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for future use*

March 13, 1980

(Rick Brown)

These are important and critical times for minority involvement in the broadcast industry. They are important because of the fact that the level of minority ownership is still abysmally low; they are critical because vestigial barriers to entry for minorities still exist. Every obstacle, every delay, every bit of foot-dragging must be eliminated for they serve only to reinforce minority exclusion.

I would like to take this opportunity to provide you with some facts and some thoughts and even some ammunition. Let's assume that government policy in this vital area of minority ownership should be, and is — not to redistribute wealth — but to redistribute opportunity — to make it more feasible for minorities to enter the area of broadcast ownership. (And while equal employment opportunity in broadcasting is a most important concern to both minority groups and to the government, my personal belief is that the most favorable indicia of progress is the level of minority participation in station ownership.) There can be no doubt that the government has taken steps which directly or indirectly encourage minority ownership. And, they are significant steps:

1. First, the government grants a tax certificate to the seller of a broadcast property who sells the outlet to a minority controlled business. These tax certificates allow capital gains deferral for the selling group and thus encourages sales to minorities.

2. Second, where renewal of a station license has been challenged or where a station's license is otherwise in jeopardy, the Commission, under a new policy, allows the station to sell to a minority group at a reduced price — one less than fair market value. Previously, such a station could not be sold if the license were in jeopardy until a resolution took place of the factual and legal circumstances surrounding the case.

Results under these two policies have been favorable. There are now over a dozen broadcast outlets that have been acquired by minorities under these programs.

3. Third, federal loan programs such as SBA and Farmers Home Administration have been reviewed and revised to permit loans and loan guarantees to broadcast and cable TV operations. The net effect is that minority applicants now have an additional source of financing. Government aid in financing is one of the most important programs available to those seeking to enter a business that has significant start-up costs and may, in the long run, be one of the most attractive solutions for enhancing minority involvement in broadcasting.

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4. Fourth, the Commission has recently reduced the amount of capital that has to be demonstrated as being available in order for a broadcast applicant to be deemed financially qualified. Previously, an applicant had to show that it had sufficient reserve available to construct and operate a station for one year. That has now been reduced to a showing of ability to construct and operate for 90 days.

5. Fifth, although not accomplished, the government is attempting to increase the amount of spectrum available for AM and FM broadcast stations in order that more stations may be put on the air, thus giving additional opportunities to minority groups to enter into station ownership.

6. Finally, it is my understanding that the Administration will soon be proposing to the FCC that a revision be made in the rules that would permit group owners of radio and television stations to acquire an additional station beyond the maximum now allowed if a minority group participates in the station acquisition.

I personally believe these programs and proposals are significant in terms of redistributing opportunity. But, programs of social engineering, no matter how well intentioned, can not be made to work unless they are watched over, nurtured, de-bureaucratized, reviewed, revised as needed, promoted, and not undermined by other policies. I am sure that you all know the endless stream of subtle diversions that can be used to change the course of well intentioned programs. I was exposed to these when I sat on the Detroit Board of Housing. The sophisticated methods of getting around, for example, open housing laws, such as by instituting building moratoriums or sewer moratoriums and the like should have no place in the field of communications. I tell you here today that I will keep an eye out at the FCC for any and all efforts from either outside the Commission and even from within the Commission that would in any way lessen the effectiveness of policies designed to provide expanded opportunities for minorities.

We have to insure that the gate is open and that the track is clear. When a minority applicant applies for a new facility, none of the programs, none of the opportunities are terribly meaningful unless the minority applicant is given a meaningful preference in obtaining a broadcast facility when that applicant finds itself in a comparative proceeding with other applicants for the same facility.

Where a minority applicant for a new broadcast facility is composed substantially of local owners, that applicant should be entitled to positive credit per se in the comparative hearing process. That is, Black ownership coupled with local residency should be one factor, along with other factors that are considered in comparing applicants.

Whether the minority applicant who is an owner and local resident works at all at the station should not preclude him or her from obtaining a preference in the comparative procedure. It must be assumed that the minority experience will be translated into programming for the community by the very fact of local minority ownership alone, irrespective of time spent at the station by the owner. And even when time is spent in management, the Commission must be better attuned to the realities of minority efforts.

It seems to me that without proper guidance from the Commission, many minority applicants will be swallowed up in the comparative process because due regard is not given to the factor of minority ownership. In this regard, one measure of comparison is the amount of participation local owners have in the management of the station. This is called the integration criteria - that is integration of ownership and management. Some argue that in order for participation to be meaningful and in order for an owner of a station to get credit for also being part of management, that at least 20 hours per week must be devoted to station operations. Such quotas would, in my opinion, discriminate against minority applicants. Such quotas are unrealistic. Clearly, it has been difficult for minority ownership to come into being. And, if a Black entrepreneur, for example, needs to cultivate his present profession or present job in order to finance a move into the broadcast media, and that entrepreneur can only work at the station on the weekends, for example, the comparative process should not work to discourage such plans. Credit must be given for any amount of integration of Black ownership and management.

Finally, as we move to an era where more stations will become available and where minority groups can apply for stations, we must fully examine a very basic provision of the Communications Act which seeks fair, efficient and equitable distribution of radio services. Traditionally, this section has been used by the Commission to promote localism. Its interpretation works something like this: If

applicants from two communities in the same metropolitan area are competing for a single broadcast frequency, the community which has no station as yet will generally receive a preference. A minority section within a metropolitan area is not considered to be a community for these purposes. Therefore, significant minority population segments cannot qualify, some would argue, as an unserved community when the Commission considers equitable distribution of radio facilities. The entire metropolitan area or service area should be considered one community for the purposes of comparative hearing so that minority applicants serving, for example, a core city of a large community that already has a station will not be disfavored because a suburban applicant is proposing a new facility for a suburban community where no transmitter now exists.

I believe all of the Commissioners are concerned that the comparative hearing process not be used to discourage minority ownership in broadcasting. We will keep our eyes, ears and minds open to insure that the gains that have been made in opportunity can be translated into ownership.

Thank you.