Congress of Racial Equality

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May 11, 2020

Barbara Kreisman
Chief, Video Division, Media Bureau
Federal Communications Commission

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Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Petition to Deny File No. BALCDT-20200408AAL Marshall/Mission Transfer

Dear Ms. Kreisman:

My name is Niger Innis. I am the National Chairman of the Congress of Racial Equality (CORE).

Founded in 1942, CORE is one of the nation's oldest civil-rights organizations. Its founding principles were based on the non-violent social philosophy of Mahatma Gandhi. Using these techniques of non-violence, CORE organized "Freedom Rides" starting in 1947 and played a major role in the 1960s civil rights struggle for racial equality in voting, transportation, schooling, housing, and employment. CORE was one of the key organizers of the 1963 March on Washington in which Dr. Martin Luther King Jr. gave his historic "I Have a Dream" speech. In 1968, Roy Innis became CORE's National Chairman, where he endured the Nixon Administration's investigation as part of its infamous "COINTELPRO." The organization was completely vindicated. President Nixon's resignation and the arrest of members of his Administration speaks for itself. In the 1980s, CORE was one of the very first organizations to provide training and counseling for African Americans dealing with the AIDS epidemic. For the past two decades, CORE has provided help to immigrants seeking U.S. citizenship, including services in the submission of petitions and appeals to the U.S. Citizenship and Immigration Services.

Today, in continuance and furtherance of CORE's mission to promote racial equality and opportunity, I am writing to formally request that the FCC deny the petition to transfer a television ownership license from Marshall Broadcasting to Mission Broadcasting.

Some history will make the basis of my petition clear. In 2014 Marshall Broadcasting spent $58.5 million to purchase three television stations: KLJB-TV in Davenport, Iowa; KMSS-TV in Shreveport, La., and KPEJ-TV in Odessa, Tex. Marshall bought these stations from Nexstar, one of the nation's largest television station operators.

The stations were purchased with the understanding that the sale would promote a longstanding FCC policy of encouraging African American ownership of television stations. Marshall Broadcasting's purchase of these stations was hailed, by members of the press, as a catalyst for change in the world of television ownership.

The FCC must determine whether a proposed license transfer will serve the public interest, convenience, and necessity. In making its determination, the Commission must assess whether the transaction complies with the Communications Act and the Commission's rules. Mission Broadcasting's proposed license transfer of these three stations violates both the letter and spirit of the duopoly rule.

The Commission's duopoly rule is intended to promote the "bedrock" goals of serving "a vital public interest by promoting competition and diversity in the mass media." If the proposed transfer of licenses were granted, the Commission would subject the impacted communities to diminished competition resulting from a reduction in the number of independent broadcast voices -- an outcome that both Republican and Democratic-led Commissions have recognized as harmful to the public interest.

Any consideration of the public interest also concerns the longstanding FCC policy that encourages black ownership. That policy has a sound basis. Of the nation's 1,400 full-power commercial television stations, only 12 are black-owned. Meanwhile, some 38.7 percent of American television viewers identify as people of color. Of the dozen stations owned by black Americans, they are controlled by five individual owners.

Transferring the Marshall Broadcasting stations violates FCC policy and undermines efforts by African Americans to meaningfully participate in the world of television ownership.

Claims made by Mission Broadcasting that they are "minority-owned" are misleading at best. Mission is, in reality, controlled by the Nexstar television giant that originally sold the stations in 2014 and now wants them back. Further, Marshall claims, in a series of legal actions, that Nexstar failed in its duties and obligations to Marshall with the aim of driving it into bankruptcy.

If the FCC grants this transfer, it will be handing Mission and Nexstar the victory that so far, the courts have denied them.

And Mission's "minority" status comes solely from having one woman among its ownership group, not an African American, and what is that woman's relationship to Nexstar? Whether Mission actually deserves its legal status as a protected minority organization is certainly worth a closer look.

The FCC must remember its "public interest" mission. Transferring television licenses to Mission would promote the continued racial oligopoly within the industry and undermine the little progress that has been made over the past few decades. Indeed, that license transferal might well cause irreparable harm to the public interest by discouraging any African Americans from investing in the television business. After all, there are so few, and virtually all are in "sidecar" arrangements with major ownership groups. Where are the role models for African Americans who want to pursue a dream of independent television ownership?

Nexstar has also failed miserably to demonstrate affirmatively any merger-specific public interest benefits from this transaction.

The FCC's so-called "distress sale" policy allows a radio or television broadcaster whose qualifications to hold a license have come into question to transfer that license before the FCC resolves the matter in a noncomparative hearing, but only if the transferee is a minority enterprise that meets certain requirements. The FCC adopted these policies to satisfy its obligation under the Communications Act of 1934 to promote diversification of

programming, taking the position that its past efforts to encourage minority participation, in this case, black ownership in the broadcast industry had not resulted in enough broadcast diversity, and that this situation was detrimental not only to the minority audience but to all the viewing and listening public.

African Americans spend some $45 billion annually on cable-TV service, watch about 77.4 hours of television each week, and watch 40 percent more television than any other ethnic group. The paucity of black-owned television stations is troubling.

That's why the initial sale of the three stations in 2014 generated so much excitement – it was the reversal of a long-running trend against independent black ownership in the television market.

Consider the words of Jim Winston, executive director of the National Association of Black Owned Broadcasters (NABOB), as he put it to Target Market News in 2014: "We have reviewed the application submitted by Marshall Broadcasting Group and Nexstar and are very pleased to see that the transaction appears to be the type of transaction NABOB was hoping to see as a result of the new JSA rule. It appears to be the kind of transaction that should receive a waiver of the rule."

Winston continued: "We still have some questions about the transaction, and we anticipate that the Commission will seek additional information from the parties about the transaction. We are optimistic that, as additional information is supplied to the Commission, NABOB will be able to wholeheartedly endorse this transaction. As described, it represents the type of agreement that could be beneficial to increasing minority ownership of broadcast properties and create increased opportunities for minority-owned content producers and channels."

In short, the license transfer from Marshall Broadcasting to Mission Broadcasting would go against everything that the initial sale of the stations was meant to represent and harm the public interest by reducing diversity among station owners.

It is for these reasons that CORE urges the FCC to deny the transfer of this license agreement for File No. BALCDT-20200408AAL. MARSHALL/MISSION transfer.

Sincerely,

Niger Innis

National Chairman

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