

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Future of Media and Information Needs of) GN Dkt. No. 10-25
Communities in a Digital Age)

COMMENTS OF

NATIONAL HISPANIC MEDIA COALITION (“NHMC”)

BENTON FOUNDATION, CENTER FOR MEDIA JUSTICE, CENTER FOR RURAL STRATEGIES, CENTER ON LATINO AND LATINA RIGHTS AND EQUALITY OF THE CITY UNIVERSITY OF NEW YORK SCHOOL OF LAW, COMMON CAUSE, ESPERANZA PEACE AND JUSTICE CENTER, FREE PRESS, HISPANIC / LATINO, ANTI-DEFAMATION COALITION SF, INDUSTRY EARS, JOINT CENTER FOR POLITICAL AND ECONOMIC STUDIES, LA ASAMBLEA DE DERECHOS CIVILES, LEAGUE OF RURAL VOTERS, LEAGUE OF UNITED LATIN AMERICAN CITIZENS (“LULAC”), MAIN STREET PROJECT, MEDIA ACTION GRASSROOTS NETWORK (“MAG-NET”), MEDIA ALLIANCE, MEDIA JUSTICE LEAGUE, MEDIA LITERACY PROJECT, MEDIA MOBILIZING PROJECT, MOUNTAIN AREA INFORMATION NETWORK, NATIONAL ALLIANCE FOR MEDIA ARTS AND CULTURE, NATIONAL ASSOCIATION OF LATINO INDEPENDENT PRODUCERS (“NALIP”), NOSOTROS, OFFICE OF COMMUNICATION, UNITED CHURCH OF CHRIST, INC., PEOPLES PRODUCTION HOUSE, PRAXIS PROJECT, PROMETHEUS RADIO PROJECT, RAINBOW PUSH COALITION, RECLAIM THE MEDIA, TRANSMISSION PROJECT, UNITED STATES HISPANIC LEADERSHIP INSTITUTE

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Jessica J. González, Esq.
National Hispanic Media Coalition
55 South Grand Avenue
Pasadena, CA 91105
(310) 809-2577

SUMMARY

NHMC *et al.* respectfully request that the Commission grant NHMC's Petition for Inquiry on hate speech in media, filed in January of 2009. NHMC's Petition urges the Commission to examine the extent and effects of hate speech in media, including the likely link between hate speech and hate crimes, and to explore non-regulatory ways to counteract its negative impacts. As NHMC has awaited Commission action, hate, extremism and misinformation have been on the rise, and even more so in the past week as the media has focused on Arizona's passage of one of the harshest pieces of anti-Latino legislation in this country's history, SB 1070.

As outlined in NHMC's Petition, the current media landscape is a safe-haven for hate and extremism. Many communities and individuals do not have the information they want and need to intelligently engage in our democracy. This shortage of information is exacerbated by the vast media consolidation that has unfolded over the past two decades. Studies show that media consolidation diminishes ownership opportunities for people of color and leads to less diversity of voices; this yields a media in which people of color are under and misrepresented. As traditional media have become less diverse and less competitive, they have also grown less responsible and less responsive to the communities that they are supposed to serve. In this same atmosphere hate speech thrives, as hate has developed as a profit-model for syndicated radio and cable television programs masquerading as "news."

The Internet gives the illusion that news sources have increased, but in fact there are fewer journalists employed now than before. Moreover, on the Internet, speakers can hide in the cloak of anonymity, emboldened to say things that they may not say in the public eye. Even worse, sometimes anonymous Internet speakers hold their information out as news, leaving the public with the difficult job of discerning fact from fiction.

For these reasons, as the Commission deliberates how the public interest will be served in the digital age, it should consider the extent of hate speech in media, and its effects.

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The National Hispanic Media Coalition (“NHMC”), Benton Foundation, Center for Media Justice, Center for Rural Strategies, Center on Latino and Latina Rights and Equality of the City University of New York School of Law, Common Cause, Esperanza Peace and Justice Center, Free Press, Hispanic / Latino Anti-Defamation Coalition SF, Industry Ears, Joint Center for Political and Economic Studies, La Asamblea de Derechos Civiles, League of Rural Voters, League of United Latin American Citizens (“LULAC”), Main Street Project, Media Action Grassroots Network (“MAG-Net”), Media Alliance, Media Justice League, Media Literacy Project, Media Mobilizing Project, Mountain Area Information Network, National Alliance for Media Arts and Culture, National Association of Latino Independent Producers (“NALIP”), Nosotros, Office of Communications of the United Church of Christ, Inc., Peoples Production House, Praxis Project, Prometheus Radio Project, Rainbow PUSH Coalition, Reclaim the Media, Transmission Project, and the United States Hispanic Leadership Institute (“USHLI”), collectively, NHMC *et al.* for the purposes of this filing, respectfully submit this comment in response to the Federal Communications Commission’s (“FCC” or “Commission”) request for input on the future of media and information needs of communities in a digital age.¹ The FCC’s Public Notice states that “[t]he objective of this review is to assess whether all Americans have

¹ Public Notice, DA 10-100, GN Dkt. No. 10-25 (rel. Jan. 21, 2010) (“Public Notice”).

access to vibrant, diverse sources of news and information that will enable them to enrich their lives, their communities and our democracy.”² The FCC aims to evaluate “the current media landscape, analyze policy options and, as appropriate, make policy recommendations to the FCC, other government entities and other parties.”³

NHMC *et al.* applauds the Commission for undertaking this comprehensive review. Despite that new and emerging technologies have enabled people to communicate and access information more than ever, many in this country still lack sources for accurate, unbiased news and information. The current media landscape is ridden with false, misleading, divisive and dehumanizing language, some of which actually rises to the level of incitement to violence.⁴

NHMC *et al.* is extremely concerned with the negative impacts of hate speech in media on society and particularly on children, and urges the FCC to grant NHMC’s Petition for Inquiry on hate speech in media (“Petition”), filed with the FCC over a year ago on January 28, 2009. To be clear, NHMC *et al.* is not asking – and will not ask – the Commission to compose any sort of content regulations pertaining to hate speech in media. Rather, NHMC *et al.* respectfully request that the Commission initiate an inquiry into the extent and effects of hate speech in media and to explore non-regulatory means by which to mitigate its negative impacts. In conjunction with opening a docket for public comment on the matter, the FCC should also study the correlation between hate speech and hate crimes. Once this information is collected, NHMC *et al.* will utilize the data for educational, informational and research purposes. Specifically,

² *Id.* at 1.

³ *Id.*

⁴ *See, generally*, Petition for Inquiry on Hate Speech in Media, National Hispanic Media Coalition (filed Jan. 28, 2009) (“Petition”) (undocketed). Attached as Addendum I. *See also*, CHON A. NORIEGA & FRANCISCO JAVIER IRIBARREN, HATE SPEECH IN COMMERCIAL TALK RADIO: PRELIMINARY REPORT ON A PILOT STUDY (2009) (“Pilot Report”) (establishing a methodology by which to classify hate speech in media and identifying false, misleading, divisive and dehumanizing language as four different categories of hate speech in media).

NHMC *et al.* will confront and educate hate distributors about the consequences of hate speech and encourage them to self-regulate.

BACKGROUND

Since NHMC filed its Petition in early 2009, hate, extremism and misinformation have been in the rise.

I. NHMC FILED A PETITION FOR INQUIRY ON HATE SPEECH IN MEDIA OVER A YEAR AGO

On January 28, 2009, NHMC filed its Petition with the Commission, attached as an addendum to this Comment, requesting that the Commission

invite public comment on hate speech in media, inquire into the extent and nature of hate speech, examine the effects of hate speech, including the relationship between hate speech in the media and hate crimes, and explore options for counteracting or reducing the negative effects of such speech.⁵

The Petition illustrates the pervasive nature of hate speech in media, with numerous examples of hate speech that occurs across a range of media, including broadcast radio, cable television and the Internet.⁶ The Petition introduces a groundbreaking pilot study by the UCLA Chicano Studies Research Center, which develops a scientific methodology to categorize and examine hate speech in media.⁷ The Petition cites reports and studies, establishing that hate speech influences society's behaviors and perceptions,⁸ questions the correlation between the increase in hate speech and the increase in violent hate crimes against Latinos and other groups,⁹ and

⁵ Petition at i.

⁶ *Id.* at 8-11.

⁷ The Pilot Report is attached to the Petition in Addendum I. The complete study will be released within the next month.

⁸ Petition at 14-15.

⁹ *Id.* at 15-18.

demonstrates that hate speech has invoked psychological harm on its recipients,¹⁰ especially teens and children.¹¹

Support for the Petition has been widespread. In July, after six months of FCC inaction on NHMC's Petition, dozens of civil rights, consumer advocacy and public interest organizations sent letters to the FCC, urging Chairman Genachowski to open a docket on hate speech in media.¹² The Petition has also been endorsed by letters from numerous U.S. Senators and Representatives, and, notably, by the Congressional Hispanic Caucus, which sent a letter on April 1, 2010, urging Chairman Genachowski to grant NHMC's requests.¹³ On April 21st the Congressional Hispanic Caucus sent a similar letter to the National Telecommunications and Information Administration ("NTIA"), urging it to update its 1993 report, *The Role of*

¹⁰ *Id.* at 18-19.

¹¹ *Id.* at 19-21.

¹² One letter was sent by a group of national Latino organizations, including Cuban American National Council, Inc. (CNC), Labor Council For Latin American Advancement (LCLAA), League of United Latin American Citizens (LULAC), National Association of Hispanic Federal Executives (NAHFE), National Association of Latino Independent Producers (NALIP), the Committee for Hispanic Children & Families, Inc. and the United States Hispanic Leadership Institute (USHLI). Attached as Addendum II. The other was sent by a diverse collection of organizations, including the Asian American Justice Center (AAJC), Catholics in Alliance for the Common Good, CeaseSPIN, Inc. (CeaseSPIN.org), Center for Media Justice, Center on Latino and Latina Rights and Equality of the City University of New York School of Law, Common Cause, Fairness & Accuracy In Reporting, Florida Public Interest Research Group, Free Press, Georgia Association of Latino Elected Officials (GALEO), Hispanic/Latinos Anti-Defamation Coalition, SF, Industry Ears, Main Street Project, Media Action Grassroots Network, Media Alliance, Media Mobilizing Project (MMP), Mexican American Legal Defense & Educational Fund (MALDEF), Minnesotano Media Empowerment Project, Department of Chicano Studies, University of Minnesota, National Association of Latino Independent Producers (NALIP), National Organization for Women (NOW), Oregon Alliance to Reform Media, Prometheus Radio Project, Public Interest Pictures and Broadcast Blues, Rainbow PUSH Coalition, Reclaim the Media, Texas Media Empowerment Project, The Benton Foundation, The Center for Rural Strategies, The New Mexico Media Literacy Project, The Praxis Project, United Church of Christ, Office of Communication, Inc. (UCC), UNITY: Journalists of Color, Inc., and U.S. Public Interest Research Group. Attached as Addendum III.

¹³ Letter from the Honorable Nydia Velázquez, Chairwoman, Congressional Hispanic Caucus, to the Honorable Julius Genachowski, Chairman, Federal Communications Commission (Apr. 1, 2010). Attached as Addendum IV.

Telecommunications in Hate Crimes. NTIA's Assistant Secretary, Lawrence Strickling, promptly responded to the Caucus, expressing that he shares the "concern about the potential for electronic media to encourage hate crimes," and noting that technological advances that have occurred since 1993 have "created opportunities for those who traffic in hate and division."¹⁴ Assistant Secretary Strickling did not directly indicate whether the NTIA would update the 1993 report.

II. OVER THE PAST YEAR, HATE, EXTREMISM AND MISINFORMATION HAVE BEEN ON THE RISE

As NHMC *et al.* have awaited FCC action, some that we represent have lived in fear as hate and extremism have grown and manifested in different ways. On April 7, 2009, the Department of Homeland Security ("DHS") released an extremism assessment,¹⁵ reporting that extremists "have adopted the immigration issue as a call to action, rallying point, and recruiting tool," and that "anti-immigration or strident pro-enforcement fervor has been directed against specific groups" and "has the potential to incite individuals or small groups toward violence."¹⁶

One Southern Poverty Law Center (SPLC) report corroborates DHS's findings and links the increase in extremism, in part, to mainstream media. According to SPLC's latest statistics, "there are 932 hate groups operating across the country, including neo-Nazis, Klansmen, white nationalists, neo-Confederates, racist skinheads, black separatists, border vigilantes and

¹⁴ Letter from the Honorable Lawrence E. Strickling, Assistant Secretary, National Telecommunications and Information Administration, to the Honorable Nydia Velázquez, Chairwoman, Congressional Hispanic Caucus (Apr. 26, 2010). Attached as Addendum V.

¹⁵ Assessment, U.S. Department of Homeland Security, *Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment* (Apr. 7, 2009), available at <http://www.fas.org/irp/eprint/rightwing.pdf>.

¹⁶ *Id.* at 5.

others.”¹⁷ According to SPLC’s “Hate Map,” every U.S. state has at least one known hate group, and most states have many more than one.¹⁸ The number of hate groups in the U.S. has grown by 54% since 2000,¹⁹ and the six states with the most hate groups include Texas (66), California (60), Florida (51), New Jersey (44), Georgia and Tennessee (both with 37).²⁰ Despite its small geographic reach, the District of Columbia has 9 hate groups; Maryland has 13 and Virginia is home to 22.²¹ SPLC has determined that the surge in hate groups over the past ten years

has been fueled by fears of Latino immigration and, more recently, by the election of the country’s first African-American president and the economic crisis.

These factors also are feeding a growing antigovernment militia movement, which in the 1990s led to a string of domestic terrorist plots, including the Oklahoma City bombing.

This growth in extremism has been aided by mainstream media figures and politicians who have used their platforms to legitimize false propaganda about immigrants and other minorities and spread the kind of paranoid conspiracy theories on which militia groups thrive.²²

As SPLC alludes, the media is playing a role in spreading the type of messages that leads many to extremist organizations or worse – extreme acts. Yet neither SPLC nor DHS have deeply examined the role of telecommunications in the incitement of violence. The following is

¹⁷ Southern Poverty Law Center, *Hate and Extremism*, available at <http://www.splcenter.org/what-we-do/hate-and-extremism>.

¹⁸ Southern Poverty Law Center, *Hate Map*, available at <http://www.splcenter.org/get-informed/hate-map>.

¹⁹ Southern Poverty Law Center, *Hate and Extremism*, available at <http://www.splcenter.org/what-we-do/hate-and-extremism>.

²⁰ Southern Poverty Law Center, *Hate Map*, available at <http://www.splcenter.org/get-informed/hate-map>.

²¹ *Id.* Both Silver Spring and Gaithersburg, MD, are home to White Nationalist groups, as are Arlington, Falls Church, and Vienna, VA. *Id.*

²² *Id.* (emphasis added).

a sample of some of the events that have transpired as NHMC has awaited FCC action on its

Petition:

- On May 31, 2009, Dr. George Tiller was gunned down in Wichita, KS, while serving as an usher at church; Tiller had been repeatedly referred to as “Dr. Tiller the Baby Killer” on mainstream media outlets.
- On June 11, 2009, white supremacist James von Brunn shot and killed an African American security guard at the Holocaust museum in Washington, DC; hateful literature against Jews and African Americans were found in von Brunn’s vehicle.
- On June 12, 2009, former Minutemen leader Shawna Forde murdered 9-year-old Brisenia Flores and her father in Arivaca, AZ; Forde broke into their home dressed as a law enforcement officer, looking for money and drugs to finance her vigilante border watch group. The Minutemen, identified as a “Nativist Extremist” group by the Southern Poverty Law Center,²³ have been known to use deadly tactics in the name of “protecting our borders.” Its leaders have been regularly featured on cable news programs as immigration “experts.” Indeed, SPLC cites a report from the ACLU, showing “how newspaper reporting that was either lazy or deliberately misleading helped transform a relatively small band of extremists into the armed vanguard of the anti-immigration movement.”²⁴
- On July 28, 2009, Neo-Nazi radio host Hal Turner was arrested for his Internet postings encouraging violence against three 7th Circuit Court of Appeals judges; the postings included photographs, phone numbers, work address and room numbers of the judges, along with a photo of the building where they work and a map of its location; Turner wrote, “Let me be the first to say this plainly: These judges deserve to be killed.”
- On September 23, 2009, Mario Vera was viciously beaten by men yelling racial slurs in Brooklyn, NY. This was the second anti-Latino attack in a year to occur in the Bushwick neighborhood, and one in a series of violent and deadly attacks on Latinos to occur in the New York area in past two years. Even more shocking, is that teenagers have been behind many of these attacks.

²³ Southern Poverty Law Center, ‘Nativist Extremist’ Group List, INTELLIGENCE REPORT (2009), available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2009/spring/sinister-intentions/nativist-extremis>.

²⁴ Southern Poverty Law Center, *Newspapers Inflated Minutemen Numbers, Report Finds*, INTELLIGENCE REPORT (2006), available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2006/summer/anti-immigration-movement>.

- Earlier this year, Barbara Coe, founder of the California Coalition for Immigration Reform, which the SPLC identifies as a hate group,²⁵ sent out an e-mail containing the following text, which was later posted on an anti-immigrant listserv:

Fellow American Patriots...

“Hate/Destroy America Commie/Muslim OBAMA” has loose[ned] [sic] his KILLERS on law-abiding American patriot Sheriff JOE ARPAIO.

It is the responsibility of EVERY LAW-ABIDING AMERICAN PATRIOT who gives a damn about YOUR LIFE or the lives of YOUR loved ones, to STAND IN DEFENSE of JOE ARPAIO – HERE AND NOW! HE is OUR law enforcement Representative NATIONWIDE!

I have made my verbal and monetary commitment to SHERIFF JOE ARPAIO. I hope and pray other true American patriots will do the same.

SHERIFF JOE can be our spokesperson. TOGETHER, WE can illustrate our “PEOPLE POWER” – TOGETHER, WE can DEFEAT Obama’s “kill Americans” TRAITOR supporters. [CCIR has provided you the list.]

LOCK & LOAD, my fellow patriot Americans. The “time of reckoning” may be sooner than we think. As stated many times, “American Patriots will die on our feet before we bend on our knees to anti-American Traitors.”²⁶

- Just last week, Arizona enacted some of the most backward-sliding legislation that has existed since freed-slaves were forced to show their papers in the 1800s. Regrettably, Arizona’s new anti-Latino legislation has done much more than offend the basic human rights and liberties of those that reside within the state. It

²⁵ Southern Poverty Law Center, *California Coalition for Immigration Reform*, INTELLIGENCE FILES, available at <http://www.splcenter.org/get-informed/intelligence-files/groups/california-coalition-for-immigration-reform>.

²⁶ Posting of Jill Garvey to IMAGINE 2050, Anti-Immigrant Movement’s Wicked Witch Tells Supporters to “Lock and Load,” (Apr. 16, 2010), available at <http://imagine2050.newcomm.org/2010/04/16/anti-immigrant-movements-wicked-witch-says-lock-load/>. Coe’s work has been highlighted on the *Lou Dobbs Show* on CNN, where Dobbs failed to mention that Coe was the founder of a hate group. Daphne Eviatar, *Nightly Nativism*, THE NATION, Aug. 28, 2006, available at <http://www.thenation.com/article/nightly-nativism?page=0,4>.

has led to yet another firestorm of hate speech against Latinos. A candidate in Iowa's 3rd District Congressional primary was quoted in the *Cedar Rapids Gazette*: "I think we should catch 'em, we should document 'em, make sure we know where they are and where they are going," said Pat Bertroche, an Urbandale physician. **"I actually support microchipping them. I can microchip my dog so I can find it. Why can't I microchip an illegal?"**

DISCUSSION

As the media is increasingly a safe-haven for hate and extremism, the Commission should immediately examine the extent and effects of hate speech therein. Failure to examine this issue would prevent the FCC from accurately assessing the health of media and its impact on our democracy. Indeed, any assessment of "the current media landscape" that overlooks hate speech would be incomplete, and could result in policies that unintentionally harm communities of color and others.

I. THE CURRENT MEDIA LANDSCAPE IS A SAFE-HAVEN FOR HATE AND EXTREMISM

In addition to the rampant hate and extremism present across the media landscape, there are other ways in which the media has failed to serve – and even harms – communities of color and other marginalized groups. Indeed, because of these inequities the FCC has even greater reason to act on NHMC's Petition. The FCC's Public Notice seeks comment on whether individuals and communities have the information they want and need,²⁷ how the changes of availability of different types of news and information consumption have affected different demographic groups,²⁸ whether benefits or problems are concentrated by income, age,

²⁷ Public Notice at 3.

²⁸ *Id.* at 5.

geography, educational level, race, gender, religion or other factors,²⁹ and what categories of journalism are in jeopardy in the digital age.³⁰

In recent years, traditional media have largely failed to provide the accurate information needed for an informed democracy. These failures often damage communities of color at disproportionate rates. The media has a history of unequal representation of and discrimination against people of color, and rapid media consolidation has exacerbated the situation. In this climate of inaccurate and apathetic reporting and underrepresentation of people of color in traditional media, hate has festered and grown. The Internet, while currently the freest forum for expression, alone cannot cure the history of discrimination in traditional media. Indeed, it is yet another place where hate can manifest in new and unpredictable ways.

A. Many Communities And Individuals Do Not Have The Information They Want And Need To Intelligently Engage In Our Democracy

In joint comments filed in the FCC's *Broadcast Localism* proceeding, the Public Interest Public Airwaves Coalition ("PIPA"),³¹ along with the Center for Creative Voices in Media, Free Press and NHMC, explained the important role that broadcasters have in informing the public, and argued that many broadcasters do not provide the news and information necessary to maintain an informed society.³² The joint comments noted that some television broadcasters provide good local coverage of important issues, and that Hearst-Argyle, one such station,

²⁹ *Id.*

³⁰ *Id.*

³¹ PIPA includes the Benton Foundation, Campaign Legal Center, Common Cause, Media Access Project, New America Foundation, Office Of Communication, United Church Of Christ, Inc., and the United States Conference Of Catholic Bishops.

³² See, Comment of PIPA *et al.* at 5-6, 8-10, *Broadcast Localism*, MB Dkt. No. 04-233, filed Apr. 28, 2008.

“performed two-and-a-half times better than the national average” for ratings.³³ These ratings tend to suggest that people not only need better news and information, but also want it.

A March 2010 study released by the Norman Lear Center at USC’s Annenberg School for Communication and Journalism, found that

“When it comes to local news, more people” – 68% -- “say they get that news from local television stations than any other source,” says a recent Pew poll. Internet news is rapidly gaining consumers, but independent city-specific Web sites mainly link to stories from local TV and newspapers; they rarely report original hard news (only 3.6% of the time, according to one study); their audience is often in the thousands, compared to the millions watching TV news; and that audience “is very transient, stumbling upon the site once, and never returning.” That’s why, despite the rise of blogs and citizen journalism, the quality of local TV news remains so important to democracy.³⁴

That study also found that in Los Angeles, the average half-hour of local TV news contained 8 minutes and 25 seconds of advertising, 2 minutes and 10 seconds of teasers, 3 minutes and 36 seconds of sports and weather, and 15 minutes and 44 seconds of everything else.³⁵ Of the 15 minutes and 44 seconds, 8 minutes and 17 seconds were local coverage and 7 minutes and 27 seconds were non-local.³⁶ Only 29 seconds per half hour focused on the local economy, only 1 minute and 16 seconds addressed local civic issues, and only 22 seconds went to Los Angeles-area government issues.³⁷ On average, those 22 seconds contained 7 seconds on the local budget, 5 seconds on law enforcement and legal issues, and 3 seconds on education.³⁸

³³ *Id.* at 9-10.

³⁴ MARTIN KAPLAN & MATTHEW HALE, LOCAL TV NEWS IN THE LOS ANGELES MARKET: ARE STATIONS SERVING THE PUBLIC INTEREST? at 1 (2010) (“Lear Study”) (internal citations omitted).

³⁵ *Id.* at 2.

³⁶ *Id.*

³⁷ *Id.* at 5.

³⁸ *Id.*

Commissioner Copps responded to the Lear Study, stating, “I was worried before the study was released ... now I’m flat out alarmed,” and observing that in his experience, the situation in Los Angeles is merely a microcosm of what is happening across the country

This is not picking on the good folks of L.A. I’ve been in all four corners of the country where this is unfortunately the case. This study should be incorporated into the work being done at the FCC on the Information Needs of Communities in a Digital Era. This is an evidential versus anecdotal perspective of local broadcast news and the results are most troubling. The digital divide continues to separate our lower income, less educated members of society from broadband media, and we simply cannot afford to turn a blind eye to the media that those Americans without broadband are receiving.³⁹

NHMC *et al.* agrees with Commissioner Copps that the current media landscape is not adequately serving the public interest, and endorse his remark that

[t]he challenge to guarantee the flow of news and information all across the land long predates broadband. It’s actually a very old challenge. George Washington, Thomas Jefferson and James Madison put it front-and-center as first things for their young country to ensure. And they figured out ways to get the job done, to make sure that the information infrastructure of their day, which was newspapers, was widely available *as a matter of public interest policy*—because they knew their fragile new democracy depended on it. Today our technology is new, but our democratic challenge is exactly the same.⁴⁰

B. People Of Color Are Uniquely Disserved By Traditional Media And Consolidation

The lack of hard-hitting, fair news is felt deeply in communities of color. Traditional media have never been particularly diverse, and rapid deregulation over the last two decades has significantly reduced opportunities for people of color to own and control such media, tarnishing

³⁹ *Statement of Commissioner Michael J. Copps On a Major New Study of the Los Angeles Media Market*, News Release (Mar. 12, 2010).

⁴⁰ *FCC Commissioner Michael J. Copps Remarks To The Future Of Media Workshop Public Interest In The Digital Era* at 4-6, GN Dkt. No. 10-25 (Mar. 4, 2010).

our ability to tell our own stories. And the commitment to integrity that used to exist in nearly all traditional media appears to be fading at some outlets.

1. The Media Has Never Been Diverse, And Consolidation Has Led To Even Less Diversity

There is a “long history of recognition by this agency, as well as by courts, Congress, and the public, that minorities and women have experienced serious obstacles in attempting to participate in the telecommunications industry [and] that their greater participation would enhance the public interest.”⁴¹ Meanwhile, media consolidation – which is known to reduce ownership opportunities for people of color and women – is rapidly unfolding in all corners of the media industry. The most current data on broadcast television indicate a disproportionately small number of owners of color, and that broadcast ownership caps enhance diversity of ownership.⁴² People of color comprise 34% of the U.S. population,⁴³ but owned just 3.26% of commercial broadcast television stations in 2002.⁴⁴ Latinos owned only 1.11% of commercial broadcast television stations,⁴⁵ and African Americans just 1.33%.⁴⁶

⁴¹ *Section 257 Proceeding to Identify and Eliminate Entry Barriers for Small Businesses*, Report, 12 FCC Rcd. 16,802, 16,831 (1997).

⁴² AL HAMMOND, *THE IMPACT OF THE FCC’S TV DUOPOLY RULE RELAXATION ON MINORITY AND WOMEN OWNED BROADCAST STATIONS 1996 TO 2006*, FCC (2007).

⁴³ CATHERINE J.K. SANDOVAL, *MINORITY COMMERCIAL RADIO OWNERSHIP IN 2009: FCC LICENSING AND CONSOLIDATION POLICIES, ENTRY WINDOWS, AND THE NEXUS BETWEEN OWNERSHIP, DIVERSITY AND SERVICE IN THE PUBLIC INTEREST* at 5 (2009), *available at* <http://law.scu.edu/faculty/file/Minority%20Commercial%20Radio%20Broadcasters%20Sandova1%20MMTC%202009%20final%20.pdf> (citing Census Bureau data from 2009).

⁴⁴ S. DEREK TURNER & MARK COOPER, *OUT OF THE PICTURE: MINORITY AND FEMALE TV STATION OWNERSHIP IN THE UNITED STATES* at 3, 10 (2006), *available at* http://www.freepress.net/files/out_of_the_picture.pdf.

⁴⁵ *Id.* at 10.

⁴⁶ *Id.* at 3, 10.

Radio ownership is not much better; people of color own only 7.27% of commercial stations.⁴⁷ Latinos owned just 2.9% of radio stations despite that they are 15% of the population.⁴⁸ These figures are considerably lower than diversity in overall business ownership: at last calculation 18% of business owners are people of color.⁴⁹ In addition, research indicates that stations owned by people of color thrive in more competitive, less concentrated markets.⁵⁰ Indeed, most of the current broadcasters of color acquired their licenses prior to enactment of the Telecommunications Act of 1996, which instigated record consolidation.⁵¹

Ironically, the majority of broadcast TV viewers of color do not receive even one station owned by a person of color. In Turner and Cooper's 2006 report, *Out of the Picture: Minority & Female TV Station Ownership in the United States*, they found that at the time of the report, television stations owned by people of color reached only 21% of US television households and only 30% of households occupied by people of color.⁵² Latino-owned stations reached just 21.8% of Latino television households, African American-owned television stations reached just 8.7% of African-American television households, and Asian-owned stations reached just 10% of Asian television households.⁵³ Moreover, there were no Latino or African-American owned

⁴⁷ SANDOVAL, *supra* note 43 at 9. Of the 324 stations Professor Sandoval identified in her study as "minority-owned," 134 were Latino-owned, 129 African American, 34 Asian/Pacific Islander, and 14 Native American. *Id.* at 8.

⁴⁸ S. DEREK TURNER, OFF THE DIAL: FEMALE AND MINORITY RADIO STATION OWNERSHIP IN THE UNITED STATES at 4 (2007), available at http://www.stopbigmedia.com/files/off_the_dial.pdf.

⁴⁹ YING LOWREY, MINORITIES IN BUSINESS: A DEMOGRAPHIC REVIEW OF MINORITY BUSINESS OWNERSHIP (2007).

⁵⁰ TURNER & COOPER, *supra* note 44 at 3, 10.

⁵¹ SANDOVAL, *supra* note 43 at 13-14.

⁵² TURNER & COOPER, *supra* note 44 at 4.

⁵³ *Id.*

television stations in the New York City market, where over 10% of the nation's Latino population and over 12% of the African American population reside.⁵⁴

2. Lack Of Ownership Diversity Has Created A Media Landscape In Which People Of Color Are Under Or Misrepresented

Numerous studies find that people of color continue to be under-represented, stereotyped or misrepresented in both news and entertainment programming.⁵⁵ Indeed, media consolidation leads to a less diverse, less responsive, less responsible media. Professor Catherine Sandoval's recent study demonstrates that diverse media owners are highly likely to air programming aimed at communities of color.⁵⁶ Professor Leonard Baynes has also analyzed evidence of the relationship between racially diverse ownership and content, concluding that "it is clear that minority-owned broadcasters continue to broadcast distinct and different programming than their non-minority counterparts."⁵⁷ Yet the FCC has carried on with harmful deregulation without considering its effect on programming and viewpoint diversity.

Georgetown Law's Institute for Public Representation has cogently explained the need for diversity in media:⁵⁸

A report prepared for the National Association of Hispanic Journalists (NAHJ) found that Latinos are under-represented on network news and even when they are seen, the coverage is often

⁵⁴ *Id.*

⁵⁵ *See, generally*, CAROLYN BYERLY, QUESTIONING MEDIA ACCESS: ANALYSIS OF FCC WOMEN AND MINORITY OWNERSHIP DATA (2006); TURNER & COOPER, *supra* note 44.

⁵⁶ SANDOVAL, *supra* note 43 at 21-22; *accord* PETER SIEGELMAN & JOEL WALDFOGEL, RACE AND RADIO: PREFERENCE EXTERNALITIES AND THE PROVISION OF PROGRAMMING TO MINORITIES at 4 (2001), available at http://www.fcc.gov/ownership/roundtable_docs/Waldfogel-c.pdf.

⁵⁷ Leonard Baynes, *Making the Case for a Compelling Governmental Interest and Re-Establishing FCC Affirmative Action Programs for Broadcast Licensing*, 57 RUTGERS L. REV. 235, 252-53 (2004).

⁵⁸ Comments of Office of Communication, United Church of Christ, Inc., National Organization for Women, Media Alliance, Common Cause and Benton Foundation at 10-12, 13-14, 2006 *Quadrennial Regulatory Review et al.*, MB Dkt. No. 06-121 *et al.*, filed Oct. 23, 2006.

negative and one-sided.⁵⁹ This report examined news stories that were aired on the ABC, CBS and NBC network evening newscasts. Among other things, it found that of the estimated 12,600 stories that aired on these channels in 2005, only 105 (0.83%) were exclusively about Latinos.⁶⁰ Only five of these stories featured Latino reporters.⁶¹ Moreover, Latinos appeared as sources in only about 1.7% of non-Latino-related stories.⁶²

A study of network news by Entman and Rojecki found that the range of topics attributed to Black interviewees was quite limited. The study examined videotapes of four randomly chosen weeks of evening news from the ABC, CBS, and NBC networks in 1997.⁶³ The study found that White people were given 1,289 total “sound bites” in the sample, while Black people had a mere 95.⁶⁴ In the sample, only one Black person said anything in an economics story, compared with 86 sound bites for Whites.⁶⁵ Only one said anything in story on foreign affairs, compared with 99 White sound bites.⁶⁶ White voices were heard 79 times on electoral politics, whereas not one Black person said anything on the subject.⁶⁷ The disparities were almost as great in any other area that either “invoked the common experiences or interests of Americans as a whole (disasters, foreign affairs, politics, death/rituals),” or that “involved technical expertise (science, economics).”⁶⁸ Black voices were much more common in stories dealing with entertainment, sports, or discrimination – topics already stereotypically associated with African Americans.⁶⁹

When minorities do appear in news programs, they are often portrayed in ways that reinforce negative stereotypes.⁷⁰

⁵⁹ Daniela Montalvo & Joseph Torres, *Network Brownout Report 2006: The Portrayal of Latinos & Latino Issues on Network Television News*, 19 (2006) (“Brownout 2006”).

⁶⁰ *Id.* at 4.

⁶¹ *Id.* at 4; 9-10.

⁶² *Id.* at 4.

⁶³ Robert M. Entman & Andrew Rojecki, *The Black Image in the White Mind: Media and Race in America* 62 (University of Chicago Press 2000). These samples were collected for a report commissioned by the President’s Initiative on Race. *Id.* at 246 n.9.

⁶⁴ *Id.* at 64.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ See Leonard M. Baynes, *WHITE OUT: The Absence and Stereotyping of People of Color by the Broadcast Networks in Prime Time Entertainment Programming*, 227-67 in Philip M.

Professors Bachen et al. have conducted an exhaustive review of studies of television news coverage of race from the time of the Kerner Commission Report in 1968 to the present.⁷¹ They find consistent evidence that “minorities are under-represented in the media or, when present, are portrayed in limited or stereotypical roles.”⁷² For example, many studies have found that local television newscasts more often feature Blacks and Latinos as perpetrators of crime compared to Whites. Moreover, Whites are overrepresented as victims of homicide and other violent crime, while Blacks and Latinos were under-represented when compared to crime statistics for the area.⁷³

...

While the studies cited above examine the portrayal and participation of minorities and women in broadcast news programming, other studies have found that minorities and women are also under-represented or stereotyped in entertainment programming. Professor Baynes has examined the portrayal of minorities in primetime television.⁷⁴ He finds that networks have aired few dramatic series with Black casts.⁷⁵ Moreover, less than one-fifth of situation comedies have racially mixed casts.⁷⁶ Some popular shows such as “Friends” and “Seinfeld”, which are set in New York City, with all of its diversity, have all White casts. Likewise, very few Latino/a actors star in nighttime dramas or

Napoli, *Media Diversity and Localism: Meaning and Metrics* (Lawrence Erlbaum Associates 2007) (“WHITE OUT”).

⁷¹ The Kerner Commission investigation into the causes of the 1967 riots found that one of the contributing factors was the media’s ongoing failure to depict the conditions and difficulties faced by African Americans living in ghettos. See Christine M. Bachen, Allen S. Hammond, IV, and Catherine J.K. Sandoval, *Serving the Public Interest: Broadcast News, Public Affairs Programming, and the Case for Minority Ownership*, 432 in Philip M. Napoli, *Media Diversity and Localism: Meaning and Metrics* (Lawrence Erlbaum Associates 2007) (“Serving the Public Interest”).

⁷² Bachen et al., *Serving the Public Interest* at 274.

⁷³ *Id.* at 275-76; see also Leonard Baynes, *Making the Case for a Compelling Governmental Interest and Re-Establishing FCC Affirmative Action Programs for Broadcast Licensing*, 57 RUTGERS L. REV 235, 258 (2004), (“Making the Case”) (citing Daniel Romer, et al., *The Treatment of Persons of Color in Local Television News: Ethnic Blame Discourse or Realistic Group Conflict?*, 25 COMM. RES. 286 (1998) (study of television news found that African Americans and Latinos were twice as likely to be shown in local crime stories and than in other stories and were more often shown as perpetrators than victims)).

⁷⁴ Baynes, *WHITE OUT* at 239-48.

⁷⁵ *Id.* at 240.

⁷⁶ *Id.*

situation comedies, although a few have succeeded as non-Latino characters.⁷⁷ When Latinos do appear, they are frequently depicted as violent foreigners “with no ties to the United States.”⁷⁸ Asian Pacific Americans and Native Americans rarely star in television shows, and when portrayed at all, are often presented in an offensive, stereotypic manner.⁷⁹ Additionally, a study by Children Now found that nearly half of all middle-eastern characters appearing in primetime television are cast as criminals.⁸⁰

Consolidation in the radio market has proven particularly problematic. Hate has seemingly emerged as a profit-model for many radio programs⁸¹ and many of these programs are syndicated throughout the country because only a few companies own the majority of the radio stations nationally.

C. The Internet Is Not A Substitute For Traditional Media, And Is Inundated With Hate Speech

Although many people of color are using the Internet to tell their own stories fairly and accurately, it is not a substitute for broadcasting because more people continue to get their news and information from broadcasting than from the Internet.⁸² Commissioner Copps recently outlined this phenomenon:

How do people really get *heard* on the Internet? It’s easy to type something and send it into the ether, but what guarantees that anyone reads it—what guarantees that it doesn’t just evaporate into the ether? Anyone who has access can log on and say what they want, but do minorities, women, the disabled, the poor, the non-

⁷⁷ *Id.* at 242. For example, Martin Sheen stars in *The West Wing*, but not as a Hispanic character.

⁷⁸ *Id.* at 243.

⁷⁹ *Id.* at 386-90. For example, many Asians (especially older Asians) are depicted as speaking English poorly, whereas, Native Americans are presented as one-dimensional, antiquated stereotypes -- either as savage warriors or hyper-spiritualistic shamans.

⁸⁰ Children Now, *Fall Colors: Primetime Diversity Report 2003-2004*, 6 (“Fall Colors 2003-2004”).

⁸¹ *See, e.g.*, Petition at 8-11.

⁸² Lear Study, *supra* note 34 at 1 (citing Pew Report).

affluent and the non-elite—do they really have an equal chance of being heard?⁸³

The established media outlets, such as broadcast stations or cable news programs, can use their traditional platforms to drive more traffic to their web-sites, where often the rhetoric is overly extreme.

And, an unsettling new trend has emerged on the Internet, where hate mongers can hide behind a computer screen as opposed to exposing their views in the public square, empowering them to spread lies and hate under the cloak of anonymity, and sometimes, the guise of credibility. Many web-sites and blogs are filled with the hateful messages and misinformation of anonymous posters.⁸⁴

II. THE EXTENT AND EFFECTS OF HATE SPEECH IN MEDIA MERIT THE COMMISSION'S URGENT ATTENTION

In addition to the questions outlined above, the Commission's Public Notice asks what other subject areas should be studied or additional data be collected, what research topics would further the work already being done in the academic community relevant to the questions asked here, and what questions has it failed to ask that it should?⁸⁵

NHMC *et al.* respectfully requests that the FCC grant NHMC's Petition, and inquire into the extent and effects of hate speech in media, and explore possible non-regulatory ways to counteract its negative impacts. As the Petition explains, the role of telecommunications in hate crimes has not been examined by the federal government since 1993.⁸⁶ Because the media has evolved and hate is emerging in new ways in the digital age, it is imperative that the Commission

⁸³ *FCC Commissioner Michael J. Copps Remarks To The Future Of Media Workshop Public Interest In The Digital Era* at 4, GN Dkt. No. 10-25 (Mar. 4, 2010).

⁸⁴ Petition at 10-11.

⁸⁵ Public Notice at 9.

⁸⁶ Petition at 3-6.

reevaluate these questions now. Moreover, the Commission cannot properly gauge whether the “information needs of communities in a digital age” are being met without examining how and whether hate speech distracts from that goal. Nor can it give a “clear, precise assessment of the current media landscape” without reviewing hate speech, as it is currently pervasive in the media.

Collection of the data is an essential task, even if the Commission does nothing more than turn that information over to the public, researchers and other government entities. This will help NHMC *et al.* to hold the media accountable.⁸⁷ It will encourage media entities to evaluate and correct their inaccuracies, solidifying the long tradition of journalistic integrity. It will help scholars, researchers and the public to understand the extent and effects of hate speech in media and the correlation between hate speech and hate crimes, further enlightening the work of the UCLA Chicano Studies Research Center, which is currently finishing the first study in a four-part series on hate speech in media and its effects,⁸⁸ and the Department of Justice’s National Institute of Justice, which Congress recently tasked with evaluating trends in hate crimes against Latinos and other designated groups and assessing “the underlying causes behind any increases in hate crimes against such groups.”⁸⁹ Finally, it will help the FCC form a clear, precise

⁸⁷ This sort of awareness-raising has worked in the past. On November 11, 2009, under mounting pressure from organizations and individuals across the nation, Lou Dobbs resigned from CNN. Presente.org was one of the key coordinators of the far-reaching BastaDobbs.com effort, collecting over 100,000 signatures from concerned individuals. That effort was only possible because communities across the country were aware of Dobbs’ tirades, but organizations such as Presente.org and NHMC do not have the resources to monitor the growing number of vitriolic media personalities.

⁸⁸ Pilot Study, *supra* note 4.

⁸⁹ See Letter from the Honorable Lawrence E. Strickling, Assistant Secretary, National Telecommunications and Information Administration, to the Honorable Nydia Velázquez, Chairwoman, Congressional Hispanic Caucus (Apr. 26, 2010) (citing H. Conf. Rep. No. 111-366 at 679 (2010)).

assessment of the difficulties in serving the “longstanding public interest goals of national [communications] policy” in the digital age.⁹⁰

CONCLUSION

Wherefore, NHMC *et al.* respectfully request that the Commission grant NHMC’s Petition for Inquiry on hate speech in media.

Respectfully Submitted,

Jessica J. González
Jessica J. González, Esq.
National Hispanic Media Coalition
55 South Grand Avenue
Pasadena, CA 91105
(310) 809-2577

May 7, 2010

⁹⁰ Public Notice at 2.