

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

In the Matter of)	
)	
Promoting Diversification of Ownership)	MB Docket Nos. 07-294; 06-121;
In the Broadcasting Services)	02-277; 04-228
)	
)	MM Docket Nos. 01-235; 01-317;
)	00-244; FCC 07-217

To: The Commission

**REPLY COMMENTS OF NATIVE PUBLIC MEDIA AND
THE NATIONAL FEDERATION OF COMMUNITY BROADCASTERS**

Native Public Media (“NPM”) and the National Federation of Community Broadcasters (“NFCB”) respectfully submit these reply comments in response to the initial comments filed regarding the Commission’s Report and Order and Third Further Notice of Proposed Rulemaking (“NPRM”) on the Diversification of Ownership in the Broadcasting Services.

NPM and NFCB reiterate their support for the enhanced participation of new entrants and small businesses in the broadcast sector. To that end, a number of proposals suggested by the commenters are particularly laudable. First, NPM and NFCB support the Chesapeake-Portsmouth Broadcasting Corporation’s (“Chesapeake’s”) suggestion that the licensee of an AM expanded band station should be allowed to assign the lower band or expanded band license to an “eligible entity.” Chesapeake Comments at 2-3. NPM and NFCB concur with Chesapeake that “the technical benefits realized from the surrender of the lower band license are outweighed by the public benefit of continued service to the public and the potential to enhance the diversity of media ownership.” Chesapeake Comments at 2. However, NPM and NFCB urge the Commission to improve upon Chesapeake’s proposal by expanding the current definition of “eligible entity,” which adopts the Small Business Association (“SBA”) definition of small business, to include “Indian Tribes” and “Tribal Governments.” As explained in NPM and

NFCB's initial comments, this expanded definition would reflect the unique political relationship between the FCC and federally recognized Indian Tribes and advance the Commission's commitment to enhance communications services for Native Americans. NPM and NFCB Comments at 3-7. By allowing Indian Tribes to acquire these otherwise surrendered licenses, the Commission would take an important step toward ensuring that Indian Tribes have the access to communications services they deserve. The Commission's goals of promoting new entry and enhancing diversity among broadcast station owners would undoubtedly be advanced.

Second, NPM and NFCB agree with American Women in Radio and Television, Inc. ("AWRT") that "the need for accurate, readily available information concerning the extent of female and minority ownership in the broadcast industry is acute." AWRT Comments at 4-5. The lack of such information prevents the Commission from determining the true state of media ownership among women, Native Americans, and people of color. NPM and NFCB support the increased collection of such data, including for example, longitudinal studies regarding Native American media ownership (by gender and otherwise). However, NPM and NFCB urge the Commission to institute a more comprehensive approach to the collection of data regarding underrepresented groups and underserved communities, while at the same time being mindful that such reporting should not be overly burdensome for small, non-commercial stations with limited staff and resources.

Third, NPM and NFCB generally support the Broadcast Maximization Committee's ("BMC's") "comprehensive plan for the use of Channels 5 and 6 (76-88 MHz)" (BMC Comments at 2), but note a few areas of concern. BMC proposes that (1) low power FM ("LPFM") service be relocated to a portion of this band; (2) non-commercial educational ("NCE") operations be expanded into a portion of this band; and (3) AM stations be reallocated

the remaining spectrum in this band over an extended period of time with digital transmissions only. *Id.* NPM and NFCB agree that expansion of the FM band will enhance the Commission's localism and diversity objectives, but such expansion should not come at the expense of spectrum in other bands. Station owners, if they chose, should be afforded the benefits associated with operating in the expanded FM band proposed by BMC. However, they should not be *required* to relocate. LPFMs, in particular, should be allowed to continue to operate in the 88-108 MHz band. In addition, the Commission should examine in greater detail BMC's proposed migration of AM stations to the expanded FM band. In particular, the Commission should evaluate: (1) whether more space could be allocated for new entrants; (2) how much spectrum is actually necessary to accommodate existing AM stations; (3) whether there are additional uses for the spectrum that would take into account converging technologies and thus expand the media capacity of Native Americans; and (4) whether spectrum would still be available for LPFM, NCE, and Public Safety operations – all of which offer the greatest potential to close the digital divide in Indian Country.

Fourth, NPM and NFCB agree with Bryan Broadcasting Corporation *et al.* (“Joint Petitioners”) that AM stations holding Expanded Band authorizations should not have to forfeit those licenses if they are held by or conveyed to an “eligible entity,” which as discussed above should explicitly include “Indian Tribes” and “Tribal Governments.” Joint Petitioners Comments at 1-2. NPM and NFCB concur that maintaining these licenses in the hands of eligible entities “would achieve great ends with regard to ownership diversity, which is directly consistent with the goal and intent of the diversification proceeding in which the NPRM is embodied.” Joint Petitioners Comments at 10. NPM and NFCB would like to clarify that, to the extent the Expanded Band licenses are made available to eligible entities, such parties should be

afforded a sufficient period of time in which to be informed of the purchase opportunity and secure financing.

Finally, in response to the Community Broadcasters Association (“CBA”), NPM and NFCB do not agree that mandatory cable carriage for Class A television stations will achieve the diversity of programming, diversity of ownership, and new entry opportunities that CBA suggests. Rather, additional research is needed regarding important economy of scale issues raised by CBA’s proposal. If the Commission’s goals are truly diversity of programming and ownership, the Commission should dedicate its time and resources to making the available spectrum accessible to terrestrial radio and other uses that are more likely to close the digital divide, as opposed to handful of Class A stations.

NPM and NFCB commend the Commission’s desire to “increase participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses, which historically have not been well-represented in the broadcasting industry.” NPRM at ¶ 1. NPM and NFCB look forward to helping the Commission improve upon the diversity of broadcast ownership in the United States, and thereby enhance the opportunities for – and voice of – Native America.

Respectfully submitted,

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