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July 11, 2016

The Honorable Greg Walden
Chairman

Subcommittee on Communications and Technology
Committee on Energy and Commerce
Washington, DC 20515

The Honorable Anna Eshoo

Ranking Member

Subcommittee on Communications and Technology
Committee on Energy and Commerce
Washington, DC 20515

Promote Media Diversity and Affordable Broadband

Dear Chairman Walden and Ranking Member Eshoo,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, we write to highlight two critical matters under the purview of the Federal Communications Commission. As the Subcommittee prepares for its oversight hearing of that agency, we ask you to: (1) carefully review the FCC's quadrennial review process and its failure to address the dearth of ownership by women and people of color; and (2) support the FCC's recent modernization of the Lifeline program to include broadband—critical for all people and our economy in this information age.

Media Diversity

Media diversity has long been a top priority of The Leadership Conference because we understand that meaningful protection of civil rights and advancement of key policy objectives rely in great measure on an accurate, independent, and diverse media that serves our constituencies. We support the promotion of racial, gender, and ethnic diversity in media and have urged Chairman Wheeler to make it a centerpiece of the FCC's media policy agenda. The most recent data available for full power television and radio are disappointing.ⁱ Yet the Commission, despite three remands from the U.S. Court of Appeals for the Third Circuit—the most recent issued this Mayⁱⁱ—has no proposals ready to adopt in the current Quadrennial Review to increase diversity of ownership in broadcasting. The Commission's collection of ownership data continues to be flawed. While the FCC changed its rules last January to collect better data at the end of 2017, it has not closed all existing data collection loopholes and has not yet issued the most recent data set collected last December. Moreover, there is no indication that response rates are any better than they have been in the past—in some cases, reaching only an abysmal 65 percent in the case of low power television.ⁱⁱⁱ

The Commission needs to fulfil its obligation to collect correct data and to conduct the studies that it can use to support the FCC's and Congressional policymaking in this critically important area.^{iv} This work is especially critical now because the Commission is currently



overseeing a dramatic re-alignment of the broadcast industry via the spectrum incentive auction. Moreover, reliance on over-the-air broadcasting is increasing,^v and broadcasting is particularly relied upon by communities of color.^{vi}

The Subcommittee should also follow up on its recent hearing “Media Ownership in the 21st Century” to consider legislative options, such as the minority tax certificate, to promote diversity in broadcasting and to work with appropriations colleagues to end budget restrictions on the Commission’s ability to enforce its local television ownership rules, as those rules promote diversity of ownership.^{vii}

Lifeline Modernization Supports Low-Income Access to Broadband

Today, more than ever before, it is critical to ensure that people of color, low-income people, and other vulnerable populations have access to broadband. Without Internet access, students of color cannot do their homework, working single mothers cannot earn degrees online at night, and seniors and people with disabilities cannot utilize the most modern and accessible health care. Accordingly, The Leadership Conference is a strong supporter of the FCC's modernization of Lifeline to include broadband, to address the persistent digital divide between those who can afford a home broadband Internet connection and those who cannot.

Protecting the Lifeline program should not be a partisan issue. This program began in the Reagan administration, in recognition that subsidized telephone service for low-income Americans was essential to full participation in the nation’s political, social, and economic life. In the George W. Bush administration, Lifeline was modernized to include wireless phone service. The Obama administration has taken the next logical step in Lifeline modernization and ensures that the program honors its founding purpose—to provide eligible individuals with access to modern critical communications tools. Although sensationalized and opportunistic attacks on the program have gained traction because they exacerbate and exploit stereotypes about the individuals who use the program, previous and newly-adopted reforms are addressing fraud and abuse in a comprehensive manner. The Commission’s recent modernization order improves the quality of the services provided to low-income people, adopts a budget to allow careful monitoring and accountability, and further augments program integrity by adopting a new independent eligibility verifier.

We look forward to working with the Subcommittee to encourage and promote media ownership opportunities for women and people of color, as well as affordable broadband. Please contact Leadership Conference Media/Telecommunications Co-Chairs Cheryl Leanza, United Church of Christ, Office of Communication, Inc., at 202-904-2168, or Michael Macleod-Ball, American Civil Liberties Union, at (202) 675-2309, or Corrine Yu, Leadership Conference Managing Policy Director at 202-466-5670, if you would like to discuss the above issues or any other issues of importance to The Leadership Conference.

Sincerely,

Wade Henderson
President & CEO

Nancy Zirkin
Executive Vice President

ⁱ Women own 6.3 percent of full power television licenses, Hispanics own 3 percent, Asian Americans own 1.3 percent, African American own 0.6 percent, Native Hawaiians and American Indians own less than a percent combined. For FM radio, women own 6.7 percent, Hispanics own 7.4 percent, Asians own 0.7, African Americans own 1.3 percent, and Native Hawaiians and American Indians own less than a percent combined. In contrast, White ownership has increased since the last data collection by 7.8 percent in full power television, 11 percent in Class A television, and 8.2 percent in low power TV.

ⁱⁱ *Prometheus Radio Project v. Federal Communications Commission*, No. 15-3863, 2016 WL 3003675 (3d Cir. May 25, 2016).

ⁱⁱⁱ Comments of United Church of Christ, OC Inc. et al., FCC Docket. Nos. 14-50, 09-182, 07-294, 04-256, Appendix B (filed Aug. 6, 2014).

^{iv} The one study conducted in the 2014 Quadrennial Review, the Hispanic Television Study, had virtually no bearing on the Commission's policy making docket with regard to ownership diversity. See Hispanic Television Study Comments of United Church of Christ, OC Inc. et al., FCC Docket. Nos. 14-50, 09-182, 07-294, 04-256 (filed June 2, 2016).

^v Seventy-eight percent of millennial voters watch broadcast TV on a weekly basis. Nielsen, "Local Watch: Where You Live and Its Impact on Your Choices," (January 2016) available at:

<http://www.nielsen.com/us/en/insights/reports/2016/january-2016-local-watch-report-where-you-live-and-its-impact-on-your-choices.html>

^{vi} In 2013, people of color made up 41 percent of all broadcast-only homes, led by households that prefer Spanish, half of whom rely on over-the-air television. See National Association of Broadcasters, Over-the-Air TV Renaissance Continues as Pay-TV Cord-Cutting Rises, Press Release (June 21, 2013), available at <https://www.nab.org/documents/newsroom/pressRelease.asp?id=3168GfK> (citing Home Technology Monitor 2013 Ownership Survey and Trend Report (2013)).

^{vii} Joint Sales Agreements (JSAs) and Shared Service Agreements (SSAs) erode jobs in journalism, broadcasting, and damaging local news production and harm ownership diversity. Letter from Jim Joyce, National Association of Broadcast Employees and Technicians/CWA to Chairman Wheeler, FCC, FCC Docket Nos. 09-182, 07-294 (filed March 12, 2014). FCC attribution of JSAs resulted in ten new diverse ownership arrangements in communities from Odessa, Texas (KPEJ-TV), to Charleston, South Carolina (WMMP-TV) "Making Good on the Promise of Independent Minority Ownership of Television Stations." Federal Communications Commission, December 4, 2014. <https://www.fcc.gov/news-events/blog/2014/12/04/making-good-promise-independent-minority-ownership-television-stations>.