

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Promoting Diversification of Ownership In the Broadcasting Services)	MB Docket Nos. 07-294; 06-121; 02-277; 04-228
)	
)	MM Docket Nos. 01-235; 01-317; 00-244; FCC 09-33
To: The Commission)	

COMMENTS OF NATIVE PUBLIC MEDIA

Native Public Media ("NPM") respectfully submits these comments in response to the Report and Order and Fourth Further Notice of Proposed Rulemaking ("NPRM") regarding Diversification of Ownership in the Broadcasting Services released on May 5, 2009 by the Federal Communications Commission ("FCC" or "Commission"). As an association of radio stations committed to providing local and diverse broadcasting, and in particular to enhancing the voice of Native America, NPM fully supports the implementation of a more detailed method of gathering data on Tribal and minority-owned broadcast companies.

I. BACKGROUND

As an organization that is dedicated to community broadcasting, NPM represents the interests of thirty-three Native owned public radio stations that serve Native nations as well as non-native listeners throughout the United States.¹ Since its launch in 2004, NPM's principal focus has been on supporting existing Native American public radio stations and promoting ownership for more Native communities by serving as an advocate, national coordinator, and

¹ NPM, formerly known as the "Center for Native American Public Radio," was created as a center under the National Federation of Community Broadcasters with seed funding from the Corporation for Public Broadcasting. A list of the NPM member stations can be found at http://www.nativepublicmedia.org/index.php?option=com_content&task=view&id=26&Itemid=48.

resource center. Strengthening and expanding the voice of Native America is NPM's primary goal.

There are 2.5 million Native Americans in the United States and 562 Native Nations, all inherently sovereign with their own political and Tribal structures. However, the disadvantaged situation of many Native nations hinders their ability to gain ownership and maintain robust broadcasting stations. First, there is little funding available for the initiation and development of Native radio on many reservations. Second, Native stations are limited in their capacity to produce quality programming due to shoestring budgets, distances radio personnel and staff must travel to get to the station, and the absence of broadcast training opportunities in Tribal communities. Third, Native stations in rural areas must transmit under less than ideal circumstances. Lack of dependable electricity, uneven terrain, and the large area that must be covered in order to broadcast to even a small community create serious complications. While bringing robust communications technology to Native American lands has been a constant struggle,² efforts by the United States government to better recognize the needs of Tribal governments and their people in creating more opportunities for Native broadcasting is appreciated.

NPM believes that a healthy Native or local viewpoint expressed by strong, independent Native American or community broadcasting services will enhance democracy by heightening national awareness of Native culture and promoting a more diverse marketplace of ideas. NPM applauds the Commission for taking further steps to address minority and female ownership in radio and in addressing the significant gaps in reliable data on the precise status of minority and

² The first Tribal radio stations only began operating in the 1970s. *See Native Public Media Brings Native American Voices to Washington Policymakers*, Media Minutes (May 30, 2008).

female ownership. Requiring accurate reporting of gender and racial or ethnic information on a modified version of FCC Form 323-E is an efficient and practical way to obtain the necessary information. Further, broadening the scope of stations that must report and standardizing the dates of reporting to a consistent time frame will enable collection of timely, accurate, accessible, and usable data.

II. COMMENTS REGARDING HOW TO DEFINE "MINORITY OWNERSHIP"

Currently, Ownership Report Form 323-E does not ask respondents to provide information about the gender, race, or ethnicity of their company's ownership. NPM supports the Commission's tentative conclusion that "obtaining gender, race, and ethnicity information would further our goal to design policies to advance diversity in the broadcast industry."³ NPM agrees fully with the Commission's belief that "data from the entire universe of NCE stations are necessary to provide a comprehensive picture of broadcast ownership, including ownership by women and minorities in the broadcast industry."⁴

In response to the Commission's request for comment on to define minority ownership in the NCE context, NPM urges the Commission to include a separate designation for Tribal entities. For the purpose of collecting accurate data of media ownership, NPM supports the addition of a data collection box on revised Form 323-E that specifically recognizes Tribal governments of federally recognized Tribes and Native-controlled entities (e.g., non-profits and schools) as a separate designation. This would allow a respondent to not only indicate an ownership interest in his or her company, but to further specify whether the respondent falls under the additional classification of a Tribal entity.

³ Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 09-33, MB Docket No. 07-294, ¶ 27 (rel. May 5, 2009) ("Report and Order").

⁴ Report and Order, at ¶ 27.

The government has already recognized the unique relationship it shares with American Indian Tribes, which are legally defined entities in the United States. The FCC has acknowledged this relationship in FCC-00-207 and has pledged, “The Commission will endeavor to work with Indian Tribes on a government-to-government basis consistent with the principles of Tribal self-governance to ensure, through its regulations and policy initiatives, and consistent with Section 1 of the Communications Act of 1934, that Indian Tribes have adequate access to communications services.”⁵ NPM believes that the Commission's efforts to gather more detailed information about the presence of Tribal entities in broadcast company ownership roles will promote the Commission's stated goal of ensuring that Indian Tribes have adequate access to communication services.

In seeking to define minority ownership, it is important to look at the reasons why diversity in ownership is so critical to broadcasting in the United States. As the demographics of the United States change to reflect a more diverse population, so too do audiences. Ownership and station programming must respond to these changes in order to keep their listeners from seeking out more representative broadcasting sources. As a group of media organizations representing communities underserved by public broadcasting recently noted, “Caught up in a cyclical struggle for survival, our public media institutions have not kept pace with these changes. If we don’t address the diversity gap in our system, we risk failure or irrelevance.”⁶ In fact, growing NCE ownership and inclusion is part of the mission of our national public service media, which seeks to promote diversity in ownership in order to “sustain investments in operations and programming of stations owned and controlled by people of color, increase their

⁵ FCC 00-207 *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, at 4.

⁶ *Open Letter: To Our Public Media Colleagues*.

number, and strengthen their programming performance.”⁷ Further, a “long-standing theme in public radio’s collective work to shape a diverse service has been a commitment to diversity in station ownership and control.”⁸

NPM believes that encouraging more diversity in ownership is a necessary step to ensuring that this country's increasingly diverse population is well represented by broadcasters. It is particularly important to encourage a diversity of ownership that reflects the presence of Tribal entities, which statistics demonstrate are vastly underrepresented with respect to ownership of radio broadcasting companies. In fact, only 0.30 percent of full-power commercial radio stations are owned by Native Americans,⁹ whereas Native Americans make up closer to two percent of the entire United States population.¹⁰

The heavy reliance Native nations place on these radio stations also cannot be ignored. Native stations broadcast local content and are lifelines for Tribal members by transmitting public safety announcements, disseminating vital health information, covering Tribal council meetings, and sustaining native culture among a widely dispersed population.¹¹ Further, Native stations connect listeners to Native experts discussing issues rarely covered by mainstream media through national programming such as *Native America Calling*.¹² These stations also help Native nations in their efforts to police and secure their remote reservation homelands. For

⁷ *Grow the Audience: Public Radio in the New Network*. DRAFT Audience Task Force Report (2009), at 18, <http://www.srg.org/GTA/PublicRadiointheNewNetworkAge-DRAFT.pdf>.

⁸ *Id.*

⁹ *Off The Dial: Female and Minority Radio Station Ownership in the United States*, at 16.

¹⁰ More comprehensive data can be found in the United States Census Bureau's *American Indian and Alaska Native Population: 2000* Brief, at: <http://www.census.gov/prod/2002pubs/c2kbr01-15.pdf>.

¹¹ National Congress of American Indians Resolution #SAC-60-093C.

¹² *Native America Calling* is a live call-in program linking public radio stations, the Internet, and listeners together in a thought-provoking conversation about issues specific to Native American communities. More information can be found at: <http://www.nativeamericacalling.com/>.

example, NPM's member stations are part of the Emergency Alert System, and thus are vital conduits through which important news and information about natural disasters and other emergencies are disseminated to Tribal residents. In many situations, the difference between life and death may turn on the availability of public safety alerts broadcast by local radio stations that are keenly aware of the unique challenges their listeners face.¹³ In some communities without a local 911 service, Native stations play a pronounced role as essential public safety communication institutions.

III. COMMENTS ON HOW TO COLLECT MINORITY OWNERSHIP INFORMATION

NPM urges the Commission to be mindful that modifications to Form 323-E and the specific filing requirements that it chooses to impose on broadcast companies may create unintended reporting burdens on many Native Stations. Native station personnel are already tasked with preparing a variety of administrative reports required by the FCC. Unlike larger stations with sizable staffs, many Native stations operate on limited budgets with very few personnel. Additional reporting requirements might divert a substantial amount of manpower at smaller stations away from performing critical operational functions.¹⁴ In addition, Native stations are frequently located in remote areas that lack reliable broadband internet connectivity. If the Commission requires respondents to submit Form 323-E and others like it over the Internet, Native stations that have little or no Internet connectivity may find this method of submission particularly burdensome. NPM asks the Commission to be mindful of these challenges when deciding upon the method by which revised Form 323-E is submitted. Despite

¹³ The Tonhoh O'Odahm Nation, for example, located on the Arizona-Mexico border, relies on KOHN to keep citizens informed of the latest national threat levels and local and federal homeland security activities.

¹⁴ Comments of Native Public Media and the National Federation of Community Broadcasters filed with the Federal Communications Commission in the matter of *Promoting Diversity of Ownership in the Broadcasting Services*, MB Docket Nos. 07-294; 06-121; 02-277; 04-228 and MM Docket Nos. 01-235; 01-317;00-244; FCC 07-217.

these logistical obstacles, however, NPM remains supportive of modifying Form 323-E to provide much needed data regarding Native American ownership of broadcast stations.

IV. SUPPORT FOR NATIONAL FEDERATION OF COMMUNITY BROADCASTERS COMMENTS

NPM also supports the comments filed in this proceeding by the National Federation of Community Broadcasters ("NFCB"). Specifically, NPM supports NFCB's conclusion that requiring noncommercial licensees to report on the gender and race of the members of their board of directors or comparable governing body, as the legally accountable representatives of the company, would be a valuable and minimally burdensome method of ascertaining female and minority control. However, the Commission should be mindful that changes in boards of directors do not reflect a transfer of control and should not trigger a new filing requirement. NPM further agrees that the Commission should adopt mechanisms to assist licensees so that data entry is straightforward and accurate. This can be done by simplifying the user accounts and ensuring that Forms 323-E, 318, and 340 are both consistent with each other and consistent with the character of non-profit entities. Finally, NPM supports NFCB's proposal that the Commission take the small operating budgets of noncommercial broadcasters into account and reduce the amount of fees and fines these companies must pay accordingly.

V. CONCLUSION

NPM encourages the Commission to add a specific designation on FCC Form 323-E for respondents to indicate whether their company's ownership represents a Tribal entity. NPM believes that this would improve the collection of more accurate and detailed information about the representation of minorities, and particularly of Native Americans, in broadcast ownership roles in the United States. While NPM does caution the Commission to be mindful of the increased burdens that heavier reporting requirements may place on Native stations, it is NPM's

belief that the Commission can gather this information in a way that takes into account the unique concerns these stations face.

Respectfully submitted,

NATIVE PUBLIC MEDIA

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