



Testimony of

**S. Derek Turner**  
**Research Director**  
**Free Press**

on behalf of

**Free Press**  
**Consumers Union**  
**Consumer Federation of America**

before the

**United States Senate**  
**Committee on Commerce, Science and Transportation**

Regarding

**The Future of Radio**

**October 24, 2007**

**Free Press**  
**Massachusetts Office**  
**100 Main St.**  
**Northampton, MA 01061**  
**(413) 585-1533**

**Free Press**  
**Washington Office**  
**501 3<sup>rd</sup> St, NW, Suite 875**  
**Washington, DC 20001**  
**(202) 265-1490**

## SUMMARY

Free Press<sup>1</sup>, Consumers Union<sup>2</sup>, and Consumer Federation of America<sup>3</sup> appreciate the opportunity to testify on the important communications policy issues surrounding the future of radio. As consumer advocates, we strongly support policies that will fulfill the goals of the Communications Act “to make available... to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex”<sup>4</sup> a media that favors a “diversity of media voices”<sup>5</sup>, characterized by “vigorous economic competition, technological advancement”<sup>6</sup>, and one that serves “the public interest, convenience, and necessity.”<sup>7</sup> Ensuring a vibrant future for radio, as well as all other communications media, is vital to maintaining our economic and social well being in addition to our vigorous political discourse. Our democracy thrives on the dissemination of the widest possible sources of information, and radio remains one of the most important conduits for the propagation of local, national and international news, culture, entertainment and information.

The United States is a diverse melting pot of people and cultures. In such an environment it is not unreasonable to expect that the privilege of access to the scarce radio broadcast airwaves be distributed in a manner that reflects our racial, ethnic and gender diversity. Unfortunately, this is not the case. Women and people of color comprise 67 percent of our population, but own just 13 percent of our nation’s radio stations. And though the Communications Act explicitly directs the Federal Communications Commission to disseminate “licenses among a wide variety of applicants, including... businesses owned by members of minority groups and women”<sup>8</sup>, **our research reveals that the FCC lacks even the most basic understanding of the current state of female and minority ownership**, and therefore has no basis to assess the impacts of its broadcast regulatory policies on these underrepresented owners.

Our study, *Off The Dial* (attached to this testimony as an appendix), is to date the only comprehensive assessment of the state of female and minority radio ownership and the impacts of FCC regulatory policy. Using the Commission’s own data, we have done the work that the FCC has neglected to do.

The results of this study indicate a perilous state of under-representation of women and minorities in the ownership of broadcast media, where two-thirds of the U.S. population has very few stations representing their communities or serving their needs. The results also point to massive consolidation and market concentration as one of the key structural factors keeping women and minorities from accessing the public airwaves.

We hope that this study reminds policymakers at the FCC and in Congress that ownership rules that mitigate media market concentration and consolidation exist for a reason: to increase diversity and localism in ownership, which in turn produces more diverse speech, more choice for listeners, and more owners who are responsive to their local communities and serve the public interest.

---

<sup>1</sup> Free Press is a national, nonpartisan organization with over 350,000 members working to increase informed public participation in media and communications policy debates.

<sup>2</sup> Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the state of New York to provide consumers with information, education and counsel about good, services, health and personal finance, and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of Consumer Reports, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, Consumer Reports with more than 5 million paid circulation, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

<sup>3</sup> The Consumer Federation of America is the nation’s largest consumer advocacy group, composed of over 280 state and local affiliates representing consumer, senior, citizen, low-income, labor, farm, public power and cooperative organizations, with more than 50 million individual members.

<sup>4</sup> The Communications Act of 1934 (As Amended in 1996), Title I, Section 1.

<sup>5</sup> The Communications Act of 1934 (As Amended in 1996), Title II, Section 257

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> The Communications Act of 1934 (As Amended in 1996), Title II, Section 309(j).

## The Dismal State of Female and Minority Ownership

We analyzed tens of thousands of pages of official FCC documents to determine the racial and gender status of the owner of every single full-power licensed commercial radio station broadcasting in the 50 U.S. states and the District of Columbia -- over 10,500 stations in total. The results from this effort are stark:

- Women own just 6 percent of all full-power commercial broadcast radio stations, even though they comprise 51 percent of the U.S. population.
- Racial or ethnic minorities own just 7.7 percent of all full-power commercial broadcast radio stations, though they account for 34 percent of the U.S. population.

Our previous television study, *Out of the Picture*<sup>9</sup>, found that female and minority ownership of broadcast television stations was similarly anemic. Women own 5 percent of broadcast TV stations, while people of color own just 3.3 percent of stations.

These groups' level of radio station ownership is only slightly higher, despite the fact that the cost of operating a radio station is dramatically lower than a TV station. Moreover, radio station ownership is very low compared to the levels seen in other commercial industry sectors:

- According to the most recent figures available, women own 28 percent of all non-farm businesses.
- Racial and ethnic minorities owned 18 percent of all non-farm businesses, according to the most recent data.
- We found that Women own 10.4 percent of all unique broadcast businesses (controlling 6 percent of all stations) while minorities own 10.4 percent of all unique broadcast businesses (controlling 7.7 percent of all stations).
- In sectors such as transportation and health care, people of color own businesses at levels near their proportion of the general population. But in the commercial radio broadcast sector the level of minority station ownership is over four times below their proportion of the general population. That's lower than every sector of the economy tracked by the Census Bureau except for mining and enterprise management.

Not only do women and people of color own few stations, but commercial stations have very few women and minorities at the top — in the positions of CEO, president or general manager.

- Just 4.7 percent of all full-power commercial broadcast radio stations are owned by an entity with a female CEO or president.
  - Only 1 percent of the stations not owned by women are controlled by an entity with a female CEO or president.
- Just 8 percent of all full-power commercial broadcast radio stations are owned by an entity with a CEO or president who is a racial or ethnic minority.
  - Less than 1 percent of stations not owned by people of color are controlled by an entity with a minority CEO or president.

However, minority-owned stations are significantly more likely to be run by a female CEO or president than non-minority-owned stations, and female-owned stations are significantly more likely to be run by a minority

---

<sup>9</sup> S. Derek Turner and Mark N. Cooper, *Out of the Picture: Minority and Female TV Station Ownership in the United States*, Free Press, October 2006.

CEO or president than non-female-owned stations. And both female-owned and minority-owned stations are significantly more likely to employ a woman as general manager.

### Female and Minority Owners Control Fewer Stations per Owner

Female and minority owners are more likely to own fewer stations per owner than their white male and corporate counterparts. They are also more likely to own just a single station.

- Of all the unique minority owners, 67.8 percent own just a single station. However, only 49.6 percent of the unique non-minority owners are single-station owners.
- 60.8 percent of the unique female owners are single-station owners, versus just 50.4 percent of the unique non-female station owners.
- Only 24.4 percent of the unique minority station owners are group owners -- owning stations in multiple markets, or more than three stations in a single market -- compared to 29.5 percent of non-minority owners.
- Just 16.9 percent of female owners are group owners, versus 30.4 percent of non-female owners.
- Overall, racial and ethnic minorities own 2.6 stations per unique owner compared to 3.9 stations owned per unique white, non-Hispanic owner.
- Women own 2.1 stations per unique owner compared to 4.1 stations owned per unique male owner.

Female- and minority-owned stations differ from non-female- and non-minority-owned stations in other ways as well. For example, women and people of color are more likely to own less valuable AM stations and their stations are more likely to be found in larger, more populated markets.

### Female- and Minority-Owned Stations Are More Local, More Often

Localism is supposed to be one of the FCC's key considerations in crafting media ownership regulations. Local owners, in theory, are more connected to the communities they serve and thus in a better position to respond to public needs than absentee owners who reside hundreds or thousands of miles away.

Our study found that female owners are significantly more likely to be local station owners.

- 64.4 percent of all female-owned stations are locally owned, versus just 41.6 percent of non-female-owned stations.

For minority-owned stations, the relationship is somewhat more complex because the minority population is more concentrated in certain areas. Minority-owned stations are more likely to be locally owned than non-minority-owned stations in larger markets, which have bigger minority populations.

- Among all radio stations, 43 percent of minority-owned stations are locally owned, the same level as non-minority-owned stations.
  - But in Arbitron radio markets (where four out of every five minority-owned stations are located, and which have significantly higher minority populations), 38.3 percent of minority-owned stations are locally owned, versus 29.4 percent of non-minority-

Local Ownership of Radio Stations, by State (2007)

State	Percent of Radio Stations that Are Locally Owned
OK	60.6
TN	58.2
KY	57.0
AL	56.5
MS	54.8
NM	54.7
AR	54.7
ND	54.1
AK	54.0
NE	53.3
ID	52.7
IN	51.2
OR	50.8
GA	49.9
UT	49.4
MN	47.5
MO	47.2
NJ	46.4
NC	46.0
WI	45.9
MT	45.6
WV	45.6
LA	45.3
KS	44.2
IA	42.2
MI	42.0
WY	41.5
WA	41.4
VA	41.3
NH	41.2
SC	40.1
AZ	38.9
PA	38.5
IL	38.0
TX	37.6
OH	36.4
FL	36.0
HI	35.7
MA	35.2
NY	35.0
CT	34.3
RI	33.3
VT	31.5
ME	30.0
CO	29.6
CA	28.3
MD	27.2
SD	26.2
NV	21.1
DE	16.7
DC	0.0
Nationwide	42.9

owned stations.

- In unrated markets (which have significantly lower minority populations), 56 percent of minority-owned stations are locally owned, compared to 62.9 percent of non-minority-owned stations.

**Minority Ownership of Radio Stations  
by State (2007)**

State	Percent Minority Population in State	Percent of Radio Stations that Are Owned by People of Color
HI	75.43	11.43
DC	68.44	20.00
NM	57.59	8.18
CA	57.21	15.49
TX	51.89	19.15
MD	41.68	17.48
NV	41.36	4.23
GA	41.25	13.15
MS	40.74	14.91
AZ	40.51	7.78
NY	39.77	3.11
FL	38.97	12.22
NJ	37.75	17.86
LA	37.28	8.96
IL	34.87	2.90
SC	34.67	16.43
AK	33.74	0.00
VA	32.39	7.12
NC	32.26	11.85
DE	31.25	0.00
AL	31.04	11.31
CO	28.47	6.15
OK	27.99	10.86
CT	25.51	8.96
AR	23.66	5.98
WA	23.60	4.29
TN	22.54	4.55
MI	22.37	4.10
RI	21.06	4.17
MA	20.71	4.00
OR	19.23	0.00
KS	19.05	1.16
PA	18.00	2.41
MO	17.49	1.75
OH	17.18	7.14
UT	17.16	4.60
IN	16.19	3.66
NE	15.16	0.00
WI	14.41	0.75
MN	14.15	1.56
ID	13.72	1.82
SD	13.46	0.00
WY	11.99	5.32
KY	11.65	1.72
MT	11.44	0.00
ND	9.56	0.00
IA	8.98	1.46
NH	6.43	0.00
WV	5.88	0.00
ME	4.73	0.00
VT	4.37	0.00
Nationwide	33.8	7.73

**Female Ownership of Radio  
Stations, by State (2007)**

State	Percent of Radio Stations that Are Owned by Women
DE	25.00
CT	19.40
FL	11.09
ND	10.81
MD	10.68
HI	10.00
AL	9.54
IA	9.22
OK	9.14
WA	8.57
RI	8.33
KY	8.25
VA	8.19
AK	7.94
AZ	7.19
LA	6.97
WV	6.80
TX	6.76
MT	6.40
OR	6.22
PA	6.15
TN	6.06
GA	6.03
NH	5.88
MS	5.70
CO	5.59
VT	5.56
IL	5.51
IN	5.28
OH	5.19
AR	5.13
NE	4.92
NC	4.62
NY	4.15
MA	4.00
MI	3.79
NM	3.77
CA	3.76
SC	3.38
MO	2.80
WI	2.61
NJ	2.38
MN	2.33
UT	2.30
NV	1.41
SD	1.19
WY	1.06
ID	0.91
KS	0.58
DC	0.00
ME	0.00
Nationwide	6.0

### Female- and Minority-Owned Stations Thrive in Less-Concentrated Markets

Our analysis suggests that both female- and minority-owned stations thrive in markets that are less concentrated. Markets with female and minority owners have fewer stations per owner on average than markets without them.

- The level of market concentration is significantly lower in markets with female and minority owners.
- The probability that a particular station will be female- or minority-owned is *significantly lower* in more concentrated markets.

- The probability that a particular market will contain a female- or minority-owned station is *significantly lower* in more concentrated markets.
- Female- and minority-owned stations are more likely to be found in each other's markets.

Allowing further industry consolidation will unquestionably diminish the number of female- and minority-owned stations. The FCC should seriously consider these consequences before enacting any policies that could further concentration.

### **Female and Minority Ownership Is Low, Even When They're in the Majority**

The study shows that women and people of color everywhere – regardless of their proportion of the population in a given market – have very few owners representing them on the radio dial.

- The average radio market has 16 white male-owned stations for every one female-owned and every two minority-owned stations.

Minority-owned stations are far more likely to be found in markets with higher minority populations. But even in these markets, the level of minority ownership is still low.

- Minority-owned stations are found in about half of all Arbitron radio markets.
- In 288 of the 298 U.S. Arbitron radio markets, the percentage of minorities living in the market is greater than the percentage of radio stations owned by minorities.
- 23 of the 298 U.S. Arbitron radio markets have "majority-minority" populations. But in these markets, too, the percentage of radio stations owned by people of color is far below the percentage of minority population.
  - In two of these "majority-minority" markets (Stockton, Calif. and Las Cruces, N.M.), people of color own no stations.
- Minorities own more than one-third of a market's stations in just seven of the nation's 298 radio markets. Minorities own more 25 percent of a market's stations in just 24 of the nation's 298 radio markets.

Despite making up half the population in every market, the level of female-station ownership is still extremely low across the board.

- Female-owned stations are found in about 40 percent of all Arbitron radio markets.
- The Stamford-Norwalk, Conn. market is the only market in the United States where women own more than half of the stations.
- Women own more than one-third of a market's stations in just six of the nation's 298 radio markets. Women own more than 25 percent of a market's stations in just 18 of the nation's 298 radio markets.

## Format Diversity, Market Revenue and Audience Share

Minority owners are more likely to air formats that appeal to minority audiences, even though other formats are more lucrative. Choosing these different formats has a practical impact on the market status of minority-owned stations, as measured by audience ratings and share of market revenues.

- Among the 20 general station format categories, minority-owned stations were significantly more likely to air “Spanish,” “religion,” “urban,” and “ethnic” formats. The Spanish and religion formats alone account for nearly half of all minority-owned stations.
- Primarily because the Spanish, religion and ethnic formats attract smaller segments of the market, the average audience ratings share and share of market revenue held by minority-owned stations is significantly lower than the ratings and revenue shares of non-minority-owned stations.

Female and Minority Ownership of Radio Stations by Format (2007)

Format Category	Percent of Format's Stations Owned by People of Color	Percent of Format's Stations Owned by Women
Adult Contemporary	1.8	5.7
Album Oriented Rock	1.8	5.1
Classical	0.0	6.7
Contemporary Hits	2.7	3.4
Country	2.3	6.8
Easy Listening	2.2	15.6
Ethnic	41.7	11.5
Jazz/New Age	11.3	8.1
Middle of the Road	1.6	6.3
Miscellaneous	6.4	3.8
News	2.2	4.8
Nostalgia/Big Band	2.5	6.1
Oldies	3.1	6.3
Religion	14.0	7.2
Rock	2.2	5.6
Spanish	39.3	4.8
Sports	3.9	3.9
Talk	4.8	4.4
Urban	32.3	6.2

## Ownership and Programming Diversity: A Case Study of Talk Radio

Though the focus of this study was on structural ownership, recent controversy surrounding remarks by two prominent talk radio hosts —Rush Limbaugh and Don Imus — spurred an examination talk radio programming on minority- and female-owned stations. We found:

- No minority-owned stations aired “Imus in the Morning” at the time of its cancellation.
- All minority-owned stations and minority-owned talk and news format stations were significantly less likely to air “The Rush Limbaugh Show,” as were female-owned stations.
- Having a minority- or female-owned station in a market was significantly correlated with a market airing both conservative and progressive programming.
- Overall, markets that aired both progressive and conservative hosts were significantly less concentrated than markets that aired just one type of programming.

These results suggest that diversity in ownership leads to diversity in programming content. This result may seem obvious. But policymakers may have forgotten the reason behind ownership rules and limits on consolidation: Increasing diversity and localism in ownership will produce *more* diverse speech, *more* choice for listeners, and *more* owners who are responsive to their local communities.

## The Commission Has Failed to Adequately Account for the True Level of Female and Minority Ownership of Full-Power Commercial Broadcast Outlets

Historically, women and racial and ethnic minorities have been under-represented in broadcast ownership due to a host of factors -- including the fact that some of these licenses were originally awarded decades ago when the nation lived under segregation. The FCC, beginning with its 1978 *Statement of Policy on Minority Ownership of Broadcasting Facilities*, repeatedly has pledged to remedy this sorry history.<sup>10</sup>

Congress also has recognized the poor state of female and minority ownership. The Telecommunications Act of 1996 (“The Act”) contains specific language aimed at increasing female and minority ownership of broadcast

<sup>10</sup> *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d, 979, 980 n. 8 (1978).

licenses and other important communications media.<sup>11</sup> The Act requires the FCC to eliminate “market entry barriers for entrepreneurs and other small businesses” and to do so by “favoring diversity of media voices.”<sup>12</sup> The Act also directs the Commission when awarding licenses to avoid “excessive concentration of licenses” by “disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.”<sup>13</sup>

The Commission initially appeared to take this mandate seriously. In 1997, the Commission completed a proceeding, as required by the Act, which identified barriers to entry for small businesses (and has been interpreted to include minority- and female-owned entities) and set forth the agency’s plan for eliminating these barriers.<sup>14</sup> Unfortunately, subsequent triennial reports have lacked substance<sup>15</sup>

In 1998, the Commission further demonstrated its seriousness by taking a crucial first step to determine the actual state of female and minority ownership of broadcast radio and television stations. That year, the FCC began requiring all licensees of full-power commercial stations to report the gender and race/ethnicity of all owners with an attributable interest in the license.<sup>16</sup> In the *Form 323 Report and Order*, the Commission stated:

Our revised Annual Ownership Report form will provide us with annual information on the state and progress of minority and female ownership and enable both Congress and the Commission to assess the need for, and success of, programs to foster opportunities for minorities and females to own broadcast facilities<sup>17</sup>

Other than this monitoring effort, the FCC has done very little to promote female and minority broadcast ownership (and the follow-up on this monitoring has been abysmal). In its 1999 Order that allowed television duopolies, the Commission paid lip service to concerns about the policy change’s effect on minority and female ownership, but still went forward with rule changes that allowed increased market concentration.<sup>18</sup> In 2004, the Commission sought input into how it could better implement Section 257 of the Act.<sup>19</sup> Until this current *Further Notice*, there has been virtually no action made towards evaluating the findings of the original Section 257 studies.

In the *2003 Order* the Commission assured the public that ownership diversity was a key policy goal underlying its approach to ownership regulation.<sup>20</sup> However, the Third Circuit found otherwise, stating that “repealing its only regulatory provision that promoted minority television station ownership without considering the repeal’s effect

---

<sup>11</sup> 47 U.S.C. §257, §309(j)

<sup>12</sup> Section 257 is contained within Title II of the Communications Act and thus does not directly encompass broadcast services. However, the Commission has interpreted some aspects of the language of §257 to apply to broadcast licensing. In 1998, the Commission stated: “While telecommunications and information services are not defined by the 1996 Act to encompass broadcasting, Section 257(b) directs the Commission to ‘promote the policies and purposes of this Act favoring diversity of media voices’ in carrying out its responsibilities under Section 257 and, in its Policy Statement implementing Section 257, the Commission discussed market entry barriers in the mass media services.” See FCC 98-281, *Report and Order: In the Matter of 1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications Rules, and Processes -- Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, MM Docket No. 98-43, November 25, 1998, herein after referred to as *the Form 323 Report and Order*.

<sup>13</sup> 47 U.S.C. §309(j)

<sup>14</sup> “In the Matter of Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses,” *Report*, GN Docket No. 96-113, 12 FCC Rcd 16802 (1997).

<sup>15</sup> In his dissenting statement on the 2004 Section 257 report, Commissioner Michael Copps described the report as a “a slapdash cataloging of miscellaneous Commission actions over the past three years that fails to comply with the requirements of Section 257.”

<sup>16</sup> 47 C.F.R. 73.3615

<sup>17</sup> *Report and Order, In the Matter of 1998 Biennial Regulatory Review Streamlining of Mass Media Applications, Rules, and Processes Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, MM Docket Nos. 98-43; 94-149, FCC 98-281 (1998).

<sup>18</sup> *Report and Order, In the Matter of Review of the Commission’s Regulations Governing Television Broadcasting Television Satellite Stations Review of Policy and Rules*, MM Docket Nos. 87-8. 91-221, FCC 99-209 (1999).

<sup>19</sup> MB Docket No. 04-228, “Media Bureau Seeks Comment on Ways to Further Section 257 Mandate and to Build on Earlier Studies” DA 04-1690, June 15, 2004.

<sup>20</sup> See *2003 Order*, “Encouraging minority and female ownership historically has been an important Commission objective, and we reaffirm that goal here.”

on minority ownership is also inconsistent with the Commission's obligation to make the broadcast spectrum available to all people 'without discrimination on the basis of race.'"<sup>21</sup>

Before considering the potential effects of policy changes on female and minority ownership, the Commission must first know the *current* state of ownership and evaluate the effects of previous policy changes. No one should be in a better position to answer these questions than the FCC itself. The Commission possesses gender and race/ethnicity information on nearly every single broadcast entity and knows exactly when licenses changed hands.

However, **the FCC has *no* accurate picture of the current state of female and minority ownership, and shows no sign of taking the matter seriously.** Though the Commission has gathered gender and race/ethnicity data for the past seven years, it has shown little interest in the responsible dissemination of the information contained within the Form 323 filings.

This lack of interest or concern is made evident by the FCC's own Form 323 summary reports. Station owners began reporting gender/race/ethnicity information in 1999, and the FCC released its first "summary report" in January 2003 (for reporting in 2001).<sup>22</sup> A second summary followed in 2004 (for reporting in 2003).<sup>23</sup> The most recent report was issued in June 2006 (for the 2004-2005 period).<sup>24</sup> However, calling these publications "summary reports" is somewhat misleading, as they are merely a listing of each minority- or female-owned station's Form 323 response and not aggregated in any manner. No information on the stations *not* reportedly owned by women or minorities is given.

Closer examination of these summary reports reveals significant problems. For starters, on the FCC Web site where the most recent summary files are provided for download, there is a paragraph that explains the purpose of the data and provides a brief summary of the tally.<sup>25</sup> This Web site lists the total number of stations that filed Form 323 or Form 323-E in the 2004-2005 calendar year, and then lists the total number of stations that the FCC determined are owned by women or people of color. All commercial stations are required to report the race/ethnicity and gender of station owners on Form 323. Form 323-E requires all non-commercial educational stations to report the identity of station owners, but does not require the disclosure of the race/ethnicity or gender information.

However, since stations that file Form 323-E *don't report gender or race/ethnicity* information, it is perplexing why the FCC Web site reports the total number of stations that filed *either* form. This ambiguous reporting has led to some observers using these summaries to erroneously report the wrong percentage of stations owned.<sup>26</sup>

Other problems exist in these summaries. Some station owners listed in the 2003 summary are missing from the 2004 report but reappear in the 2006 summary, despite the fact that ownership had not changed during the

---

<sup>21</sup> See *Prometheus*, note 58.

<sup>22</sup> Though this data summary is not directly displayed on the FCC's ownership data page (<http://www.fcc.gov/ownership/data.html>), it can be downloaded at <http://www.fcc.gov/ownership/ownminor.pdf> and <http://www.fcc.gov/ownership/ownfemal.pdf>

<sup>23</sup> Though this data summary is not directly displayed on the FCC's ownership data page (<http://www.fcc.gov/ownership/data.html>), it can be downloaded at [http://www.fcc.gov/ownership/owner\\_minor\\_2003.pdf](http://www.fcc.gov/ownership/owner_minor_2003.pdf) and [http://www.fcc.gov/ownership/owner\\_female\\_2003.pdf](http://www.fcc.gov/ownership/owner_female_2003.pdf)

<sup>24</sup> [http://www.fcc.gov/ownership/owner\\_minor\\_2004-2005.pdf](http://www.fcc.gov/ownership/owner_minor_2004-2005.pdf) and [http://www.fcc.gov/ownership/owner\\_female\\_2004-2005.pdf](http://www.fcc.gov/ownership/owner_female_2004-2005.pdf)

<sup>25</sup> <http://www.fcc.gov/ownership/data.html>

<sup>26</sup> For example, Howard University Professor Carolyn M. Byerly in an October 2006 report writes: "FCC data indicate that in 2005, women owned only 3.4% and minorities owned only 3.6% of the 12,844 stations filing reports." This report was based on the flawed FCC summaries of Form 323 data (see "Questioning Media Access: Analysis of FCC Women and Minority Ownership Data," Benton Foundation and Social Science Research Council, October 2006). Also, in his book *Fighting For Air*, New York University Professor Eric Klinenberg writes that "by 2005, the FCC reported that only 3.6 percent of all broadcast radio and television stations were minority-owned, while a mere 3.4 percent were owned by women" (page 28). These are the exact but inaccurate percentages obtained from the information on the FCC 323 summary Web site. They were calculated by dividing the number of reported stations by the total number of stations that filed Form 323 or Form 323-E (438/12,844 = 3.4 percent women-owned; 460/12,844 = 3.6 percent minority-owned).

interim period. Certain stations have ownership interests that add up to more than 100 percent. In some instances, the type of station facility (AM, FM or TV) is not specified.

But the most alarming problems are ones of omission. Not a single station owned by Radio One is listed by the FCC, even though the company is the largest minority-owned radio broadcaster in the United States. Stations owned by Granite Broadcasting, the largest minority-owned television broadcaster, are also missing from the summary reports. However, examination of the individual Form 323 filings for these stations shows that they are indeed minority-owned. Why aren't they in the FCC's summary?

The answer likely lies in how the larger-group stations report ownership information, and how the FCC harvests the information for their summary reports. Most of the licenses of those stations missed by the FCC are "owned" by intermediate entities, which are -- in some cases -- many degrees separated from the "actual" owner. Some stations file more than 20 separate Form 323 forms (one for each holding entity), with the true owners listed on only one form. And in many cases, the actual ownership information is attached as an exhibit and not listed on the actual form. Thus the FCC, which tabulates the information for its summaries by harvesting these electronic forms via an automated process, misses stations that file in this convoluted and confusing manner.

The Commission's lack of understanding of its own Form 323 data became even more apparent when the Media Bureau released previously unpublished internal studies that attempted to ascertain the true state of female and minority broadcast ownership.<sup>27</sup> A draft dated November 14, 2005, reports that there were, as of 2003, 60 television stations and 692 radio stations owned by women; and 15 television stations and 335 radio stations owned by minorities.<sup>28</sup> However, our previous filings in this proceeding (containing the data in the Free Press study *Out of the Picture*) showed that by the fall of 2006 there were 44 minority-owned stations, and this was not the result of a massive increase in minority ownership. Indeed, the same FCC draft report indicated just a single African-American-owned television station in the 2003 sample period. However, a review of Granite Broadcasting's (an African-American-owned company) Form 323 filing in 2003 showed that they alone held nine full-power television station licenses.<sup>29</sup> This internal summary is deeply troubling in its inaccuracy and raises questions about the data analysis ability of Commission staff, and the commitment of the Commission to accurately monitor female and minority ownership.

But the biggest indication of the Commission's failure to take seriously its obligation to track female and minority ownership is seen in its most recent effort in this area -- the 10 Official "Research Studies on Media Ownership".<sup>30</sup> Study #2, "Media Ownership Study Two: Ownership Structure and Robustness of Media" authored by FCC staff fails miserably in its effort to tabulate the number of female and minority owned broadcast radio stations. It appears that Study #2 likely missed well over half of all the female- and minority-owned broadcast station. As we demonstrate below, **the FCC missed 75 percent of the TV stations that were female-owned in 2005, and missed 69 percent of the TV stations that were minority-owned in 2005.** It is simply astonishing that the Commission could make such an error, especially given the fact that the CU/CFA/Free Press census of TV station racial/ethnic/gender ownership was readily available both in the record in this proceeding, as well as reported in numerous media outlets.

The authors of Study #2 chose to blame perceived imperfections in Form 323 data, and relied on flawed NTIA data as their starting point for assessing minority ownership. This was a fundamental flaw, and indicates a lack of seriousness on the part of the Commission in fulfilling the mandates of Sections 257 and 309(j). The simple fact

---

<sup>27</sup> See <http://www.fcc.gov/ownership/additional.html> for documents released in December of 2006.

<sup>28</sup> <http://www.fcc.gov/ownership/materials/newly-released/minorityfemale011405.pdf>

<sup>29</sup> Furthermore, FCC data also indicates that during the timeframe of the FCC analysis, there were at least three more African-American-owned stations (WJYS, KNIN-TV and KWCV), bringing the number of African-American-owned stations to 12. The FCC document reported two American Indian-owned stations; but at the time of this draft study, FCC records indicate at least four American Indian-owned stations (KHCV, KOTV, KWTV, and WNYB). The FCC document reported four Asian-owned stations; but at the time of this draft study, FCC records indicate at least seven Asian-owned stations (KBFD, WMBC, KBEO, KWKB, KCFG, KEJB and KKJB).

<sup>30</sup> <http://www.fcc.gov/ownership/studies.html>

is, the raw data contained in Form 323 individual filings is extremely reliable and useful. The problems associated with Form 323 are not with the data, *but how the Commission automates the harvesting of the data from these forms*. There are various aspects of how Form 323 is submitted by owners that appear to be causing the Commission trouble in its efforts to automatically harvest the data. Some stations file multiple forms for a single station (because of the numerous shell or holding companies); some stations do not enter the racial/gender/ethnic ownership information in the form, choosing to attach this information separately (many forms that do this often have "See Exhibit" written where the ownership information should be listed); some owners choose write "No change; information on file" as opposed to properly filling out Form 323.

These are all roadblocks to the researcher who wishes to use automated scripts to harvest Form 323 data. But they are not roadblocks to those who actually examine each form. **The simple fact is, the Commission appears to have taken the lazy way out when faced with the choice of inaccurate automated data harvesting or accurate but labor-intensive manual coding of Form 323 data.**

Fortunately for the Commission, we did do the hard work of determining the ownership of nearly every single licensed full-power commercial broadcast radio and television station. **In total, the FCC only accounted for 17 of the 68 TV stations that were actually owned by women in 2005.** This means that in its most recent, official, and presumably best effort at assessing female ownership, the Commission missed 75 percent of the actual female-owned TV stations. **In total, the FCC only accounted for 14 of the 45 TV stations that were actually owned by people of color in 2005.** This means that in its most recent, official, and presumably best effort at assessing minority ownership, the Commission missed 69 percent of the actual minority-owned TV stations.

Though we did not verify the accuracy and completeness of Study #2's radio ownership data, there is compelling evidence to suggest the Commission also omitted a substantial number of female- and minority-owned radio stations. In our study *Off The Dial* we found that there were at least 609 female-owned stations and at least 776 minority-owned stations as of February 2007. In Study #2 the FCC reported 376 female-owned and 378 minority-owned radio stations in 2005. There is simply no evidence to suggest a near doubling in the level of female and minority radio ownership in the interim, suggesting that **the FCC missed approximately 40 percent of the female-owned radio stations and missed approximately 50 percent of the minority-owned radio stations.** Given that in the case of TV the Commission included in its tally stations that were not female- or minority-owned, it is likely that in total, the Commission missed over half of the actual female- and minority-owned broadcast radio and television stations.

This inability to even come close to accurately assessing the state of female and minority ownership simply because of a methodological choice shows an obvious lack of concern by the Commission. This lack of concern is truly troubling given the Commission's legal obligation to foster improved female and minority broadcast ownership. The FCC has both the raw data and the resources to adequately address the issues raised by the Third Circuit regarding minority ownership but chooses instead to ignore this issue and rely on public commenters to do its job.

We hope that this exposure of failure will cause the Commission to take pause and reassess its approach towards undertaking this proceeding. The issue of ownership diversity is far too important to be built upon a flimsy foundation of basic empirical data. Chairman Martin recently said, "To ensure that the American people have the benefit of a competitive and diverse media marketplace, we need to create more opportunities for different, new and independent voices to be heard."<sup>31</sup> If the Chairman and the other Commissioners truly believes this to be

---

<sup>31</sup> "Remarks of FCC Chairman Kevin J. Martin, 2007 AWRP Annual Leadership Summit Business Conference, March 9, 2007, Available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-271371A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-271371A1.pdf). At the same event, Commissioner Robert McDowell stated that the data on female and minority ownership was "extremely troubling" to him, and that he wanted to find out "why that number is lower than in other industries." See <http://www.broadcastingcable.com/article/CA6423119.html?title=Article&spacedesc=news>.

the case, then they should demand a complete and accurate assessment of the ownership status of every single full-power commercial broadcast station.

### **Bottom Line: Consolidation Keeps Women and Minorities Off the Dial**

Data in the official FCC record, particularly data gathered from the 2000 Section 257 studies, indicates that the primary factors influencing female and minority broadcast ownership are media market concentration, access to capital and equity, and access to deals.

Theory supports these findings. As markets become more concentrated, the cost of stations become artificially inflated, driving away potential new entrants in favor of existing large chains. Concentration has the effect of diminishing the ability of smaller and single-station owners to compete for both advertising and programming contracts. This, combined with the inflated asset values creates immense pressure for the smaller owners to sell their station licenses to larger owners.

This destructive cycle disproportionately impacts women and minority owners, as they are far more likely to own just a single station in comparison to their white-male and corporate counterparts. Current owners are driven out of markets; and discrimination in access to deals, capital and equity combined with the higher barriers to entry created by consolidation shut out new female and minority owners from market entry.

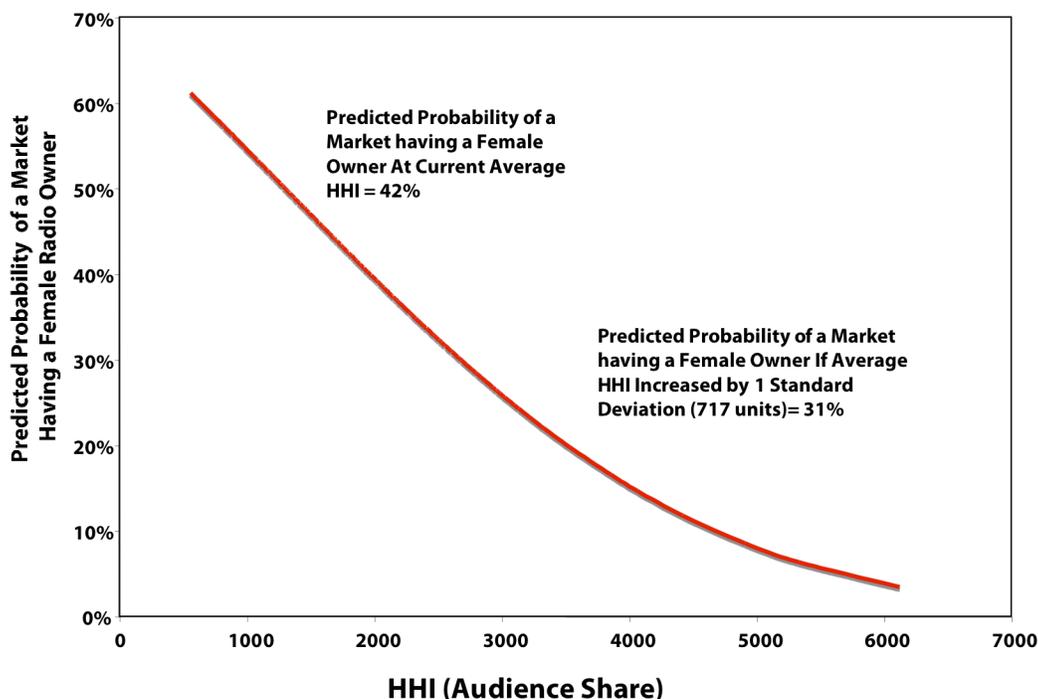
**Thus it is clear: if the Commission intends to promote ownership diversity, it cannot accomplish this goal while simultaneously enacting policies that increase market concentration.**

It also follows those policies that allow increased market concentration concurrently with efforts to increase ownership by “Socially Disadvantaged Businesses” (SDBs) simply won’t work. In fact, it is likely that any short-term gains from such policies in terms of the number of stations owned by women or people of color will be offset in the long term by a loss of unique SDB owners, a loss of SDB stations, and a loss of unique and independent media voices.

The Appendix to this testimony contains the results of econometric modeling of the factors that influence female and minority radio station ownership. The data strongly indicates that as market concentration increases, the number of female and minority owned stations decreases.

Figure 1 illustrates the impact of increasing local market concentration on the level of female radio station ownership. Figure 1 plots the predicted probability of a market having a female owner present against the HHI calculated from audience share (the probability is based upon the size of the market, the percentage of minority and female population, the presence of a minority owner in the market, and the market audience share HHI; see Appendix for details). As the figure shows, a small modest increase in the market concentration level could lead to a substantial drop in the number of markets with female owners present.

**Figure 1: Negative Impact of Market Concentration on Female Ownership**



### Conclusions and Recommendations

As the FCC goes back to the drawing board to reconsider media ownership rules, it must pay close attention to the Third Circuit's strong language regarding the Commission's failure to adequately justify its rule changes in regards to female and minority ownership. It is not sound policymaking to assert that diversity, localism and female/minority ownership are important goals, but then ignore the effects that rule changes have on these goals. Furthermore, it is a failure of responsibility to gather valuable information on ownership but then do nothing with the data. And it is inexcusable to continue to release data summaries the Commission knows to be flawed.

The findings of *Off The Dial* and those in *Out of The Picture* are crucial first steps toward understanding the true state of female and minority broadcast ownership and the effects of FCC policy on these owners. But more work needs to be completed, such a longitudinal studies examining the changes produced by the 1996 Telecommunications Act. The Commission should conduct this work and pay close attention to the changes in ownership over time. **The FCC must adequately study the impact of rule changes on the level of female and minority ownership prior to moving forward with any rule making.** This issue is too far important to make superficial attempts at addressing it, while allowing more consolidation -- the very thing that is a primary cause of the problem.

The results of our two studies on female and minority broadcast ownership demonstrate that *any* policy changes that allow for increased concentration in television and radio markets will certainly decrease the already low number of female- and minority-owned broadcast stations. Enacting regulations that lead to such outcomes directly contradicts the Commission's statutory and legal obligations under the 1996 Telecommunications Act. Instead, the Commission should consider pro-active policies that protect and promote female and minority ownership.

It is important to note that the effects of other policies aimed at increasing female and minority broadcast ownership — such as tax credits, relaxed equity/debt attribution rules, incubator programs, or digital channel leasing — will be negligible in an environment of increased market consolidation at the local level.

The Commission needs to think hard about the damages brought about by the misguided policies of the late 1990s, which radically increased market concentration. In the radio sector alone, it is hard for a new entrant to get into the business by purchasing a single station. The realities of the consolidated marketplace mean that owners must control multiple stations in multiple markets to realize the economies of scale that are needed to prosper. But these economies of scale are artificial creations based on poor public policy decisions. The FCC has a social responsibility to restore an environment that rewards localism and dedication to community service.

In addition, we recommend that Congress urge the Commission take the following actions:

- The FCC Media Bureau should conduct annual comprehensive studies of every licensed broadcast radio and television station to determine the true and evolving level of female and minority ownership.
  - The study should examine the level of ownership at both the national level and at the local DMA and Arbitron market levels.
  - The study should be longitudinal, examining the changes since 1999, when the Commission began gathering gender and race/ethnicity ownership information.
  - The study should focus on station format and content, particularly paying attention to local news production.
  - The study, as well as the raw data, should be made available to the public.
- The FCC should revise and simplify the public display of individual Form 323 station filings.
  - A citizen searching for the owner of a local station should easily be able to ascertain the true identity of a station owner, and the Commission should make it easier to find out the true identity of past owners.
  - The practice of station licenses being held by layers of wholly owned entities should be thoroughly examined by the Commission. While this practice may serve a purpose for the tax liability of license holders, it serves no purpose in the identification of the those controlling the public airwaves.
  - Broadcast licenses are awarded for temporary use of the public airwaves, and the identities of the owners should be clearly stated on a single form.
- The Commission should expand the universe of stations that are required to file Form 323.
  - Currently, no owners of Class-A, translator or low-power stations are required to file ownership information with the FCC. However, the Commission states that these classes of stations are important entry points for female and minority owners. To validate this hypothesis, the Commission should extend the obligation of filing Form 323 to these stations.
  - Currently all noncommercial educational broadcasters file Form 323-E, which does not solicit information about the gender, race, and ethnicities of station owners. The Commission should require their owners to disclose this information.
- The FCC should not take any action on media ownership rules until it has thoroughly studied the issue of female and minority ownership and analyzed the effects of past policies.
  - The FCC should also complete the open proceeding on how to better implement Section 257 of the 1996 Telecommunications Act before proceeding with any rulemaking.<sup>32</sup>

---

<sup>32</sup> MB Docket No. 04-228, “Media Bureau Seeks Comment on Ways to Further Section 257 Mandate and to Build on Earlier Studies” DA 04-1690, June 15, 2004.

In addition, Congress should move to authorize the expansion of low-power FM (LPFM) radio licenses to 3rd adjacent channels on the dial. The interference problems cited to curtail community radio in the past have been disproved, and the distribution of new licenses is long overdue. This would open thousands of new local stations across the country and promote opportunities for diverse voices to use the public airwaves. The LPFM stations that have been licensed to date have been a tremendous success, exemplifying the goal of a more diverse media system. Expanding access to these localized, non-commercial licenses would not solve the problem of minority ownership. But LPFM represents the quickest way to bring minority owned stations online while the FCC works to solve the long-term structural problems that have perpetuated a legacy of under-representation.