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# Comments of the National Association of Black Owned Broadcasters, Inc., The National Black Media Coalition and The National Bar Association, Inc.

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In re )  
 )  
Revision of ) MM Docket No. 91-140  
Radio Rules and Policies )

COMMENTS OF THE  
NATIONAL ASSOCIATION OF BLACK OWNED BROADCASTERS, INC.,  
THE NATIONAL BLACK MEDIA COALITION AND  
THE NATIONAL BAR ASSOCIATION, INC.

The National Association of Black Owned Broadcasters, Inc. ("NABOB"), by its attorneys, the National Black Media Coalition ("NBMC"), by its attorney, and the National Bar Association, Inc. ("NBA"), by its attorney, (collectively referred to as the "Commenters") hereby submit their Comments in the above-captioned proceeding.

The Commenters direct their comments to the proposed "incubator" program described by the Commission in its Memorandum Opinion and Order and Further Notice of Proposed Rule Making, FCC 92-361, released September 4, 1992. The Commenters submit the following:

1. The Commission has proposed that a group station owner be allowed to increase its ownership of radio stations above the Commission's recently adopted national ownership limits, if such group owner "establishes and successfully implements a broadcast ownership 'incubator' program designed to ease entry barriers and provide assistance to small businesses or individuals seeking to

enter the radio field." Order at para. 22. The Commission suggests that such an incubator program could consist of:

- (1) Management or technical assistance
- (2) Loan guarantees
- (3) Direct financial assistance through loans or equity investment
- (4) Training
- (5) Business planning assistance

Id. at para. 24.

2. The Commenters submit that the incubator program, as described by the Commission, is likely to be of no benefit to minority broadcasters or prospective minority broadcasters, and may indeed injure such minority broadcasters.

3. The Commission offers the incubator concept in the same Order in which the Commission authorized and encouraged a major increase in the concentration of control of the radio industry, over the strenuous and repeated objections of minority broadcasters and prospective minority broadcasters. The incubator program appears to be only a token gesture to give the appearance of ameliorating the potential devastation which the ownership rule changes can be expected to cause among minority owners.

4. The incubator program is so "watered down" that it does not even begin to provide any hope for creation of additional minority broadcasters or the strengthening of existing minority broadcasters. The incubator program is not limited to providing assistance to minority broadcasters and potential minority

broadcasters. Instead, it is to offered to all "small businesses."  
Id. at 22.

5. In its Order, the Commission adopted a similar rule to allow an increase in the ownership limits for "small businesses" partially owned by group owners. NABOB and NBMC petitioned for reconsideration of that rule change, because the potential class of "small businesses" is so large and unrestricted that group owners will have no trouble creating nonminority owned "small businesses" indirectly controlled by those group owners. Thus, no group owner will ever have a need to joint venture with a minority owned company to take advantage of the increased ownership limits. NABOB and NBMC pointed out that this unrestricted definition of "small businesses" is a major "loophole" in the new ownership limits.

6. Similarly, the proposal to allow "small businesses" to take advantage of the proposed incubator program creates the same major "loophole" for group owners that the new ownership rule permits. Group owners will be able to create "small businesses" owned by children, spouses, former employees or other persons whom those group owners are able to indirectly control. Such group owners will never have any incentive to bring a minority owned company into their incubator programs. Thus, the proposed incubator program offers minorities nothing more than "lip service." It offers no real likelihood that minorities will ever benefit from this concept.

7. Additionally, the incubator program shows no signs of

balancing out the damage to minority owners which consolidation of the industry will create. The Commission fully expects that there will be a consolidation of ownership in the broadcast industry as a result of its increased ownership limits. See Order at para. 9. The Commission reasons that fewer, financially stronger, companies will be good for the industry. Id. However, there is nothing in the proposed incubator program which suggests that it has the ability to replace minority owners who will be lost as a result of industry consolidation. In fact, it is quite likely that a minority owner forced out of the industry by the consolidation created by the Commission's new ownership limits will be replaced by a nonminority owned "small business" in the incubator program.

8. It is also clear that the whole concept of the incubator program is quite disingenuous. The Commission's new ownership limits are based upon the Commission's conclusion that the industry should be restructured into ownership by fewer, larger, financially stronger companies. Given this restructuring the Commission has begun, any future "graduates" of such an incubator programs will be set loose to compete in a new, more concentrated industry. Thus, any "graduate" of such an incubator program can be expected to suffer the same fate as the small minority broadcaster it will be replacing. The incubator graduate will find that it cannot survive as a stand-alone station, and it to will seek to be bought out by a group owner -- perhaps the group owner from whose incubator program it graduated.

9. Thus, having set in motion the forces which will assure

that small station owners will be driven from the market, the Commission's proposed incubator program cannot be looked upon favorably as offering any meaningful opportunities for increasing minority ownership. The Commenters therefore submit that the only meaningful way the Commission can aid minority ownership in this proceeding is to act favorably upon the Petition for Reconsideration filed by NABOB and NBMC in this proceeding on October 16, 1992. The Commission must return the national ownership limits to 12 AM and 12 FM, with a 2 station incentive for all minority owned companies and return the local ownership limits to 1 AM and 1 FM per market.

10. With respect to the proposed incubator program, the Commission should either eliminate it altogether or make major revisions to it. The specific revisions which the Commission should make are:

- (1) Restrict the incubator program to companies owned and controlled by minorities.
- (2) Require any company proposing to create an incubator program to provide all of the components of an incubator program listed by the Commission in paragraph 24 of its Order.
- (3) Require any company seeking to receive a waiver of the national ownership limits to demonstrate that it has had a successful incubator program in existence for at least a year prior to asking for the waiver.
- (4) Require any company requesting a waiver of the national ownership limit to demonstrate that it has placed two minority owners in business through its incubator program for each station above the national limit the company seeks.

- (5) Require any company requesting a waiver of the national ownership limit to demonstrate that the proposed acquisition will not have a negative effect on existing minority ownership. (For example, the company should be required to show that its acquisition of a new station will not negatively impact a minority owned station in the market in which it is purchasing the new station.)

**CONCLUSION**

As stated above, the Commenters are opposed to the incubator program as currently proposed. As proposed, it is likely that the program will do more harm to minority ownership than having no program at all. Therefore, the Commenters submit that the incubator program either should be abandoned or modified as set forth herein.

Respectfully submitted,

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