased to be

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178 considering legislation today from Representative Billy Long,
179 H.R. 5567, the MEDIA Diversity Act that requires the FCC to collect
180 information that considers market entry barriers for socially
181 disadvantaged individuals in the communications marketplace.

182 Although the ideas and concepts presented at today's
183 hearings are not an exhaustive list, they represent a good first
184 step toward considering how to increase opportunities and lift
185 the voices of under-represented groups in media.

186 I would also like to take this opportunity to thank the
187 broadcasters and MVPDs for taking numerous voluntary steps to
188 promote viewpoint, ownership, and employment diversity. Many
189 have established programs to hire and promote women, people of
190 color, and veterans into executive leadership positions or
191 programs to encourage local journalism that reflects the
192 communities these media entities serve.

193 I know broadcasters and MVPDs are taking big strides to
194 ensure the news and entertainment they produce reflect the
195 interest of people in the communities they serve. Despite these
196 steps forward, more work must be done.

197 I welcome today's testimony and looking forward to hearing
198 any additional ideas the panelists or others may have on how we
199 may better promote media diversity without a heavy hand of owners'
200 regulation on media entities.

201 And with that, Mr. Chairman, I yield back the balance of
202 my time.

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203 Mr. Doyle. The gentleman yields back.

204 The chair now recognizes Mr. Pallone, chairman of the full
205 committee, for 5 minutes for his opening statement.

206 The Chairman. Thank you, Chairman Doyle.

207 It is timely that we are holding this hearing today to discuss
208 the lack of ownership and employment diversity in the media
209 marketplace. Earlier this week, there was a lot of criticism
210 about the Academy Award nominations for lack of diversity in the
211 acting and directing categories. This same criticism holds true
212 with media ownership. I don't think anyone can dispute that
213 ownership of our media does not reflect the diversity of our
214 country.

215 The numbers are clear and alarming. While women and people
216 of color make up over 50 percent of our population, broadcast
217 ownership by them hovers around ten percent and we have to do
218 better. Representation matters because the people behind the
219 scenes influence the programming that we see and hear and that
220 programming plays a critical role in our democratic process in
221 influencing people's perspectives.

222 In the early days of broadcasting, it was virtually
223 impossible for women and people of color to hold media outlets.
224 Today, the opportunities are not impossible but they are still
225 very limited. Women and people of color can still face
226 discrimination when it comes to accessing capital and, as a
227 result, we are far more likely to see consolidation than diversity

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228 when an outlet is sold.

229 And while I would hope large media companies would reflect
230 the diversity of the communities they serve, women and people
231 of color are, unfortunately, under-represented in their executive
232 suites. We also do not have any data to better understand
233 employment demographic trends because the FCC has failed to
234 collect that data for nearly 20 years and this is extremely
235 unfortunate. Diverse employment is just as critical as diverse
236 ownership. It is the executives and producers who influence
237 programming decisions, which news stories to cover, and
238 importantly, how to cover a story.

239 So I am pleased that we are here today with bipartisan efforts
240 to improve diversity in the media marketplace. Representative
241 Butterfield's bill would reinstate the successful Tax Certificate
242 Program; Representative Clarke's bill ensures that FCC's data
243 is analyzed and not simply reported; and legislation from
244 Representatives Long and Veasey requires the FCC to examine market
245 entry barriers for women and people of color. I commend these
246 members for their leadership. It is imperative that Congress,
247 the FCC, and all interested stakeholders work together to help
248 bring more diversity to our nation's media ownership.

249 And with that, I yield the time remaining -- well, I guess
250 I am splitting it between Representative Butterfield -- what is
251 that?

252 Mr. Butterfield. Just Yvette.

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253 The Chairman. Oh, just you? Only you? All right, I yield
254 then to --

255 Ms. Clarke. Only me.

256 The Chairman. -- Representative Clarke the rest of my
257 time.

258 Ms. Clarke. I thank you, Mr. Chairman, and I thank our
259 subcommittee chairman and our ranking member. I thank you for
260 yielding the time and Chairman Doyle for convening the
261 subcommittee hearing today promoting media marketplace
262 diversity.

263 As a co-chair of the Multicultural Media Caucus, along with
264 Congressman Tony Cardenas and Congresswoman Judy Chu, I am
265 reminded of the important role each of us play in a larger fight
266 for a more diverse and inclusive future.

267 During my tenure in Congress, I have dedicated my time to
268 issues related to the state of diversity and inclusion in the
269 media, telecom and tech industry spaces. One of my goals is to
270 ensure diverse voices are being represented on and off screen,
271 which includes ownership in traditional media distribution
272 outlets.

273 Today, our committee will discuss legislation that seeks
274 to help address ownership diversity and access to capital for
275 women and people of color, including my bill, H.R. 5564, the
276 Enhancing Broadcaster DIVERSITY Data Act. This bill calls for
277 stronger reporting by the FCC to complete its rulemaking,

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278 reviewing its broadcast and cable EEO rules, and to create a
279 searchable database of the collected data.

280 I want to thank my colleagues and the witnesses for being
281 here today to help transform our world into a more equitable space,
282 where a myriad of thoughts, experiences, and points of view can
283 be utilized to strengthen our society.

284 I look forward to hearing your testimony, and I thank you,
285 and yield back to you the balance of the time.

286 Mr. Doyle. Does the gentleman yield back?

287 The Chairman. I yield back, Mr. Chair.

288 Mr. Doyle. The gentleman yields back. The chair now
289 recognizes Mr. Walden, ranking member of the full committee, for
290 5 minutes for his opening statement.

291 Mr. Walden. Well, good morning and thanks to you for having
292 this hearing and all of our witnesses for weighing in on this
293 really important issue of media diversity. And while we have
294 traditionally talked about promoting media diversity as it
295 relates to the FCC's Quadrennial Review of media ownership
296 regulations, today's hearing, I am told, will instead focus on
297 how to better understand the problem before us and how best to
298 incentivize all media entities to create opportunities for and
299 lift the voices of under-represented individuals, as the hearing
300 suggests.

301 Now I understand the efforts of the broadcast industry and
302 the media industry as a whole take to ensure diversity of

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303 ownership, viewpoint, and employment. My wife and I were 50-50
304 co-owners of our radio stations over the course of 21 years,
305 probably the only one on the dais who has actually had to make
306 these decisions in concert with my wife, who managed the business
307 -- decisions about hiring, decisions about programming, how to
308 serve the local community. We created Spanish programming 3
309 nights a week on two of our stations that were live and local,
310 lots of dedications of songs and information to try and serve
311 the growing Hispanic population in my community.

312 So I appreciate the many steps that industry has taken to
313 not only recognize and take responsibility for this issue but
314 also the many programs and initiatives they put in place to promote
315 opportunities for women, for minorities, for veterans. And I
316 look forward to hearing from our witnesses about those in more
317 detail today.

318 I also want to mention that while this hearing is a great
319 step forward to evaluate steps that can be taken to promote
320 diversity in broadcasting, we can't solve the problem without
321 looking at this issue through the media marketplace itself. The
322 tech industry has increasingly become a prime competitor to
323 traditional broadcasters and multichannel video programming
324 distributors or MVPDs. One of the biggest problems facing the
325 broadcast industry is a lack of financing. And as any business
326 person knows, it is really difficult to create opportunities when
327 there is a lack of cash flow.

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328 However, billions of dollars are being poured into creating
329 more content now than ever before, which provides ample
330 opportunity to promote diversity and programming. In addition
331 to the focus on creating opportunities in executive leadership
332 positions for minorities, women, and veterans, I am pleased to
333 see other industry efforts underway that provide opportunities
334 to diverse candidates for roles at every step of the content
335 creation process. And while I recognize the FCC does not have
336 jurisdiction of over-the-top services, these services,
337 nonetheless, should be an element of our conversation, as we
338 examine voluntary efforts to promote diversity.

339 Where the Commission can play a role, it appears they have.
340 And while I won't get into the reasons about why some of this
341 progress has been halted by the courts, it is important that we
342 focus on the larger issue at hand: how to promote opportunity.

343 Some of the bills before us today represent an important
344 step forward to promoting diversity in the broadcast industry
345 but, as I am sure witnesses will acknowledge, we have a lot more
346 work to do.

347 So I would like to thank my colleagues for their bipartisan
348 work on this issue. And, Mr. Chairman, I yield back the balance
349 of my time.

350 Mr. Doyle. The gentleman yields back.

351 The chair would like to remind members that, pursuant to
352 committee rules, all members' written opening statements will

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353 be made part of the record.

354 [The information follows:]

355

356 *****COMMITTEE INSERT 5*****

357 Mr. Doyle. So, we would like to now introduce our witnesses
358 for today's hearing. First, we have Mr. Clint Odom, Senior Vice
359 President, Advocacy and Policy, and Executive Director,
360 Washington Bureau, National Urban League. Welcome, Mr. Odom.

361 Ms. Catherine Sandoval, Associate Professor at Santa Clara
362 University School of Law, welcome.

363 Ms. Maurita Coley, President and CEO of Multicultural Media,
364 Telecom and Internet Council, welcome.

365 And last but certainly not least, Ms. Diane Sutter, President
366 and CEO of ShootingStar Broadcasting, and also someone who grew
367 up in Pittsburgh. So, you get as much time as you would like
368 when it is your turn to speak.

369 So we want to thank all our witnesses for joining us today.
370 We look forward to your testimony.

371 At this time, the chair will now recognize each witness for
372 5 minutes to provide their opening statement but, before we begin,
373 I want to explain our lighting system.

374 In front of you is a series of lights. The light will
375 initially be green. The light will turn yellow and, when that
376 light turns yellow, you have 1 minute to wrap up because once
377 that light turns red, bad things happen. But please wrap up your
378 testimony when the red light comes on.

379 Now, we will start with Mr. Odom. You are recognized for
380 5 minutes, sir.

381 STATEMENTS OF CLINT ODOM, SENIOR VICE PRESIDENT, ADVOCACY AND
382 POLICY, AND EXECUTIVE DIRECTOR, WASHINGTON BUREAU, NATIONAL URBAN
383 LEAGUE; CATHERINE SANDOVAL, ASSOCIATE PROFESSOR AT SANTA CLARA
384 UNIVERSITY SCHOOL OF LAW; MAURITA COLEY, PRESIDENT AND CEO OF
385 MULTICULTURAL MEDIA, TELECOM AND INTERNET COUNCIL; AND DIANE
386 SUTTER, NATIONAL ASSOCIATION OF BROADCASTERS

387

388 STATEMENT OF CLINT ODOM

389 Mr. Odom. Good morning, Mr. Chairman, Ranking Member,
390 Chairman Pallone, and Ranking Member Walden, and members of the
391 subcommittee.

392 I am Clint Odom, Senior Vice President in Policy and
393 Advocacy, as you have heard, for the National Urban League. Since
394 1910, the League was established as a nonpartisan, nonprofit civil
395 rights organization dedicated to the economic empowerment of
396 African Americans and other underserved populations. We conduct
397 our work through a network of 90 affiliates across 36 States and
398 the District of Columbia.

399 I am here today to share our perspectives on proposed
400 legislation and policies to advance the critical goal of media
401 diversity. Before my current role, I served in the United States
402 Senate as a staffer and as a senior staffer in the Federal
403 Communications Commission. I now have the privilege of serving
404 on the FCC's Advisory Committee on Diversity and Digital
405 Empowerment under the leadership of Chairman Ajit Pai.

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406 African Americans represent 13.4 percent of the United
407 States' population. We are also major consumers of media.
408 According to Nielsen, African Americans spend more than 50 hours
409 a week watching live and time-shifted television, more than 10
410 hours per week than the total population. Ninety-one percent
411 of African Americans can be reached weekly through television,
412 yet we are woefully underrepresented as employees in the media
413 industry and as owners of media businesses, particularly those
414 businesses that rely on FCC licenses.

415 According to a recent opinion piece by our president and
416 CEO, Marc Morial and FCC Commissioner Jessica Rosenworcel, women
417 own just seven percent of commercial TV stations; people of color
418 only three percent of those stations; and people of color serve
419 only as one in ten general managers of TV stations.

420 According to data from the National Association of Black
421 Owned Broadcasters, African Americans own 0.15 percent of full
422 power commercial radio stations and one percent of the full power
423 commercial TV stations in the United States. The owners of these
424 TV stations could sit in the five seats at this witness table.

425 The League broadly supports the legislation under
426 consideration today. This body should reaffirm its commitment
427 to media diversity and to policies that advance that goal. The
428 Tax Certificate Program has always been considered an important
429 but very modest proposal to address broadcast and media ownership
430 that reflected few women and minorities. This program has always

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431 enjoyed bipartisan support. It is time for Congress to act.

432 The League also supports legislation that would produce data
433 around media ownership and employment. This represents a sound
434 basis for policymaking. American management guru, Peter
435 Drucker, memorialized the expression you can't manage what you
436 can't measure. To that end, legislation sponsored by
437 Representatives Clarke and Long represents a common sense
438 approach for any diversity legislation or policies. The FCC has
439 not adequately collected or shared with the public EEO data for
440 20 years. We can't afford to keep our blinders on.

441 While we will spend considerable time today talking about
442 legislation, there have been some voluntary methods that the
443 National Urban League and other civil rights organizations have
444 championed that we think are worthy of at least notice.

445 We have engaged directly with media companies, like
446 Comcast/NBC Universal, Charter, T-Mobile, to develop diversity
447 plans that have yielded commitments by these companies to improve
448 the racial diversity on their Boards of Directors, in the c-suites
449 with corporate staff, and procurement, and community investment.

450 These companies have agreed to work with us, not because
451 diversity is a feel good value, rather, they understand that
452 diversity is a business imperative.

453 Companies that have figured this out produce or distribute
454 compelling content that shows the breadth and beauty of our great
455 country. It is fair to ask the question: Why does diversity

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456 matter -- media diversity?

457 I had an uncomfortable conversation recently with someone
458 who felt that diversity on the Presidential debate stage, for
459 example, was nothing more than an interior decorating problem.

460 This statement ignores the history of our country. The
461 composition of our media industry is every bit important as the
462 diversity of this subcommittee, and Congress, and the candidates
463 who compete for the highest office in the land. In a real sense,
464 the media industry is built upon airwaves that belong to the
465 American people. These licensees matter because they determine
466 the content we see on the big screen and, increasingly, on the
467 little screen.

468 By 2045, more than half of our nation's population will be
469 people of color. There is no meaningful -- if there is no
470 meaningful opportunity for women and people of color to be
471 employed in this industry or own the means of production, we will
472 see a distorted image of ourselves. Even more, we risk losing
473 the competitive edge that has made us the world's leader in film
474 and television industry and arts.

475 I thank you for the opportunity to present and look forward
476 to your questions.

477 [The prepared statement of Mr. Odom follows:]

478

479 *****INSERT 6*****

480

Mr. Doyle. Thank you, Mr. Odom.

481

Ms. Sandoval, you are now recognized for 5 minutes.

482 STATEMENT OF CATHERINE SANDOVAL

483

484 Ms. Sandoval. Good morning, everyone. My name is
485 Catherine Sandoval and I thank the members of the Communications
486 and Technology Committee of the House Energy and Commerce
487 Committee and also, particularly thank Chairman Doyle, Ranking
488 Member Latta, Mr. Pallone, and also full Ranking Member Walden
489 for convening this really historic hearing on lifting voices and
490 legislation to promote media marketplace diversity.

491 I am honored to speak to you today as a law professor at
492 Santa Clara University in California's Silicon Valley, who
493 teaches communications, energy, contract, and antitrust law, and
494 conducts research on media ownership diversity.

495 I am a Latina from a trailer park in East Los Angeles, who
496 is also a former broadcaster, and served as the vice president
497 and general counsel of Z-Spanish Media Corporation, which merged
498 with Entravision Corporation. I was the director of the FCC's
499 Office of Communications Business Opportunities when the tax
500 certificate was still in effect and researched the aftermath of
501 its repeal.

502 As a former commissioner of the California Public Utilities
503 Commission, I can attest to the importance of broadcasting to
504 public service and to public safety.

505 I commend this committee's consideration of H.R. 3957, which
506 would adopt a 21st-century Tax Certificate Program to create

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507 incentives for broadcast transactions with a diverse range of
508 American entrepreneurs.

509 H.R. 5567 would support the FCC's analysis of market entry
510 barriers and diversity and spur improvements in data collection
511 and availability.

512 The reaffirmation of Congress' commitment to media diversity
513 and to developing collaborative efforts to reduce barriers to
514 diverse media ownership, as articulated in H.R. 549, will support
515 America's economy and enhance our democratic dialogue.

516 And transparency about broadcasting cable employment
517 opportunity spurred by H.R. 5564 reflects both good public and
518 corporate governance.

519 The D.C. Circuit in TV9 versus FCC in 1974 emphasized that
520 it is upon ownership that public policy places primary
521 responsibility with respect to diversification of content and
522 that it is historically proven to be significantly influential
523 with respect to editorial comment and the presentation of news,
524 as Congressman Walden mentioned. Owners decide who to employ
525 and whether people like me get a chance to serve the public
526 interest through working in a broadcast business.

527 The Tax Certificate Program created the opportunity for
528 minority entrepreneurs like my former boss, Amador Bustos, to
529 acquire his first broadcast license. The company I work for,
530 Z-Spanish Media, grew to own and operate 36 radio stations,
531 broadcasting in several languages in Texas, Florida, Illinois,

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532 California, and other States. Z-Spanish merged with
533 Entravision, run by Walter Ulloa, who continues to broadcast in
534 Spanish and English.

535 The Tax Certificate Program spurred the creation of
536 businesses that enhanced program diversity and employed a diverse
537 staff. When Congress eliminated the tax certificate for FCC
538 license transactions in 1995, sellers turned to other means, such
539 as 1031 exchanges, installment sales, or trust transactions to
540 defer capital gains.

541 The research project I helped to design at the FCC, the Ivy
542 Group Study: Whose Spectrum is it Anyway? reported that once
543 the Tax Certificate Program was canceled, sellers, brokers, and
544 financiers stopped returning the calls of many minority brokers
545 and female -- minority and female broadcasters and entrepreneurs.

546 Access to deals constricted, as sellers looked elsewhere for
547 tax deferral and buyers they already knew.

548 My book chapter on minority commercial radio ownership,
549 published in this book in 2011, reviewed over 11,000 FCC records
550 and found that most of the minority radio licensees in the mid-2009
551 had entered the market and acquired their first license before
552 the enactment of the Telecommunications Act of 1996. The market
553 entry of many of those broadcasters can be traced to the tax
554 certificate. And only Congress can authorize a 21st-century tax
555 certificate, as the FCC continues to work on other important
556 issues.

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557 Last, I would like to emphasize that broadcasting is critical
558 for millions of Americans who rely on it daily for public -- for
559 news and public affairs information, and especially critical
560 during times of emergencies. When PG&E's website crashed during
561 the power outages initiated in October of 2019, when fire danger
562 was high, broadcast radio and television was the key resource
563 about school and job closures, and which communities would lose
564 or maintain power.

565 Broadcast and broadband are synergistic communications
566 media. America's public safety, economy, and democracy benefit
567 from a robust and diverse broadcast sector.

568 I thank you for the opportunity to speak with you today and
569 commend your initiatives to spur media ownership diversity and
570 to enhance service to the American public. Thank you.

571 [The prepared statement of Ms. Sandoval follows:]

572

573 *****INSERT 7*****

574

Mr. Doyle. Thank you, Ms. Sandoval.

575

Ms. Coley, you are now recognized for 5 minutes.

576 STATEMENT OF MAURITA COLEY

577

578 Ms. Coley. Thank you. Good morning, Chairman --

579 Mr. Doyle. Your microphone. There you go.

580 Ms. Coley. Thank you.

581 Good morning Chairman Pallone and Doyle, Ranking Members
582 Walden and Latta, and distinguished members of the subcommittee.

583 My name is Maurita Coley and I am president and CEO of

584 Multicultural Media, Telecom and Internet Council,

585 affectionately known in FCC circles as MMTC. We sincerely

586 appreciate this opportunity to provide our views on ownership

587 and employment diversity in the media marketplace.

588 My written testimony and numerous attachments are on record.

589 So for my 5 minutes, I just really would like to focus on two
590 points.

591 Number one, as you have heard today already, there is an
592 embarrassingly low number of minority- and women-owned broadcast
593 stations. As you will continue to hear from the panel today,
594 the primary reasons for this are access to capital. This FCC
595 Tax Certificate is actually currency. It is used by minority
596 prospective owners -- it was used when it was in effect to enter
597 an elite club of owners, who really would not have paid attention
598 to these prospective owners, had they not borne the tax
599 certificate. So it is as good as gold.

600 It is also a very modest tool. It is an elegant tool and

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601 it enables the minority prospective owner to come to the table
602 by offering the seller the benefit of capital gains tax deferment.

603 So we completely support Congressman Butterfield's bill to bring
604 the tax certificate back.

605 I also note for the record that the tax certificate policy,
606 while it was repealed in 1997, there was legislation introduced
607 by Senators McCain and Menendez, and Congressmen Rush and Rangel
608 would have not only brought the tax certificate back but extended
609 it to cable and telecommunications, as it had been in the past.

610 And I would just like to note that for the record and let the
611 committee know that we are very supportive of that.

612 Second, on the issue of equal employment opportunity, we
613 fully support the bills introduced by Congressmembers Clarke and
614 Long and the resolution by Council -- Congressman -- I am sorry
615 -- Demings. You can't make policy without data. So the FCC
616 should be tasked with collecting data and enforcing the laws that
617 have been neglected for almost the past 20 years.

618 In general, as Congressman Butterfield has already
619 mentioned, the historic roots of discrimination in broadcasting
620 actually started decades ago, when the FCC itself discriminated
621 in the very issuances of licenses. We have never recovered but
622 that is not an excuse not to try now.

623 For an historical perspective on the FCC's past, that
624 discriminatory issuance of broadcasting, such as refusing to
625 grant licenses to racial and religious minorities, or to

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626 historically black and other minorities serving colleges and
627 universities, I direct you to a 2018 article in the Southern
628 Journal of Policy and Justice written by our cofounder, David
629 Honig. It is called How the FCC Suppressed Minority Broadcast
630 Ownership and How the FCC can Undo the Damage it Caused.

631 I would be remiss to sit here and not mention a positive
632 note. FCC Chairman Pai's administration has taken several
633 encouraging steps in the right direction. First, he re-chartered
634 the FCC Diversity Committee, on which several of us on this panel
635 serve, and more importantly, he moved the FCC's EEO Division to
636 the Enforcement Bureau, responding positively to suggestions made
637 by MMTC and 38 organizations that signed on to our comments.

638 And now, a little bit about MMTC. For those who don't know,
639 we have practiced in this area. We are in our 34th year. Our
640 mission is to promote ownership and employment diversity. We
641 have a brokerage where we have helped to actually connect
642 minority- and women-owned buyers. And I would not -- I would
643 be remiss if I didn't talk about a couple of stories here.

644 So our first story is radio pioneer -- Radio One pioneer
645 Cathy Hughes. Some people know the story. She was rejected by
646 over 30 banks before she finally was able to enter the broadcast
647 market. She and her son, Alfred Liggins, used a tax certificate
648 to purchase three of their earliest radio stations. Today, they
649 are Urban One. They own 54 radio stations serving 15 million
650 listeners.

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651 Our second story is our Board Member Raul Alarcon, who used
652 a tax certificate, pledged all of his family's assets to purchase
653 WSKU-AM in New York. And today, Spanish Broadcasting System has
654 a portfolio of 17 radio stations in major markets.

655 These stories, I would love for the committee to interview
656 these stories, themselves, so you can get it firsthand. And as
657 I said, MMTC enthusiastically supports the bills and the
658 resolutions today.

659 [The prepared statement of Ms. Coley follows:]

660

661 *****INSERT 8*****

662

Mr. Doyle. Thank you, Ms. Coley.

663

Ms. Sutter, you are now recognized for 5 minutes.

664 STATEMENT OF DIANE SUTTER

665

666 Ms. Sutter. Good morning, Chairman Pallone and Doyle,
667 Ranking Members Walden and Latta, and members of the Subcommittee.

668 My name is Diane Sutter and I am the president and CEO of
669 ShootingStar Broadcasting. I am testifying today on behalf of
670 the National Association of Broadcasters and the thousands of
671 local radio and television stations across your hometowns.

672 Broadcasters provide the important information, news, and
673 entertainment that connect and reflect the diverse communities
674 we serve, including women and communities of color. In today's
675 media marketplace localism and ensuring that our programming
676 reflects the communities we serve is not only in the public
677 interest, it is good business.

678 My career in broadcasting started at a radio station in
679 Pittsburgh. I rose from newsroom producer, to sales, then sales
680 manager -- the first woman to hold that position in the market
681 -- station manager, and ultimately, general manager of Shamrock
682 Broadcasting's AM/FM combination there.

683 At the time, I was the first female general manager in the
684 Pittsburgh market, my hometown. Later, I became the first female
685 television general manager in Lexington, Kentucky. And later,
686 I was able to rise through the ranks of the corporate offices
687 of Shamrock television, where I became president -- the first
688 woman in that role -- and the first to be responsible for the

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689 purchasing and selling of broadcast properties, as well as their
690 overall operations.

691 My time as a broadcast executive taught me a lot but it was
692 nowhere near what I needed to know in order to navigate the
693 challenges of buying a station or brokering a broadcast deal on
694 my own. It was at Shamrock where I gained hands-on experience
695 in broadcast acquisitions and sales, including due diligence,
696 working with a company to acquire bank financing, setting up a
697 capital structure, making the bank presentations, and going
698 through the FCC process, and then the eventual station transition.

699 It was the culmination of those experiences and
700 relationships that were essential to help me put my first deal
701 together. Without them, it is highly unlikely that I would ever
702 have been able to become a station owner. That is why, after
703 I acquired my first television station, a CBS in Abilene, Texas,
704 I partnered with the NAB Leadership Foundation to create the
705 Broadcast Leadership Training Program, or BLT, as we
706 affectionately call it. I wanted to share what I had learned
707 with other women and people of color, who I saw facing similar
708 challenges that I had faced and who, frankly, face many of those
709 same challenges today.

710 BLT is a 10-month executive MBA-style program intended to
711 help talented senior level broadcasters who aspire to advance
712 as group executives or station owners, particularly women and
713 people of color. It allows them to be exposed to the fundamentals

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714 of purchasing, owning, and running a successful broadcast
715 operation.

716 The BLT program, supported by broadcasters for broadcasters,
717 is celebrating its 20th anniversary this year. And of the 325
718 graduates, over 65 percent have been promoted one or more times
719 and 55 have been or are currently station owners.

720 BLT success stories include people like Carolyn Becker of
721 Riverfront Broadcasting, who came into the program managing two
722 radio stations and now owns 18 small market stations.

723 DuJuan McCoy of Circle City Broadcasting, another alum,
724 bought his first seven broadcast stations while still in the
725 class. He went on to sell those stations, buy new ones in larger
726 media markets, and today owns the CW affiliate in Indianapolis.

727 Orlando Rosales and his partner, Mayela Rojas of Media Vista
728 Group were both BLT graduates and started with one Spanish
729 language Azteca television station in Fort Myers/Naples Florida.

730 With the help of BLT faculty and myself, we worked for 3 years
731 to get them the financing of three Univision stations in Florida,
732 Minnesota, and Missouri that they have purchased.

733 These are only a few examples but I can assure you there
734 are many more. And as a woman who rose through the ranks of
735 industry to become a CEO and owner/operator, I not only share
736 your interest in increasing diversity across all media but
737 consider it a cornerstone of my career.

738 To that end, there are actions that Congress can take to

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739 help incentivize sales to broadcast entrants. First, Congress
740 can promote media diversity by passing Representative
741 Butterfield's Expanded Broadcast Ownership Opportunities Act,
742 that legislation to reinstate the tax certificate. From 1978
743 to 1995, the program was highly effective in leveling the playing
744 field for underrepresented broadcasters, increasing minority
745 ownership in broadcast stations by more than 550 percent.

746 Second, Congress should examine whether modifications can
747 be made to SBA loan guarantees that better reflect the realities
748 and unique challenges of financing broadcast properties.

749 Thank you for inviting me to this important issue today.
750 Broadcasters look forward to continuing to work with this
751 committee on supporting diversity at every point in the media
752 pipeline.

753 I look forward to your questions.

754 [The prepared statement of Ms. Sutter follows:]

755 *****INSERT 9*****

756 Mr. Doyle. Thank you, Ms. Sutter.

757 So we have concluded our openings. We are going to now move
758 to member questions. Each member will have 5 minutes to ask
759 questions of our witnesses. I will start by recognizing myself
760 for 5 minutes.

761 Mr. Odom, in your written testimony, you mentioned that the
762 number of stations owned by people of color may be at risk of
763 falling even lower than the incredibly low levels that exist right
764 now.

765 Can you explain why you think this risk exists and do you
766 see the same risks for women-owned media outlets also?

767 Mr. Odom. Thank you for the question, Mr. Chairman.

768 We have been in contact with African American licensees who
769 have raised this issue. The ownership structure that some of
770 the African American broadcasters enjoy don't just turn on
771 vagaries of how long the license lasts. They also turn on things
772 like how long does their financing last. How long do their joint
773 arrangements or sidecar arrangements with television stations
774 or ownership groups last?

775 And although the numbers that I have sketched out for you
776 are poor, at least in the television space, they are at 14 African
777 American-owned television stations, some of those you know are
778 absolutely at risk of ending because -- not because of the license
779 term ending but because some of the arrangements, financing
780 arrangements, and sidecar arrangements could be at risk.

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781 Mr. Doyle. I see.

782 Ms. Sutter, you had your first deal to buy a station. Tell
783 me how -- you know discuss like some of the challenges that you
784 faced to acquire that station, the financing part of it, and how
785 Mr. Butterfield's legislation -- were you able to use that program
786 when you bought your station? But tell us how you think this
787 bill will help someone trying to acquire their first television
788 station.

789 Is your microphone on? Ms. Sutter. I was not able to use
790 the tax certificate because, at the time, the tax certificate
791 only related to people of color and minorities. Women were not
792 included in the original tax certificate.

793 Mr. Doyle. I see.

794 Ms. Sutter. But I would have liked it if they were.

795 The challenges for me were that access to capital clearly
796 is -- was then and is now the major deterrent to being able to
797 get a deal done.

798 I was very lucky that I was able to get a deal accomplished.
799 That was because of two reasons. One, I had access to the
800 information that you need before I ever had to go and buy a station.
801 I had been a general manager for radio and TV for over 10 years,
802 had never had that kind of information provided. I learned it
803 at Shamrock when I was doing acquisitions for them.

804 The second thing was access to capital. While it is
805 definitely a problem, I had the ability to go to the banks that

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806 were in the Shamrock credit, people I already knew and who knew
807 me and that allowed them to be willing to at least hear me, to
808 at least hear me out. And so because I already had those
809 relationships, I was able to get a first deal done. And it didn't
810 help that as president of Shamrock, my duty was to sell off their
811 television stations and I bought their last one.

812 So those made it a very unique situation but I realize that
813 that meant that there were others that needed to be able to have
814 that same advantage and they weren't going to be having the
815 advantage I had of being at the corporate offices for Shamrock
816 and head of their television.

817 So the BLT program was created to address those two
818 particular things and the NAB has, for 20 years, supported it,
819 as have other broadcasters. This is a program where the women
820 and people of color are fully supported financially by the
821 broadcasters. It is about a \$17,500 investment in each graduate
822 to be able to learn those things that they need.

823 The faculty for the program comes from the ranks of the people
824 who are in the industry you would need to know. It is the bankers.

825 It is the brokers. It is the group heads. It is the members
826 of the FCC that come and teach the faculty aspects of the program.

827 So that is how we managed to get it to happen.

828 Mr. Doyle. I see.

829 Ms. Coley, maybe you could discuss how you see Mr.
830 Butterfield's legislation closing that financing gap.

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831 Ms. Coley. Well, as I mentioned earlier, the tax
832 certificate is synonymous with access to capital. When I spoke
833 with Raul Alarcon, and actually in my legal career I represented
834 Radio One and TV One, so I know that the tax certificate was used
835 like currency because when they encountered a deal that they
836 wanted to buy, more than likely the seller was not even going
837 to give them a chance. That is what they communicated to me.

838 But when they were able to offer the possibility of a tax
839 certificate, that is something that distinguished them from the
840 crowd of buyers and it gave them a leg up and helped them. So
841 it is like currency. It goes -- they still have to pay. They
842 still have to pledge you know everything but their first and
843 last-born children but the tax certificate helped make the
844 difference.

845 Mr. Doyle. Thank you. I see my time is expiring.

846 The chair is now going to yield to our ranking member of
847 the full committee, Mr. Walden.

848 Mr. Walden. Thank you, Mr. Chairman, and I want to thank
849 Mr. Latta for yielding to me, as well, in the time line here.

850 And so I appreciate all the combined wisdom at the table. We
851 need your input on this. We appreciate what you are doing out
852 there and, certainly, the role of BLT and other programs like
853 that have made a real difference.

854 And I think, Ms. Sutter, up until '95, as we have talked,
855 there was this Tax Certificate Program in place and we are

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856 examining the legislation today to reinstate it.

857 How would you change it?

858 Ms. Sutter. Well the first thing I would do is make sure
859 that it also included women --

860 Mr. Walden. Uh-huh.

861 Ms. Sutter. -- and the proposal does that. So I think
862 that is an important addition from what it was.

863 Mr. Walden. I just thought I would give you a chance to
864 say that twice.

865 Ms. Sutter. Yes, sir. I also had the privilege of
866 testifying before the committee when they did away with the tax
867 certificate. So I am hoping that my appearance today will suggest
868 that --

869 Mr. Walden. Full circle.

870 Ms. Sutter. -- it is time for -- full circle. Yes, sir.
871 Yes, sir.

872 The tax certificate itself, as Maurita said, is something
873 that benefits both the buyer and the seller and I think that is
874 what makes it unique. And I would want to ensure that we kept
875 those things, those pieces of it that made it so successful
876 because, otherwise, not only access to deal financing but deal
877 flow. It allows minorities and women of color to be involved
878 in getting the call from the seller that they are actually going
879 to give you an opportunity to bid. Many times we don't even get
880 into the deal flow.

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881 Mr. Walden. Interesting. Interesting. That is an
882 important note.

883 I was thinking, too, as I listened to you, how much of this
884 is a sort of license issue, broadcast issue, whatever, and how
885 much of it is a banking issue?

886 Ms. Sutter. I think it is a combination of both. I think
887 --

888 Mr. Walden. You really haven't addressed the banking piece.
889 I mean I think about you going in to a lender and they are going,
890 I don't know. Is that the lender issue? Because you know how
891 to run a business; you have proven that.

892 Ms. Sutter. Yes but ownership is different because, in
893 essence, someone else is investing in you.

894 Mr. Walden. Yes, right.

895 Ms. Sutter. And so as a result, they need to know more than
896 you are just a good person and a good operator. They need to
897 know that you are capable financially of being able to uphold
898 your commitments.

899 Mr. Walden. Uh-huh.

900 Ms. Sutter. So when someone else invests in you, it is
901 incumbent upon you to be able to demonstrate that their risk
902 matches the reward.

903 Mr. Walden. Sure. And then in terms of collateral, can
904 you speak to those issues as well?

905 Ms. Sutter. Yes, one of the challenges and what makes

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906 broadcasting unique is that probably our most valuable asset is
907 our license and that is not permitted to be used as collateral
908 --

909 Mr. Walden. Right.

910 Ms. Sutter. -- in any kind of a financial way.

911 So many of the banks look to broadcast, whose value is not
912 in equipment or in bricks and mortar. It is in the value of the
913 good will and that is not something that a bank can attach as
914 collateral.

915 Mr. Walden. Which I think makes the industry very unique
916 in that respect.

917 Are there other witnesses who want to speak to that part
918 of this equation?

919 Ms. Sandoval. Thank you very much, Congressman Walden.

920 One thing I would like to emphasize is that the tax
921 certificate is absolutely critical to access to deals. Right?

922 It provided not just access to capital but access to deals.
923 And this is particularly important because, under the
924 Communications Act Section 310(d), the FCC cannot consider
925 whether a different party in an application to transfer a license
926 would better serve the public interests. So what the tax
927 certificate did is that it --

928 Mr. Walden. Right.

929 Ms. Sandoval. -- created private sector incentives to
930 actually do deals with minority buyers and eligible buyers, who

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931 would then apply, together with the seller, to the FCC for a
932 license transfer applications.

933 So these incentives were really important because,
934 especially under the tax code as it existed then, and there still
935 are incentives in the tax code now to do other deals, where you
936 could have done a 1031 exchange, or do other things to try to
937 defer capital gains, or do a trust. And so the tax certificate
938 gave an incentive to do something different --

939 Mr. Walden. Got it.

940 Ms. Sandoval. -- and partner with people who you wouldn't
941 have partnered with before.

942 And I would also like to underscore and thank MMTC for their
943 brokerage. When I worked for Z-Spanish Media, in fact Z-Spanish
944 acquired some stations through David Honig, as a broker, who put
945 buyers and sellers together. And as I mentioned, our station
946 owner got his first deal through the tax certificate, which though
947 he had a Ph.D. from U.C. Berkeley, though he had been a
948 broadcaster, it was the tax certificate that created the access
949 to the deal.

950 Mr. Walden. All right. All right, very good.

951 Mr. Odom, real quick.

952 Mr. Odom. Yes, sir. This Tax Certificate Program is just
953 the latest in a very long line of bipartisan tax policies that
954 have been pursued by the Congress to achieve results that -- where
955 the markets create sometimes impenetrable barriers, whether it

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956 be the New Markets tax credit or the most recent Opportunity Zone
957 tax credit that was passed at the end of 2017, these are the ways
958 of enacting social good through the tax policy using market-based
959 incentives.

960 Mr. Walden. All right, thank you.

961 I would just conclude by saying when we bought our stations
962 from my parents, I will always remember being with my wife --
963 we were working on Capitol Hill then in the law firm downtown,
964 when my father said, oh, by the way, it was the worst February
965 we ever had and the exciter just burned out on the FM; you are
966 going to need to replace that. It was like what am I getting
967 into here, Dad?

968 Anyway, thank you. Thanks for having this hearing.

969 I yield back.

970 Mr. Doyle. The gentleman yields back.

971 The chair now recognizes Mr. McNerney for 5 minutes.

972 Mr. McNerney. I thank the chairman and I thank the witnesses
973 for your testimony this morning.

974 Professor Sandoval, my district includes part of Contra
975 Costa, San Joaquin, and Sacramento Counties. As a former
976 California PUC Commissioner, I am sure you are familiar with that
977 area. It has a very diverse population and it was severely
978 impacted by the recent wildfires in California.

979 For example, during the Kincade fire, a small fire erupted
980 that resulted in the City of Oakley residents having to be

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981 evacuated. Eighty-eight cell towers went down in Contra Costa
982 County and a highly dangerous air quality filled the area. So
983 if we don't do more to increase minority ownership of broadcasting
984 stations, what would it mean during times of crisis for
985 constituents in districts like mine where the real risks of being
986 impacted by wildfires and other national disasters?

987 Ms. Sandoval. Yes, thank you very much. And thank you for
988 your service to the community and California, Congressman
989 McNerney.

990 I would like to underscore what you were saying about the
991 important role of broadcasting during disasters. And sadly, we
992 have had our share in California. And what was absolutely
993 critical was that during the large-scale power shutoffs that
994 happened during the high winds and wildfire danger, very quickly
995 PG&E's website crashed. And so people were not able to get
996 information about where to go, which was really critical,
997 especially for people who needed to keep their diabetes medication
998 refrigerated, use equipment on medical baseline, how to figure
999 out if their job was closed, if their school was closed, and pick
1000 up their kids, or where it created a real crisis because people
1001 couldn't work for days and lost income.

1002 But PG&E was actually able to fax out a list to the broadcast
1003 stations of the cities that were going to lose power. And so
1004 people depended -- millions of people depended on broadcast radio
1005 and television for information about where power was out, where

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1006 power was available, what the closures were.

1007 And as you mentioned with the evacuations and the fires,
1008 in Sonoma County you also had 200,000 evacuated during the Kincade
1009 fire, radio was absolutely critical when, particularly as you
1010 mentioned, sadly, cell phone towers went down, whether it was
1011 due to a lack of power or the California legislature just held
1012 a hearing on this topic, where they identified both a lack of
1013 power, as well as issues with lack of redundant networks, and,
1014 in some cases, lack of maintenance contributing to outages.

1015 So while day-to-day many of us do rely very heavily on cell
1016 phones and the internet, broadcasting really showed itself truly
1017 to be a lifeline and broadcasting that addresses the needs of
1018 diverse communities is particularly important, especially during
1019 those types of crises.

1020 Mr. McNerney. Okay, thank you.

1021 The digital divide is a real challenge facing my district.
1022 In your testimony, you note that, for those living on the other
1023 side of the digital divide, radio and television broadcasting
1024 remain daily mainstays. If we don't do more to increase minority
1025 ownership of broadcasting stations, what would it mean for the
1026 individuals living on that side of the digital divide?

1027 Ms. Sandoval. Yes, and thank you for bringing that up.
1028 And as you know, the digital divide is something that pervades
1029 not only rural America, and 95 percent of California's landmass
1030 is rural, and so we have many rural communities as well as other

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1031 states in the nation, but also in urban areas, like San Jose,
1032 there is a major area where there is a huge digital divide gap,
1033 where they have mapped it. It is a predominantly Latino
1034 community, where a lot of the residents have not used the internet
1035 for the last month and it is also a flood zone. And, in fact,
1036 it is the flood zone for the reservoir and experienced having
1037 flooding with the rains in 2017.

1038 So it is absolutely critical that we work simultaneously
1039 to close the digital divide and to ensure that we also harness
1040 broadcasting. Because one of the things that happened in
1041 Paradise, California, the campfire, was that for a variety of
1042 reasons, the county didn't activate broadcast alerts. And so
1043 particularly with also a lot of elderly people depend on broadcast
1044 and didn't have the cell phone access, didn't use the internet,
1045 and didn't get the message. And this is part of what contributed
1046 to 85 people dying in that fire and to just the breadth of that
1047 terrible fire which destroyed Paradise, literally.

1048 So I think addressing both of these things is really critical
1049 to the safety, as well as to the economy of our nation.

1050 Mr. McNerney. Okay, you will have to answer this briefly
1051 or the chairman will give a little sound here.

1052 Can the FCC and Congress solve the diversity and problems
1053 laid out in today's -- today with race and gender neutral remedies?

1054 Ms. Sandoval. So the FCC has been trying race and gender
1055 neutral remedies for the last 25 years, since Adarand. And after

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1056 Lamprecht, they basically dropped all of the programs. So there
1057 was an opportunity 25 years' ago to do an Adarand study. We did
1058 four different studies, when I was the director of the Office
1059 of Communications Business Opportunities that laid the foundation
1060 for the Adarand studies but the FCC has never done the full studies
1061 that are necessary.

1062 So we have had a 25-year experience with race and gender
1063 neutral policy and what we have seen is with basically the people
1064 who have been in the best position to grow were people who had
1065 entered previously and also, some of the graduates of some of
1066 these particular programs. But race and gender neutral policies
1067 have not produced the kind of results that the policies before
1068 1995 produced.

1069 Mr. McNerney. Thank you.

1070 Mr. Doyle. The gentleman's time has expired.

1071 The chair now recognizes Mr. Latta for 5 minutes.

1072 Mr. Latta. Well thanks, Mr. Chairman and thanks to our panel
1073 for your great testimony today.

1074 I want to applaud Chairman Pai's focus on working to promote
1075 diversity and, in particular, the Incubator pilot program that
1076 the Commission adopted, which is, unfortunately, held up by the
1077 courts.

1078 And today's testimony also discusses the great programs and
1079 initiatives that the broadcast industry has voluntarily
1080 implemented, including the Broadcast Leadership Training

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1081 Program. These programs aim to facilitate diversity in the media
1082 marketplace by providing opportunities for people to enter the
1083 broadcast industry and rise to the executive leadership
1084 positions.

1085 Ms. Sutter, if I could start my questions with you, what
1086 role can Congress play in shaping an incubator program, similar
1087 to the one proposed to Chairman Pai, that would apply to both
1088 TV and radio?

1089 Ms. Sutter. Thank you very much.

1090 The FCC Diversity Committee, of which I chaired, and also
1091 two members of the testimony committee here are a part of -- thank
1092 you Clint and Maurita for your service -- work very hard to create
1093 the incubator program. And the FCC supported the recommendations
1094 that were made from the Diversity Committee and implemented the
1095 Incubator Program.

1096 We would suggest that you are constrained by those same
1097 things that the FCC is, and we would encourage this committee
1098 to consider adding the Incubator Program to your consideration
1099 of things that can improve diversity in the industry, and we would
1100 also ask that you include television. So I appreciate your
1101 suggestion in that regard because the Incubator Program, as it
1102 was put forward, was only for radio.

1103 I have graduates of the BLT program right now in television
1104 that are looking to acquire television stations and the Incubator
1105 Program, which was a way for stations to be able to provide station

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1106 ownership opportunities to those that could be taking a year to
1107 work with them to be able to learn how to manage and own stations,
1108 and then they would have the opportunity to buy those stations.

1109 So I think that is another vehicle for that and would hope that
1110 Congress could do something to codify that along with the tax
1111 certificate.

1112 The two of those things together make a pretty poignant
1113 opportunity.

1114 Mr. Latta. Well, let me follow-up with another question
1115 to you because I know that, hearing your discussion in regard
1116 to the access of capital out there, let me go with another question
1117 on that area.

1118 When you discuss your learning experiences as you advanced
1119 in the broadcast industry, from buying your first station to
1120 helping entrants secure their first deals, do you believe it is
1121 difficult to know when a broadcast property is on the market due
1122 to a lack of transparency of those transactions?

1123 Ms. Sutter. Yes, sir. I referenced the idea that access
1124 to deal flow is as important as access to capital.

1125 One of the things that the tax certificate did was to
1126 incentivize sellers to look for a potential person of color or,
1127 hopefully now, a woman to be a buyer. They do not have that
1128 incentive at this time. And so that provides clear reasons to
1129 seek out women and people of color as potential buyers. And we
1130 have many qualified individuals who, both in and out of the BLT

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1131 program, are able to do that. And so I think that is an excellent
1132 way for that to happen.

1133 Mr. Latta. Let me ask what role should Congress have, then?

1134 Ms. Sutter. Well, I would hope that Congress would add the
1135 Incubator Program as a consideration to the legislation that you
1136 are already putting forward.

1137 Mr. Latta. Okay, thank you.

1138 In my last minute and 17 seconds, I am not picking on you
1139 here, we have heard that some statistics show that employment
1140 diversity among broadcasters remain better than their over-to-top
1141 streaming competitors in the tech industry. How much of that
1142 do you believe is because the FCC regulations versus practical
1143 interests of broadcaster-produced content that reflects the
1144 interests of the communities they serve?

1145 Ms. Sutter. I think there is no question that the difference
1146 between some of the other companies and organizations that you
1147 reference in broadcasters is that we are local, and that we are
1148 about being in our communities, and knowing how to create programs
1149 that serve those communities because one size does not fit all.

1150 And our ability to be able to do those things in individual
1151 markets that respect those markets is what separates us.

1152 Mr. Latta. Okay. Well, thank you very much.

1153 Mr. Chairman, I am going to yield back the balance of my
1154 time.

1155 Mr. Doyle. The gentleman yields back.

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1156 The chair recognizes Mr. Soto for 5 minutes.

1157 Mr. Soto. Thank you, Mr. Chairman.

1158 I have the honor of representing a very diverse area in
1159 central Florida of high growth and this continues to be a big
1160 issue.

1161 I noticed the FCC is releasing new FM station applications
1162 but they haven't really released a lot of new television station
1163 applications over the years. So my first question is: Would
1164 these bills help with this new tranche of FM stations coming out
1165 to increase minority and women business ownership? And would
1166 we need to open up more new TV stations to help also give more
1167 access, since it is tough to buy one compared to creating one?

1168 And I will start with you, Mr. Odom, and we will go down
1169 the line.

1170 Mr. Odom. This isn't an issue that we have expressed an
1171 opinion on but I think if you look at the simple matter of law
1172 -- laws of demand and supply, we have had a constriction of the
1173 supply of television stations. I imagine some of that is owing
1174 to the fact that we have had some of that spectrum ceded to the
1175 commercial wireless space.

1176 So I think it would be great to create new market areas,
1177 new licenses. I just don't know how realistic that is and we
1178 have not, as an organization, looked at that particular issue.

1179 Mr. Soto. Ms. Sandoval?

1180 Ms. Sandoval. Yes, thank you very much, Congressman.

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1181 I applaud the FCC for taking the initiative to look at
1182 spectrum allocation and how they can create opportunities for
1183 more stations, such as FM stations.

1184 I agree that the television band has been constrained, even
1185 though we have had the auction of digital television.

1186 I would note that the FCC has a duty under 309(j) of the
1187 Communications Act to create incentives for small, minority-,
1188 and women-owned businesses in the communications industry,
1189 including through auction of licenses.

1190 So things like the tax certificate really effect the
1191 secondary market but I believe that H.R. 5567 would also help
1192 to support the FCC's analysis of market entry barriers, which
1193 is another thing that is required by the Communications Act in
1194 Section 254. So I believe that these bills would be complementary
1195 but, as mentioned, the FCC has a lot of work to do and I think
1196 that this would be synergistic with looking at where there have
1197 been new licensing opportunities.

1198 Last, I would like to add that when I looked at my research,
1199 pulling over 11,000 records to analyze the status of minority
1200 broadcast, that sometimes when the FCC had done things, like they
1201 expanded band or the 8090 docket, where they expanded stations,
1202 that was a really critical entry point.

1203 So I think this is going to be a critical entry point of
1204 opportunity and we need to make sure that the policies are there
1205 to really value and create the rules that promote diverse media

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1206 ownership and service to the public.

1207 Mr. Soto. Ms. Coley?

1208 Ms. Coley. We, MMTC, hasn't spoken on this issue as well.
1209 However, I believe that anytime there is an opportunity where
1210 there are new opportunities to -- like the 8090 docket was one
1211 of the ones where it just opened up a lot of new licenses. So
1212 the tax certificate wouldn't necessarily work in that respect
1213 but I think that what Congress could do is to act as -- to have
1214 something that encourages financing, that encourages diversity
1215 with respect to the new allotment. The tax certificate you know
1216 wouldn't really be the way.

1217 Mr. Soto. Sure.

1218 Ms. Sutter?

1219 Ms. Sutter. To speak to your question more specifically,
1220 the FM -- the entrance of new FM stations for an auction would
1221 certainly be welcomed.

1222 I referenced in my testimony Caroline Becker and two of her
1223 18 stations she acquired in the FM auction and they built those
1224 stations.

1225 The problem with television allocations right now is because
1226 we are repacking the entire table of allocation for television,
1227 as we go through the conversion process and redistribute all of
1228 the TV stations, it is frozen at the moment. I believe that once,
1229 in fact, that gets -- that gets fully exercised and all of the
1230 repacking is done, that we would hope that the Commission would

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1231 go back and find more television licenses to put for auction.

1232 Ms. Coley. And Mr. Soto, if I may?

1233 Mr. Soto. Sure, please.

1234 Ms. Coley. At MMTC, it has been mentioned, we work with
1235 everyone, in terms of we have a nonprofit brokerage where we
1236 aggressively seek out minority- and women-owned prospective
1237 buyers. And so in that context of our brokerage, I think that
1238 if there were new allotment, that would be a great opportunity
1239 for us to use our services to try to find minority and women owners.

1240 Mr. Soto. Thank you all for your response.

1241 My time has expired.

1242 Mr. Doyle. The gentleman yields back.

1243 The chair now recognizes my good friend, Mr. Bilirakis for
1244 5 minutes.

1245 Mr. Bilirakis. Thank you, Mr. Chairman. I appreciate it
1246 very much.

1247 I want to focus on another subject that hasn't been brought
1248 up but first, I would like to tell you that Sheila Johnson, who
1249 is the founder of the BET, lives in my district part-time. She
1250 is a wonderful, wonderful person.

1251 Ms. Coley. Oh, wonderful.

1252 Mr. Bilirakis. She is a trailblazer and she was born in
1253 McKeesport, Pennsylvania. Did you know that?

1254 Ms. Sutter. All good things come from western Pennsylvania.

1255 Mr. Bilirakis. Another fellow Pittsburgher, absolutely.

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1256 Yes, particularly western Pennsylvania. Ms. Sutter. Yes,
1257 sir.

1258 Mr. Bilirakis. But I represent the Tampa Bay area and I
1259 am very proud of that.

1260 Ms. Sutter. We like that, too.

1261 Mr. Bilirakis. Yes, absolutely.

1262 So in any case, this -- an issue with regard to veterans.
1263 In many circumstances, veterans are deemed part of a class for
1264 distinctive treatment. For example, the Small Business
1265 Administration has a Set-Aside Program for service-disabled
1266 veterans who own small business, to allow these businesses to
1267 adequately compete for certain government contracts.

1268 Many federal agencies have similar programs for both
1269 veteran-owned businesses and service-disabled veteran-owned
1270 business, in addition to programs for sex- and race-based
1271 diversity.

1272 Ms. Sutter -- Mrs. Sutter, what actions is the broadcasting
1273 industry taking to promote and incorporate veterans, and
1274 particularly veterans with service-connected disabilities, into
1275 the marketplace?

1276 Ms. Sutter. Thank you for your question.

1277 Mr. Bilirakis. Sure.

1278 Ms. Sutter. The Broadcast Education Foundation, the
1279 Leadership Foundation of the NAB has a number of initiatives that
1280 they do to work with veterans. They have partnered with Veterans

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1281 Strong and, at their national convention, they hold a military
1282 veterans outreach breakfast every year at the national convention
1283 and it is for H.R. directors from company broadcast companies
1284 from all around the country. And there are speakers and panelists
1285 to talk about how to recruit veterans, how to reach them, and
1286 then once they are in the workforce, how to work with them to
1287 help them succeed.

1288 In addition, they also host -- co-host a career fair with
1289 the Broadcast Education Association to specifically address
1290 veterans and encourage them to participate in the fair and then
1291 help them move on in that regard into the broadcasting industry.

1292 But I think one of the greatest examples is that most of
1293 the broadcast companies out there are interested in reaching
1294 veterans. As you all probably know, our Congressional PSA
1295 Program that the NAB does, veterans is one of the main topics
1296 that is available for Members of Congress to use.

1297 But to give you a specific example, Hearst Broadcasting
1298 actually has a director of military recruitment and that is a
1299 military veteran in that role and the job of that veteran is to
1300 go to bases specifically for the purpose of recruiting veterans
1301 to come into the broadcast industry.

1302 Mr. Bilirakis. Has there been a great deal of interest on
1303 --

1304 Ms. Sutter. Yes, sir.

1305 Mr. Bilirakis. Good. Very good, on the part -- I would

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1306 think so.

1307 Ms. Sutter. And the -- well, the CEO of Hearst Television
1308 is a BLT grad. So --

1309 Mr. Bilirakis. Oh, okay.

1310 Ms. Sutter. -- suffice it to say, he understands that
1311 importance.

1312 Mr. Bilirakis. Excellent. Excellent.

1313 What can Congress and the FCC do, as far as promoting
1314 veteran-owned small businesses?

1315 Ms. Sutter. Well I think the program that you mentioned
1316 at the SBA is certainly one because we, as broadcasters, also
1317 work with the 7(a) Program and it is an adjunct to that. So
1318 continuing to work on that program, I think, is helpful and
1319 certainly we, as broadcasters, want to continue to make sure our
1320 doors are open to veterans to be part of our industry.

1321 Mr. Bilirakis. Very good.

1322 Would anyone else like to add anything on that particular
1323 subject? Yes.

1324 Ms. Sandoval. Thank you, Congressman, for this
1325 question.

1326 I would note that, when I was a commissioner of the California
1327 Public Utilities Commission, that we had a program also
1328 specifically authorized by the California legislature that
1329 promoted opportunities for a variety of diverse businesses to
1330 be able to do business with the regulated utilities in California,

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1331 electric, gas, water, and telecommunications, and that veterans,
1332 and especially service-disabled veterans, as well as women, and
1333 gay, lesbian, bisexual, and transgender people were specifically
1334 included in that program.

1335 We found with a lot of utilities for -- there is a huge
1336 interest in veterans who have that experience with both the
1337 working in a high-safety environment, a high-risk environment
1338 like you get with the natural gas, and working with things like
1339 climbing towers, which is also important for broadcasting. And
1340 so I think promoting this would be important but, right now, this
1341 is something that the FCC hasn't been charged with.

1342 And so I think in looking at the legislation, this would
1343 be another example that the FCC cannot, on its own, reinstitute
1344 the tax certificate because Congress ended it. But Congress
1345 could reinstitute the tax certificate and include groups such
1346 as service-disabled veterans, as well as minorities and women.

1347 Mr. Doyle. The gentleman's time has expired.

1348 Mr. Bilirakis. All right. Very good. I yield back.

1349 Mr. Doyle. The chair recognizes Mr. Veasey for 5 minutes.

1350 Mr. Veasey. Thank you, Mr. Chairman. I really want to
1351 thank all the witnesses for coming to talk today about diversity
1352 in media and how we can really work with organizations to secure
1353 diversity in media ownership in the United States. And I think
1354 it is really interesting that we are having this hearing right
1355 now because, as you know, the Oscar nominations were just released

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1356 and there has been a lot of talk about some of the nominees and
1357 the lack of diversity with some of the nominees as it relates
1358 to that segment of the media community. And so maybe during this
1359 hearing we can find a solution to hashtag OscarSoWhite. I don't
1360 know if we are going to be able to find a solution for that but
1361 at least if we begin to just start having conversations, I think
1362 that we are really taking a step in the right direction.

1363 I want to talk with Mr. Odom and thank you for taking the
1364 time to be with us this morning. In your testimony, you state
1365 that while African Americans are a major consumer of media, we
1366 are woefully underrepresented as employees in the industry and
1367 co-owners of media businesses. The bill that we have been talking
1368 about today that I am also a co-sponsor of with Mr. Long would
1369 direct the FCC to study barriers to market entry for minorities.

1370 In addition to studying barriers, what do you think can be
1371 done to encourage minorities, not only to own and operate media
1372 stations, but enable more of them to reach positions of general
1373 manager or a c-suite of media corporations in order to have more
1374 control over what content is prioritized and shown to consumers?

1375 Mr. Odom. Thank you for your question, Congressman.

1376 I think your allusion to the OscarSoWhite problem actually
1377 put your finger on a potential solution. Many of the things that
1378 we are talking about today require government fiat, laws to be
1379 enacted, the FCC to act, but there is a great area of opportunity
1380 with the producers of -- the distributors of content and the

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1381 creators of content to undertake on their own initiatives.

1382 I always like to commend our friends at NAB for the BLT
1383 Program. Not only is it delicious, but it is moving the needle
1384 in very important ways to find -- and it is not compelled by
1385 government action. It is compelled by the industry itself saying
1386 that we need to do better.

1387 We have worked at the National Urban League, along with our
1388 colleagues at NITOS, and Asians are Advancing Justice, and other
1389 groups to approach companies that have challenges, self-admitted
1390 challenges, with the number of employees they have, the companies
1391 they do business with. And when we have been able to sit down
1392 with them, we have produced, I think, some impressive results
1393 and results that we will be hearing a lot more about in the future.

1394 Our work with Comcast/NBC Universal, in particular, over
1395 10 years ago, we think has yielded some good results that have
1396 turned into more programming, more distribution outlets, and
1397 mentorship, and incubator programs inside that company that have
1398 really yielded a lot of good results. We have worked with
1399 T-Mobile just recently, hoping to get some data on that, when
1400 that agreement becomes effective.

1401 But I think some of these voluntary efforts that we have
1402 been talking about can yield a lot of fruit.

1403 Mr. Veasey. Do you want -- would you like to see more
1404 government? I mean you have touched on that and I wanted to ask
1405 you.

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1406 Mr. Odom. Oh, absolutely, there is a critical role here
1407 for government. The Tax Certificate Program, as we said, could
1408 not be done by Commission on its own initiative. If that had
1409 been the case, it would have been done a long time ago and it
1410 would have included women.

1411 The data -- we need the data. We need the Adarand studies,
1412 you know especially where race and gender challenges could be
1413 brought. If you don't lay the proper factual and legal predicate,
1414 these laws will be subject to challenge in the courts or challenged
1415 by Congress undoing what it did. We have got to create the facts.
1416 We have got to build the record.

1417 As a young lawyer, I was at the FCC when the Adarand decision
1418 came down and we had to scramble and work with Professor Sandoval
1419 to figure out how are we going to try to keep some of these policies
1420 in place, in light of what appears is strict scrutiny of anything
1421 that mentions women and people of color.

1422 Mr. Veasey. Yes, well, thank you very much.

1423 Ms. Sutter, very briefly, I just am curious what you and
1424 your colleagues are planning to do to expand the number of
1425 minorities, particularly people of color in the ownership sphere
1426 of media industry.

1427 Ms. Sutter. Well certainly, the BLT Program has probably
1428 been the most effective. We now have 55 that own or have owned
1429 out of the 325 graduates and this program is celebrating its 20th
1430 anniversary this year.

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1431 And so continuing to do that, where we provide the
1432 information that new entrants will need, as well as the ability
1433 to know how to access capital, I think is really critical to this.

1434 And the NAB remains, as I do, committed to doing this.

1435 We also think it is important to get people to be able to
1436 own, you have to get people into the business to get the
1437 experience. So the NAB has a number of programs at the entry
1438 level, and mid-level, and for technical people so that we can
1439 have people into the pipeline that then push toward that
1440 ownership, as we get farther along.

1441 Mr. Doyle. The gentleman's time has expired.

1442 The chair now recognizes a wounded -- Billy, you are not
1443 chasing little dogs around anymore, are you?

1444 Mr. Long. No more poodle wrangling for me.

1445 Mr. Doyle. You have 5 minutes, sir.

1446 Mr. Long. Thank you, Mr. Chairman.

1447 And Ms. Sutter, as I believe you know, I introduced a bill
1448 last week, H.R. 5567, the MEDIA Diversity Act of 2020, that directs
1449 the FCC to consider market entry barriers in the communications
1450 marketplace.

1451 In your testimony, you touched on obstacles you overcame
1452 in purchasing your first station, including the inability to
1453 access capital. Could you expand on that a little bit?

1454 Ms. Sutter. Yes, sir. Thank you very much.

1455 We touched on briefly the fact that it is very difficult

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1456 to get financing for broadcast properties, especially for new
1457 entrants, because they don't have collateral by having other
1458 stations and larger properties that they could pledge to a bank.

1459 They are very resistant to loaning to broadcasters. We are a
1460 cashflow business, not a collateral business. We are not bricks
1461 and mortar. We are good will. We are part of the community.

1462 As such, banks are reluctant. They don't understand.

1463 And much of the work that we do is to try to educate banks
1464 on how to loan to the broadcast industry because many smaller
1465 regional banks are not familiar with how broadcasting works and
1466 so they are reluctant to be able to do that. And so it is an
1467 education process.

1468 And certainly, the idea of a tax certificate is something
1469 that I think really addresses so directly how to get capital
1470 because if, in fact, you have a major company that is willing
1471 to sell to a new entrant, it gives a higher degree of confidence
1472 to a bank that they are buying a property that is an ongoing
1473 property, that it has got good resources. And so I think that
1474 the tax certificate not only helps get us access to deal flow,
1475 it helps us get access to capital.

1476 Mr. Long. I know that there has been a lot of consolidation
1477 of things going on since you purchased that first station. Has
1478 accessing finance become easier or rougher since that time and
1479 what is being done by the FCC and the private sector currently
1480 to solve those issues?

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1481 Ms. Sutter. I can tell you it wasn't easy then and it is
1482 not easy now. So that hasn't changed.

1483 The difference between then and now is, I think, that we
1484 went through a very serious economic crisis in 2008, 2009, and
1485 2010. And what that did was to take many companies that were
1486 in the broadcast space of lending and they left the business.

1487 So we have fewer financial institutions that are considering
1488 and have experienced loaning to broadcasters, which makes it more
1489 difficult, which is why if we can demonstrate to banks that it
1490 is a profitable situation because the bigger companies get
1491 financing. The bigger companies have bank deals but they also
1492 have more concentration to be able to pledge.

1493 So for us, the tax certificate is an answer to so many issues
1494 that affect women and minorities but the thing that I think is
1495 the best is we know it works. We have statistical history. We
1496 may not have statistics on everything, but we have statistical
1497 history that says that increased the number of minorities by 550
1498 percent. I think that is a great track record that we ought to
1499 begin to use again.

1500 Mr. Long. Right. Yes, that is quite a statistic.

1501 Ms. Sutter. Yes, sir.

1502 Mr. Long. And I believe my bill will give us a better picture
1503 of the state of the marketplace by requiring the FCC to consider
1504 market entry barriers for socially disadvantaged individuals.

1505 Other than access to capital, what are some of the other

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1506 barriers to entry?

1507 Ms. Sutter. Well certainly, the access to deal flow. And
1508 we have touched on that but getting the major companies to talk
1509 to smaller broadcasters is also a challenge. Just being able
1510 to get into, being able to know what stations are for sale, because
1511 the deals frequently are never publicized. They don't even go
1512 to brokers. It is one person talking to another person and, next
1513 thing you know, a deal has happened for which you were not even
1514 able to present your case.

1515 So the tax certificate, in essence, incentivizes all sellers
1516 to look for, to identify, and to speak to women and people of
1517 color who can then be helpful to them by providing the tax
1518 benefits.

1519 Mr. Long. Okay.

1520 Ms. Sandoval, do you want to add something?

1521 Ms. Sandoval. Thank you very much, Congressman.

1522 Another dimension I wanted to add to this, as Ms. Sutter
1523 mentioned, broadcast is a cashflow business. And one of the
1524 practices that really undermines cash flow continues to be an
1525 issue for minority broadcasters is the practice of what is called
1526 minority discounts. And this is something that was documented
1527 in another chapter in this book and also in the 1999 study we
1528 commissioned at the FCC called, When Being Number One is Not
1529 Enough. The practice of both no urban dictates and no Spanish
1530 dictates where advertisers wouldn't advertise with

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1531 minority-owned or -serving stations, no matter what their actual
1532 ratings were.

1533 The FCC banned that practice in 2008; it took 9 years to
1534 do that. But minority discounts, where broadcasters get paid
1535 less when your audience is minority, continues to be a problem.

1536 I am sure Jim Winston from the National Association of Black
1537 Owned Broadcasters and the Spanish Broadcasters could talk about
1538 that. And that is something which undermines both access to
1539 capital, and financeability, and undermines service. And I think
1540 Congress could also speak to discrimination in advertising.

1541 Mr. Doyle. The gentleman's time has expired.

1542 Mr. Long. Okay, thank you.

1543 Mr. Doyle. The chair now recognizes Mr. O'Halleran for 5
1544 minutes.

1545 Mr. O'Halleran. Thank you, Chairman Doyle and Ranking
1546 Member Latta, for holding today's hearing on ensuring every voice
1547 is heard in our media marketplace.

1548 Diversity and the free expression of such viewpoints is a
1549 bedrock of our democracy. It is important that we increase
1550 opportunities for diverse ownership within the media marketplace,
1551 especially in rural communities, such as those in my district
1552 that may lack this type of diversity.

1553 I have a tremendous amount of Hispanic population. There
1554 is no radio station. Native Americans have a couple of radio
1555 stations but I have 12 tribes and a lot of those don't have them.

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1556 This is a bipartisan goal of this committee and I thank our
1557 witnesses for their testimony on this important matter.

1558 Ms. Sutter, I appreciate the work of the Broadcasting
1559 Leadership Training Program to promote diversity in the media
1560 ownership through hands-on training and mentorship.

1561 You identify a lack of access to capital as a barrier to
1562 diverse ownership, including a case in which it took program
1563 graduates as long as 3 years to secure financing to acquire radio
1564 and television broadcast stations. How should potential
1565 valuation of a FCC license for a radio or television station be
1566 taken into consideration by lenders when considering providing
1567 capital to aspiring media owners?

1568 Ms. Sutter. Thank you for your question.

1569 The issue of the broadcast license, as I have referenced
1570 before, is that it is our greatest asset but we are not allowed
1571 to collateralize it because, technically, it is something that
1572 we don't own. It is given to us for a period of time.

1573 I would suggest that working with the SBA, we, at the BLT
1574 program and the NAB, have worked with the SBA. Perhaps there
1575 are ways that we can get some greater consideration in their
1576 looking at it because broadcasters, smaller broadcasters
1577 especially, use the 7(a) SBA Program as a way to be able to do
1578 smaller deals. They lifted the limit from \$2 million to \$5
1579 million, which now makes it something that can be useful for
1580 broadcasters. And so we eventually were able to do a 7(a) loan

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1581 for the individual that I referenced in here.

1582 But I think that the SBA would be a place that we could
1583 certainly look to be an example by perhaps changing some of the
1584 requirements of how they looked at a broadcast license and that
1585 would, perhaps, assure other banks because you know the SBA
1586 licenses -- or the SBA loan is guaranteed over \$350,000 -- over
1587 \$150,000. It is guaranteed for 75 percent.

1588 So the banks that loan under the SBA Program have a 75 percent
1589 guarantee from the SBA. So that is one way that is very specific
1590 that I think we could look at a place where Congress could make
1591 a difference, where the SBA, I think, would be open to something
1592 like this, and the NAB has an ongoing relationship and
1593 conversation with them.

1594 Mr. O'Halleran. How can the FCC's Incubator Program for
1595 aspiring radio broadcasters help address common barriers to
1596 ownership, such as experience or access to capital? In your
1597 opinion, how could this Incubator Program be improved to include
1598 television, which was discussed earlier?

1599 And I would like to know a little bit more about the
1600 mentorship program and how that works.

1601 Ms. Sutter. Yes, sir.

1602 The Incubator Program, as it was designed, was a way, again,
1603 not unlike the tax certificate, to give incentives to larger
1604 companies to want to work with a new entrant, be it a woman, a
1605 person of color. That the idea is that they would, in fact, mentor

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1606 to be an incubator for someone who was interested in buying one
1607 of their properties. And they would identify a property. They
1608 would have that person work there and, in essence, act as its
1609 operator in an ownership-like position, and they would provide
1610 them with financial incentives. They would provide them with
1611 expertise and training from other people on their team and their
1612 staff. And at the end of that period, that there would be an
1613 opportunity to perhaps acquire that station. And for that, the
1614 incubator would have the opportunity to perhaps get credit toward
1615 owning a station in a market where they might not be able to do
1616 so.

1617 Mr. O'Halleran. Thank you. I just want to point out I have
1618 worked with a number of contracts that require diversity within
1619 the chosen people. And this is one of the most difficult
1620 processes I have come across, as far as being able to capitalize
1621 the process and move it forward.

1622 Thank you very much.

1623 Mr. Doyle. The gentleman's time has expired.

1624 The chair now recognizes Mrs. Brooks for 5 minutes.

1625 And Mrs. Brooks, before you start, I will say to the
1626 witnesses, when you see that red light flashing, that means you
1627 should stop speaking, too. Okay? We have had a couple times
1628 when we have gone over a minute -- except the witness from
1629 Pittsburgh. You can speak.

1630 Mrs. Brooks, you are recognized.

1631 Mrs. Brooks. Thank you, Mr. Chairman. And actually, thank
1632 you all so very much for being here.

1633 I represent Indianapolis, Indiana, Indiana's 5th
1634 Congressional District, and so I was really pleased, Ms. Sutter,
1635 that you talked about DuJuan McCoy and his role, which is I think
1636 a very exciting role, not only for Indianapolis, his new ownership
1637 of two significant television stations, but his leadership role
1638 with Circle City Broadcast for a number of years. And of course,
1639 Deon Livingston, who is our regional and general manager for --
1640 I still refer to it as Radio One -- it will always -- and they
1641 are going to have a while before we don't call it Radio One.
1642 But you know there is significant leadership in our community.

1643 And I am curious and I applaud the work of your leadership
1644 foundation. What will you do, since he was in your class, Mr.
1645 McCoy --

1646 Ms. Sutter. As was Deon. Deon is a graduate also of the
1647 BLT Program.

1648 Mrs. Brooks. So they have been in your class. How are
1649 you using the graduates of your class? So they went through your
1650 long program and it sounds like it was excellent. How are you
1651 utilizing what they have learned throughout their incredibly
1652 distinguished careers? And now the success that they are having,
1653 and the difficulties, and the barriers that it took to get there
1654 --

1655 Ms. Sutter. Yes.

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1656 Mrs. Brooks. -- how are you using their stories?

1657 And what should we, back in Indiana, and people like me,
1658 be talking about relative to their leadership?

1659 Ms. Sutter. Of the 325 graduates that we have, we have --
1660 of that, six have come back to become actual sponsors of the
1661 program. So they have given back to the program that has given
1662 to them and been paid sponsors, so that others could go through
1663 the program.

1664 And DuJuan is one of those. He was actually the first to
1665 come back as a sponsor of the program itself.

1666 In addition to that, both Deon and DuJuan have come back
1667 as faculty members for the program, as have over a dozen other
1668 members of the program who have graduated and become either
1669 owners, CEOs -- I referenced Jordan Wertlieb from Hearst
1670 Television. Jordan comes back every year to speak to the class
1671 as a BLT grad.

1672 All of the BLT grads that have been part of the program have,
1673 in many cases, to be part of it but all stay in touch with the
1674 program.

1675 We have matched, in many cases, people who are looking for
1676 stations in markets where we have BLT grads. We have put them
1677 in touch with one another. We have an app for all of our graduates
1678 that shows them where they are, how to reach them with contact
1679 information, so that we can keep that as a network, if you will,
1680 to use.

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1681 And also, DuJuan and several other of our graduates have
1682 become associate deans for the program.

1683 Mrs. Brooks. Outstanding. Thank you so much for sharing.
1684 Yes?

1685 Ms. Coley. If I could say a little bit about DuJuan. MMTC,
1686 as I have mentioned, we have a nonprofit brokerage run by David
1687 Honig and Suzanne Gougherty. And DuJuan, I guess after he
1688 graduated, he is a client and regular member and speaker at our
1689 conferences. And what the brokerage does is that it helps to
1690 get entrepreneurs into the deal flow because you know certain
1691 deals come to us and then we are able to share.

1692 I haven't met Deon yet but I would imagine that he will be
1693 a client.

1694 Ms. Sutter. They were both in the same class. That was
1695 quite a year.

1696 Mrs. Brooks. Well and I guess I would ask -- I am curious
1697 whether or not your two organizations work together.

1698 Ms. Coley. Yes.

1699 Ms. Sutter. I am on the Advisory Board for MMTC.

1700 Mrs. Brooks. Okay.

1701 Ms. Sutter. And MMTC is very much involved in coordinating
1702 efforts with what we do in the terms of the BLT Program. And
1703 there is considerable overlap in terms of point of view.

1704 Mrs. Brooks. Okay.

1705 Ms. Coley. And one of the things that, if I may, there was

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1706 a period after the tax certificate -- the brokerage was formed
1707 after the tax certificate was gotten rid of. And so one of the
1708 things that occurred in order to help some diversity to happen,
1709 the brokerage was the recipient of several station donations from
1710 Clear Channel, who is now iHeartRadio. And through that process
1711 of donating the stations to MMTC, we were able to help minority
1712 buyers to first you know serve as managers and then, ultimately,
1713 buy the station.

1714 So that is another thing. We didn't really mention that
1715 before but --

1716 Ms. Sutter. And you do want to mention to whom you sold
1717 two of those stations. Perhaps a BLT grad.

1718 Ms. Coley. Yes.

1719 Ms. Sutter. I just wanted to share that.

1720 Mrs. Brooks. Well thank you for sharing and thank you for
1721 your incredible work. And I really appreciate the incredibly
1722 important role that those stations play in the central Indiana
1723 community.

1724 I yield back.

1725 Mr. Doyle. The gentlelady yields back.

1726 The chair now recognizes Mr. Butterfield for 5 minutes.

1727 Mr. Butterfield. Thank you very much, Mr. Chairman, and
1728 let me again thank the four witnesses for your testimony today.

1729 Mr. Chairman, I have sat here patiently from the gavel.
1730 I heard every question and every conversation that has taken

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1731 place. And so I am not one to go through questions that have
1732 already been asked and most of the questions that I had prepared
1733 have already been asked of the witnesses.

1734 And so I am going to forego most of this but I will ask
1735 Professor Sandoval something very simple.

1736 How does diversity media ownership serve the public
1737 interests? I know we have made the business case for it and how
1738 it gives women and minorities an opportunity to engage in business
1739 activities and to acquire wealth but what is the public interest?

1740 Ms. Sandoval. So as I mentioned, and as the courts -- the
1741 Supreme Court has recognized as well, that media ownership
1742 diversity is important because owners have the opportunity to
1743 decide what content gets aired, which editorials get aired, which
1744 commercials get aired or rejected, and also who gets employed.

1745 So this is important. For example, I wrote a book chapter
1746 on the Native American Reservation electricity and infrastructure
1747 gap and am planning to go back to the Yurok Reservation in
1748 California, where there is a large electricity gap, in March.

1749 And for some time, I have been trying to pitch the station
1750 to -- some of our local TV stations, who eventually interviewed
1751 me about electricity issues and the PG&E bankruptcy, to come with
1752 me to the Yurok Reservation, with the cooperation of the Yurok,
1753 tell the story about this gap, this unbelievable gap where people
1754 in California do not have electricity. And it has been a really
1755 hard sell to get somebody to come and cover this story.

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1756 And so at this point, I am thinking you know I have a former
1757 graduate who went to film school. So I am going to ask him if
1758 he can come with me so that we, along with the Yurok can create
1759 this story. People need to know about this but yet, the
1760 mainstream broadcasters are not covering it.

1761 Mr. Butterfield. That is very helpful.

1762 Ms. Sandoval. And so these are stories that also, as you
1763 have issues that we talked about with a disaster, you know getting
1764 out information, another important message, that ICE is not going
1765 to do enforcement at shelters, is absolutely critical to keeping
1766 people in my community safe during fires, and ensuring that they
1767 are not in a danger zone, and that they are not putting first
1768 responders in danger.

1769 Having broadcasters who are willing to air that story and
1770 understand the importance of airing that story is the difference
1771 that also media ownership diversity makes for everyone.

1772 Mr. Butterfield. Okay. I needed to get that into the
1773 record.

1774 I am going to yield the balance of my time to Ms. Clarke
1775 of New York.

1776 Ms. Clarke. I thank my colleague and I thank our panel for
1777 your expert witness today.

1778 I want to drill down on EEO enforcement. Mr. Odom, given
1779 the goals to reestablish Form 395 EEO data collection, is there
1780 any reason why the FCC could not issue an order to restart the

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1781 collection of this data from the record before it in this
1782 proceeding?

1783 And Ms. Sandoval, what are your thoughts regarding the lack
1784 of data on the diversity of media ownership?

1785 Mr. Odom. Thank you for your question. It is a very simple
1786 answer: Nothing is stopping the FCC. In fairness to Chairman
1787 Pai, he has articulated a general concern about the constitutional
1788 implications of enacting the program or beginning to collect the
1789 data again.

1790 The National Urban League, along with our partners at MMTC,
1791 and a number of other civil rights organizations have said there
1792 is really no constitutional or legal impediment to doing so and,
1793 although we respect the cautious litigation stance of the FCC,
1794 we believe the FCC has a very strong legal case to enact those
1795 record collection requirements immediately.

1796 Ms. Coley. And if I may just add, the MMTC has also --
1797 Ms. Clarke. Your mike.

1798 Ms. Coley. MMTC has also advised the FCC that that -- in
1799 order to have the data, to have the most conservative point, you
1800 could have the data anonymized and that would further insulate
1801 it, if there are concerns on the Commission. And we are trying
1802 to work with the Commission to use that approach as well.

1803 Ms. Sandoval. Thank you very much for your question.

1804 EEO data was collected for decades by the FCC and, in fact,
1805 there are was also EEO enforcement that was very active. And

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1806 so what your bill would call for is just starting up the data
1807 collection again, which actually the FCC is already mandated to
1808 do by Congress. This is already a statutory mandate, which the
1809 FCC does not have the discretion to ignore.

1810 And creating this data is also important because
1811 broadcasting is an industry that is infused with the public
1812 interest. They hold their licenses as trustees for the public
1813 interest. So as a matter of transparency, corporate governance,
1814 as well as research and understanding by policymakers, this data
1815 is absolutely critical, absolutely collectable, and should be
1816 released.

1817 Mr. Doyle. Thank you. And you will be next afterwards if
1818 you want to -- you will have another 5 minutes, if you want it,
1819 after Mr. Flores, who is now recognized for 5 minutes.

1820 Mr. Flores. Thank you, Mr. Chairman. I want to thank the
1821 panel for being here today and thank you for the tangible and
1822 meaningful work that you have done to improve diversity in the
1823 media space.

1824 I want to talk about the Broadcast Leadership Program or
1825 the BLT Program that the NAB has helped sponsor in terms of being
1826 an initiative. It has brought real impact, and diversity, and
1827 inclusion in the broadcast industry and I am pleased to note that
1828 Gray TV, a broadcasting company with a strong presence in central
1829 Texas, is an active partner in this program. And I have had the
1830 pleasure of working with Gray TV stations countless times during

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1831 my tenure in Congress. They produce quality local program and
1832 their broadcast company spends an incredible amount of time giving
1833 back to the community, not only their time, in resources and
1834 valuable air time.

1835 Mister -- Ms. Sutter -- excuse me -- the BLT Program focuses
1836 on promoting the fundamentals of purchasing, owning, and running
1837 a successful operation of broadcast stations. How has the
1838 competition from tech platforms impacted Wall Street's
1839 willingness to provide capital to broadcast stations for
1840 investment and diverse programming sources?

1841 Ms. Sutter. Well, certainly one of the challenges that we
1842 have is that the competition in the media space has grown
1843 exponentially. And so I think the challenge for all of us is
1844 to be able to recognize what makes us different and what makes
1845 us unlike those other organizations that are national; and that
1846 is, that we have the ability to be local and represent our
1847 communities. And because of that, that is the unique difference
1848 that we try to convey when we speak with financial institutions
1849 and help them understand that we play a different and more central
1850 role in the communities that we serve. And that is why we try
1851 to go to local banks for financing. The challenge we run into
1852 is the one I have addressed previously in our conversations --

1853 Mr. Flores. Exactly.

1854 Ms. Sutter. -- is the lack of collateral.

1855 But again, with the SBA, we have been able to make that happen

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1856 in some cases with a guaranteed loan from the SBA.

1857 Mr. Flores. Okay, thank you.

1858 Mr. Odom, I was glad to read in your testimony that the
1859 National Urban League is working closely with communication
1860 companies like Comcast/NBC, Charter, and T-Mobile to develop and
1861 promote diversity inclusion plans. This is especially important
1862 as we see a growing trend of entertainment consumption in the
1863 media marketplace growing outside the traditional broadcast model
1864 and into over-the-top services, such as YouTube, et cetera.

1865 How can we expand the initiatives to the
1866 over-the-top-providing programmers to help improve diversity in
1867 that area?

1868 Mr. Odom. Thank you for your question and it is an excellent
1869 question, one that we have given a lot of thought to.

1870 As we said earlier, there are some of us on the panel who
1871 are members of the FCC's Diversity Committee. And one of the
1872 things that we have undertaken recently is a study of the diversity
1873 practices of older, more established media companies and telecom
1874 companies versus those of younger companies. One of the
1875 conclusions that we have been able to draw from that study, from
1876 that research, and this is from sitting down with some of the
1877 tech companies and trying to understand their practices, is that
1878 younger companies may not have the same ethos for diversity as
1879 older companies that have had the time to work through these
1880 issues, understand the importance of deepening the ties with the

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1881 community, with having a diverse workforce that yields a
1882 discernable difference in their outcome.

1883 So we think that this is something that may -- it will,
1884 hopefully, improve over time but it improves with the leadership
1885 of these companies. And the companies, themselves, and the CEOs
1886 of all of those companies have to eventually do what other
1887 companies have done and say this is important. We will tie, in
1888 some cases, our compensation to executives to their meeting their
1889 goals. We will set goals for ourselves to do more business with
1890 women, and people of color, and businesses owned by those
1891 individuals.

1892 But it is a matter of leadership and when leadership decides
1893 it is going to take it seriously, it can be done. These are the
1894 same folks that are finding cures for cancer, that are finding
1895 ways to change our lives in innumerable ways. I don't believe
1896 that this is going to be that difficult a task if the leaders
1897 of these organizations decide it is.

1898 Mr. Flores. Okay. I only have a few seconds left. And,
1899 in that regard, from a policy perspective, if we are looking at
1900 legislation to deal with the diversity issue, try to improve
1901 diversity, should we consider the new media space as part of that
1902 legislation?

1903 Mr. Odom. We have not given any thought to this but I will
1904 tell you, as someone who has been around this industry for 30
1905 years, whatever happens in the license area, eventually happens

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1906 in the unlicensed area, either through these companies merging
1907 or through -- think about political advertising. There is now
1908 a call to regulate political advertising for companies that have
1909 not been regulated by this government. It is a show that is coming
1910 to them and I think, at some point, Congress will and has looked
1911 at these issues.

1912 Mr. Flores. Okay, thank you.

1913 Mr. Doyle. The gentleman's time has expired.

1914 Mr. Flores. Thank you. I yield back.

1915 Mr. Doyle. Ms. Clarke, you are now recognized for 5 minutes.

1916 Ms. Clarke. I thank you, Mr. Chairman, and I thank our
1917 panelists once again.

1918 I wanted to drill down on the issue of diversity and localism.
1919 This question is directed to Ms. Coley. Today, there are markets
1920 where the same entity controls two, three, or sometimes four local
1921 radio broadcasting stations or network feeds.

1922 Ms. Coley, do you think that is good for diversity and
1923 localism? And does this threaten a community with a lack of
1924 diverse voices in a local market?

1925 Ms. Coley. Thank you for your question.

1926 And absolutely, I think that is one of the key issues that
1927 surrounds all of what we are talking about today, the whole issue
1928 with the tax certificate and then the fact that the tax certificate
1929 breeds ownership. If there is a concentration of ownership, then
1930 it limits the number of opportunities that are available for

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1931 diverse entrepreneurs to get into that space and diversify voices.

1932 And then the other thing is that the -- in the broadcaster
1933 in particular, there is not a lot available and so it makes it
1934 even more hard for new entrants to get into that space.

1935 So yes, I think there is a correlation.

1936 Ms. Clarke. Yes, we are dealing with that in New York City,
1937 as a matter of fact.

1938 Having said that, I would like to yield the balance of my
1939 time to the gentleman from Illinois.

1940 Mr. Doyle. Ms. Clarke, Mr. Rush is waiving on the committee
1941 and by rules --

1942 Ms. Clarke. Oh, okay.

1943 Mr. Doyle. -- cannot speak to everyone on the committee.

1944 Ms. Clarke. Very well. I yield back the balance of my time,
1945 Mr. Chairman.

1946 Mr. Doyle. The gentlelady yields back.

1947 Mr. Johnson, you are recognized for 5 minutes.

1948 Mr. Johnson. Thank you, Mr. Chairman.

1949 Ms. Sutter, I have got a lot of broadcasters in my districts.

1950 It is a very rural district and so local broadcasters are near
1951 and dear to my heart because, in rural America, they are the main
1952 source of information to people that don't have access to
1953 broadband. So they don't have the online access to news and
1954 information.

1955 So in your opinion, how do you compare the regulatory burdens

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1956 imposed on broadcasters with other providers of local news and
1957 content, like print and online?

1958 Ms. Sutter. Well if I am not mistaken, they don't have any.
1959 So that regulation doesn't exist for others.

1960 I think broadcasters want to be able to do the best that
1961 they can to provide the information for their local communities.

1962 And so being able to do that is where the resources ought to
1963 be placed, toward providing the best programming, doing the things
1964 that we can to make sure that the community is well-served,
1965 well-informed, and has access to information, entertainment, and
1966 news that is important to them.

1967 So the hope and goal is that we won't make it so that the
1968 smaller broadcasters, especially, many of whom are graduates of
1969 the BLT Program in these small markets, are able to put their
1970 resources toward the place that can benefit their community.

1971 So I would simply -- and I think that is one of the things
1972 the FCC has attempted to do, is to try to reduce some of the things
1973 that they perceive are not essential, in terms of regulation,
1974 that take away resources way from core of what it is we do, which
1975 is serve our communities. So that is important.

1976 Mr. Johnson. Great. Okay.

1977 Well, you know much of the debate surrounding diversity
1978 centers on past and current ownership statistics but we need to
1979 be more forward-thinking. Local radio and television
1980 broadcasters are striving to integrate online and app-based

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1981 technologies to improve their outreach to their communities.

1982 What type of programs do the broadcasting industry conduct
1983 to grow and promote new entrants and leaders seeking to innovate
1984 in broadcasting?

1985 Ms. Sutter. Broadcasters understand that their content is
1986 what makes them unique and special. And looking for as many
1987 places to deploy that content is what creates the innovation,
1988 I think, that we have seen in our industry.

1989 The question about over-the-top, OTT, many broadcasters are
1990 looking to get their content distributed OTT as well. So for
1991 broadcasters, it is about, once we have created the content, how
1992 do we find as many different screens, as many different
1993 opportunities? I think we are utilizing our digital channels
1994 in television, as well as in radio, to try and find more ways
1995 to provide additional information and our content to get it to
1996 people as they want it.

1997 Mr. Johnson. Great.

1998 Mr. Chairman, I don't want to get yelled at. So, I am going
1999 to yield back.

2000 Mr. Doyle. I thank the gentleman for that.

2001 The chair recognizes Mr. Cardenas for 5 minutes.

2002 Mr. Cardenas. Thank you very much, Mr. Chairman, and
2003 Ranking Member. I appreciate the opportunity for us to discuss
2004 this very important issue that, if we get it right and we make
2005 the progress that almost everybody here agrees that we should

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2006 be making, it is really, really good for business, and it is
2007 amazingly good for democracy, and it is important to make sure
2008 that inclusion is done in a way that is not about affirmative
2009 action. It is not about affirmative action with me. It is just
2010 about good action. It is just about doing what is right across
2011 the spectrum, to make sure that inclusion is felt in the hearts
2012 and the minds of everybody in this country, to make sure that
2013 we are taking advantage of all of the amazing talent that comes
2014 in women, in men, in people of color, and even white men.
2015 Everybody deserves to be included because of their talent and
2016 because of what they can contribute.

2017 I want to thank my colleagues for coming together to have
2018 this thoughtful discussion today on the need for improving our
2019 diversity in media ownership. And more and more of our
2020 constituents are seeing the benefits of seeing diverse voices
2021 and perspectives in our programming which, in turn, reflects the
2022 diversity of our great country and embodies the First Amendment
2023 values of our democracy.

2024 And I welcome this discussion, not only today but in the
2025 future as well, at every level, both in Congress, on the streets
2026 of America, and certainly when it comes to our regulators.

2027 I also want to give a shout out to my colleague, Katherine
2028 Clark, and my colleague, Judy Chu. We have been chairing a caucus
2029 that focuses on diversity in media. And it is really important
2030 that we increase this awareness at every level.

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2031 Ms. Coley, in your written testimony, you mentioned that
2032 some media companies have developed diversity and inclusion plans
2033 that represent commitments by these individual companies to
2034 improve the racial diversity in the Boards of Directors, in the
2035 c-suites, among staff, procurement, and community investment.

2036 Can you discuss what some of those plans and commitments look
2037 like?

2038 Ms. Coley. Yes, thank you for your question.

2039 Mr. Odom mentioned a couple of those, the National Urban
2040 League, MMTC have worked with NAACP, National Action Network in
2041 helping companies to come up with commitments. We call them the
2042 Diversity MOUs. And then the commitments on Comcast/NBC
2043 Universal. T-Mobile recently entered into one. Charter
2044 Communications entered into one. And they are very comprehensive
2045 voluntary commitments to address diversity at the employment
2046 level, at the c-suite and Board diversity level, and also in
2047 procurement, and also in community outreach activities.

2048 And what we have learned is in Comcast's case, for instance,
2049 they entered into an MOU to launch a number of diverse programming
2050 networks. And a lot of times what you learn is that we are living
2051 in America in 2021 and a lot of these networks are very good
2052 business. And so what you find is that some companies actually
2053 exceed some of the requirements under the MOU because they see
2054 that this is actually really a good --

2055 Mr. Cardenas. Are those companies who are succeeding, are

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2056 they going bankrupt? Are they suffering from these efforts or
2057 are they doing well?

2058 Ms. Coley. Yes, right. Comcast hardly -- no, I think they
2059 are doing very good. And it creates an environment in which we
2060 are working with the companies. They are doing something that
2061 benefits them. It benefits us and the community, as well. And
2062 it helps America look like you know America. And I think that
2063 we are going to continue to do those kind of things on a voluntary
2064 basis.

2065 On the data collection, we have worked with NAMIC, the
2066 National Association of Multi-Ethnicity in Communications, and
2067 Women in Cable and Telecommunications. They commissioned and
2068 produced an amazing study with Mercer. And they actually have
2069 been voluntarily collecting this data, employment data, for the
2070 past 10 years and they set benchmarks.

2071 And then I was at their conference this past September and
2072 they had a huge celebration of how they exceeded the benchmarks
2073 they set.

2074 Mr. Cardenas. Thank you. In the interest of time, I just
2075 wanted to thank Ms. Sandoval, who is a former CPUC commissioner,
2076 one of the few, if not the only -- first Latina commissioner I
2077 think in the history of California to be on the Public Utilities
2078 Commission.

2079 And it is really important that we get a perspective across
2080 the board. And I want to thank all of you for your continued

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2081 work and all the efforts that you are putting forth to drive not
2082 only this issue, but for many good issues across America. So
2083 thank you very much.

2084 I yield back.

2085 Mr. Doyle. The gentleman yields back.

2086 Seeing no committee members present, it now gives me great
2087 pleasure to welcome my good friend, Bobby Rush, who chairs our
2088 Energy Subcommittee, who is waiving on the committee today. And
2089 Bobby, you are recognized for 5 minutes.

2090 Mr. Rush. I want to thank you, Mr. Chairman and it is a
2091 delight to me, once again, on this very key committee on Congress.

2092 Serving most of my time as a Member in Congress as a member
2093 on this subcommittee, for years, and years, and years, I have
2094 been consistently on this subcommittee. And I think this is the
2095 first time -- first term, rather, that I have not been on this
2096 subcommittee. But that said, I want to thank you for holding
2097 this important hearing.

2098 As I look into the parties I see, faces that I have seen
2099 over the years of people who have been concerned about the issue
2100 of minority participation in media, and the various two-minority
2101 participation in many years, for many, many years that I, on the
2102 one hand, well, I am very appreciative of you holding this hearing,
2103 but I am also disappointed that we are having these kind of
2104 hearings that we have had many, many, many times before.

2105 And it is kind of disheartening that we still are having

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2106 some of the same arguments, taking some of the same positions
2107 that we have taken for decades now.

2108 Mr. Chairman, I was a part of this committee when the Tax
2109 Certificate Program ended back in 1995. And I agree that it was
2110 one of the most successful economic development opportunities
2111 that existed for minorities, particularly for African Americans,
2112 in decades, if not centuries, and granted broadcasters to finally
2113 grant minorities a voice, a recognized voice in their communities,
2114 and touch our nation as a whole, and it increased minority access
2115 to capital in the broadcasting industry.

2116 Mr. Chairman, I just have to say for the record that back
2117 in 1994 that there were 64 black-owned banks that could loan money,
2118 that could provide capital, to minorities and today, there were
2119 21 black-owned banks. So we are headed in the wrong direction.
2120 We are headed in a downward spiral.

2121 Mr. Chairman, I read somewhere recently that the net worth
2122 of white Americans in this nation is somewhere around \$137,000;
2123 the net worth of African Americans is \$11,000 -- headed in the
2124 wrong direction.

2125 Mr. Chairman, back in 2003, I introduced the
2126 Telecommunications Ownership and Diversification Act, which was
2127 aimed to reinstate the Tax Certificate Program. And we weren't
2128 successful -- changing administrations and what have you, we
2129 weren't successful.

2130 The situation is even more desperate than it was and

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2131 different than it was in 1995, when the Tax Certificate Program
2132 ended.

2133 We heard a lot of discussion today about the problem with
2134 diversity as it relates to broadcasters. And it is a problem
2135 but I believe that the problem is even greater than just this
2136 one problem. The problem that we are confronted with is pervasive
2137 throughout the media and the telecommunications industry,
2138 particularly. And to address this much greater problem is why
2139 I am working on legislation that would address the lack of
2140 diversity in a more robust, effective, and comprehensive way.

2141 My time is up, Mr. Chairman, and I don't have an opportunity
2142 to ask questions of the witnesses but this is a problem --

2143 Mr. Doyle. That is because you talked for 5 and a half
2144 minutes.

2145 Mr. Rush. I know, Mr. Chairman, but this is a problem that
2146 is serious to my soul.

2147 Mr. Doyle. I understand.

2148 Mr. Rush. A very serious problem. And thank you for
2149 allowing me to be a part of this subcommittee.

2150 I yield back the balance of my time.

2151 Mr. Doyle. The gentleman yields back and I thank him for
2152 being on the committee today. He is always welcome here.

2153 I want to request unanimous consent to enter the following
2154 documents into the record: a letter from the Leadership
2155 Conference on Civil and Human rights; a letter from the LPTV

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2156 Spectrum Rights Coalition; a letter from the National Hispanic
2157 Media Coalition; a letter from Public Knowledge; a 2019 National
2158 Association for Multi-Ethnicity in Communications and Women in
2159 Cable Telecommunications Diversity Survey; a statement in support
2160 of Expanding Broadcast Opportunities Act; a September 2019 letter
2161 from MMTC to the FCC; a December 2019 letter from MMTC to the
2162 FCC; a September 2019 comments filed with the FCC; November 2019
2163 comments filed with the FCC; and NTIA-MTDP Minority Broadcast
2164 Ownership report; a journal article by David Honig; and written
2165 remarks of Chairman Pai at MMTC's 9th Annual Broadband and Social
2166 Justice Summit.

2167 Without objection, it is so ordered.

2168 [The information follows:]

2169

2170 *****COMMITTEE INSERT 10*****

2171 Mr. Doyle. I want to thank the witnesses for participating
2172 in today's hearing. We appreciated your testimony and your
2173 answering the many questions that were put in front of you.

2174 I would remind members that, pursuant to committee rules,
2175 they have 10 business day to submit additional questions for the
2176 record to be answered by the witnesses who have appeared. And
2177 I would ask that each witness who has appeared respond promptly
2178 to any such questions that you may receive.

2179 At this time, the committee is adjourned.

2180 [Whereupon, at 12:33 p.m., the subcommittee was adjourned.]