# ACCESS TO A PUBLIC RESOURCE: BROADCAST STATION OWNERSHIP IN CALIFORNIA

## JUNE 1981

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LETTER OF TRANSMITTAL

CALIFORNIA ADVISORY COMMITTEE TO THE
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MAY 1981

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The California Advisory Committee submits this report of its study on broadcasting ownership in California as part of its responsibility to advise the Commission on civil rights issues within this State.

The purpose of this study was to document the extent of minorities' and women's ownership of commercial radio and television stations and the factors which determine ownership. California provides an ideal place in which to focus on what we believe to be an issue of national concern.

During January and February 1981, the Advisory Committee interviewed many of California's minority and women owners and general managers who had experiences with both the broadcast industry and minority communities. These interviews were supplemented with data from the Federal Communications Commission, the National Association of Broadcasters and other pertinent agencies and organizations.

One conclusion of this study is that California's citizens are denied their civil rights due to the grossly imbalanced control of the 518 commercial stations in the State. Minorities and women own only one television station and 14 radio stations. This inequality in ownership denies them their right to use public airwaves and to receive a broadcasting service based on the public interest standard of communications law.

FCC policies and programs to alleviate these inequities have failed. Therefore, the Advisory Committee urges the Commissioners to undertake a nationwide study of broadcasting policies, and to recommend to the Congress and the FCC the establishment of rules and procedures which will correct the imbalances in broadcasting ownership.

The Advisory Committee would also like to stress that the necessity for protecting the rights of all citizens to an open and accessible communications system is not just a Federal issue. State and local governments and private organizations should be made fully aware of their vested interest. The Advisory Committee plans to disseminate its report widely in this State as a first step toward educating its citizenry.

Respectfully,

Herman Sillas
Chairperson
California Advisory Committee

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## Acknowledgments

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Contents

# I. INTRODUCTION

> Because the radio spectrum is used to communicate information and because control of the flow of information is the basis of political power, the control of the use of the radio spectrum lies close to the seat of sovereignty in the nation state. No other resource has this order of political significance...At the same time title to the radio spectrum rests not with individuals or nations but in all humanity.[1]

In the United States, ownership of the airwaves, or radio spectrum, belongs to the public not private enterprise.[2] Despite public ownership, most of the 8,668 commercial radio and television stations in the country licensed to use airwaves are owned by one group, non-minority males.[3]

Exclusion of minorities and women from ownership of commerical broadcast stations denies them equal control over use of the public airwaves, resulting in profound consequences for American society as a whole. Thirteen years ago, the Kerner Commission found that a major cause of civil disorder was that of a television world "almost totally white in both appearance and attitude;" when Blacks did appear on the screen, they were presented as Whites saw them, not as they saw themselves.[4]

In 1981, Jorge Reina Schement, visiting associate professor in communications at Stanford University, commented on the underrepresentation of minorities in station ownership, saying that "minorities must be woven into the fabric of society; America's survival depends on it."[5] California provides an ideal place in which to focus on this national problem. It has the largest and most diverse racial and ethnic population in the United States, and it is one national center for production and distribution of broadcast programming.

The California Advisory Committee to the United States Commission on Civil Rights has long been concerned about the limited participation of many groups in media.[6] In this study, the Committee focused on commercial station ownership in California and factors which determine who owns and operates existing stations. Specifically, the Advisory Committee reviewed perceptions about barriers to station ownership and effects of disproportionate ownership.[7] Many viewpoints in this study were solicited from minority owners and general managers of broadcast stations who have experience with both the broadcast industry and minority communities.[8]

The Advisory Committee also conducted a preliminary examination of Federal Government policies and practices which help or hinder full participation of minorities and women in station ownership. Congress delegated Federal responsibility for regulation of the limited supply of airwave frequencies to the Federal Communications Commission (FCC) through the Communications Act of 1934.[9] The act's purpose is clear: "To make available ...to all the people of the United States a...world-wide wire and radio communication service."[10] To further this purpose, the FCC must assure that broadcasters serve the "public convenience, interest, and necessity."[11]

Underrepresentation of minorities and women in station ownership belies this public interest mandate. In 1978, the FCC acknowledged that:

> Acute underrepresentation of minorities among the owners of broadcast properties is troublesome in that it is the /broadcaster/ who is ultimately responsible for identifying and serving the needs and interests of his or her audience.[12]

For most minorities and women, broadcast station ownership and active participation in broadcasting remain elusive dreams.

NOTES TO SECTION I

1. Dallas W. Smythe, professor of communications, "Testimony Before the Federal Communications Commission, In the Matter of Deregulation of Radio,"June 30, 1980.

2. 47 U.S.C. §301 (1976).

3. Broadcasting Magazine, Feb. 23, 1981 (number of stations as of Dec. 30, 1980). According to a list obtained from the Federal Communications Commission's (FCC) Minority Enterprise Division, Blacks and Hispanics owned 144 commercial radio and television stations in the United States as of August 1980. An investigation by the California Advisory Committee to the U.S. Commission on Civil Rights revealed that four of these stations in California were, in fact, non-minority owned.

   The FCC does not have any record of the number of commercial broadcast facilities owned by Asian Americans, American Indians and women. Interview with Barbara Moran, FCC, Minority Enterprise Division, March 1981. In California, the Advisory Committee located only one station owned by a member of one of these groups, a woman.

4. Otto Kerner, Chairman, Report of the National Advisory Commission on Civil Disorders (New York: Bantam Books, 1968), pp. 382-383.

5. University of California at Los Angeles (UCLA) School of Law, Communications Law Program, "1981 Communications Law Symposium," Feb. 20-21, 1981.

6. In 1978, the Advisory Committee released a report entitled, Behind the Scenes: Equal Employment Opportunity in the Motion Picture Industry.

   The U.S. Commission on Civil Rights has conducted several national media studies documenting the need for more minorities and women in management positions at broadcasting stations: Window Dressing on the Set: Minorities and Women in Television (1977); Window Dressing on the Set: An Update (1979).

7. While limiting its study to exclusion of minorities and women from station ownership, the California Advisory Committee notes that many of the problems and issues discussed here apply to aged and handicapped. Information obtained during the study indicated an absence of ownership by these groups.

8. In addition to owners and general managers of minority-owned broadcasting facilities, the Advisory Committee and staff of the Commission's Western Regional Office interviewed several general managers of non-minority owned stations which targeted programming to minorities, and their views are included here.

9. Act of June 19, 1934, ch. 652, Title 1, §1, 48 Stat. 1064; 47 U.S.C. §151 (1976).

10. Ibid. (emphasis added).

11. 47 U.S.C. §§307(a)(d), 309(a) (1976).

12. FCC, Minority Ownership Taskforce, Report on Minority Ownership in Broadcasting (1978), p. 1.

## II. OWNERSHIP IN CALIFORNIA

California's population on April 1, 1980 totalled 23,668,562. Thirty-three percent were minorities: American Indian, Asian American, Black and Hispanic.[1]

Of the 518 commercial radio and television stations in California, only 13 radio stations, 2.7 percent, are owned by Blacks and Hispanics.[2] Hispanics own one television station, but that station has not been on the air since 1977.[3] The Advisory Committee was unable to locate any stations owned by Asians, Indians, handicapped or aged. Women, who comprise over 50 percent of the State's population, own only one station, a radio station in a rural area.

Ninty-seven percent of all ownership in California is vested in White males. Table I shows the minority ownership of commercial stations in relation to California's total population.

TABLE I

| State Population | | Percent of Total Population | Ownership of Commercial Radio & Television Stations | Percent of Total Stations |
|---|---|---|---|---|
| Total | 23,668,562 | | 518 | |
| Minority | 7,810,625 | 33% | 13 | 2.7% |
| American Indian | 236,686 | 1% | 0 | 0 |
| Asian American | 1,213,430 | 5% | 0 | 0 |
| Black | 1,883,485 | 8% | 10 | 1.9% |
| Hispanic | 4,507,027 | 19% | 3 | .6% |

Sources: 1980 U.S. Census, Regional Census Data Center, Southern California Association of Governments, Los Angeles; Broadcasting Yearbook 1980.

Nationally, ownership for minorities holds to a similar pattern. Of the 8,668 commercial stations on the air, no more than 140 are owned by Blacks and Hispanics. No Blacks or Hispanics own stations in 18 of the Nation's 50 States.[4]

While minorities lack significant control over broadcast services in California, they comprise more than one-fourth of the broadcasting industry's market. They use their television sets at an approximate rate of 10 billion hours of viewing time each year.[5]

Even the 13 radio stations owned by minorities fail to adequately reach minority populations. For example, the heaviest concentration of the 4.51 million Hispanics in California is in Los Angeles County which has no Hispanic-owned stations.[6]

With one exception, no California minority broadcaster is authorized to use his or her station with a power greater than 5,000 watts. Five of the 13 radio stations are restricted to 1,000 watts or less; major radio stations in Los Angeles and San Francisco, in comparison, have power at or above 50,000 watts.[7] Table II shows the minority and women-owned stations in California, their location and their transmission power.

TABLE II

| Station | Location | Minority/Women Controlling Ownership | Transmission Power |
|---|---|---|---|
| KACE- FM | Inglewood (Los Angeles) | Black | 1,650 watts |
| KAZA-AM | Gilroy | Hispanic | 5,000 watts |
| KBLX-FM | Berkeley (Bay Area) | Black | 50,000 watts horizontal<br>3,500 watts vertical |
| KFOX-FM | Redondo Beach | Black | 3,000 watts |
| KGFJ-AM | Los Angeles | Black | 1,000 watts-D<br>250 watts-N* |
| KGUY-AM | Palm Desert | Women | 1,000 watts-D |
| KJAZ-FM | Alameda (Bay Area) | Black | 1,850 watts |
| KJLH-FM | Compton (Los Angeles) | Black | 3,000 watts |
| KLIP-AM | Fowler | Black | 250 watts-D |
| KMPX-FM | San Francisco | Black | 4,300 watts |
| KNEZ-AM | Lompoc | Hispanic | 500 watts-DA-N |
| KRE -AM | Berkeley | Black | 1,000 watts-D<br>250 watts-N |
| KUTE-FM | Glendale (Los Angeles) | Black | 690 watts |
| KZON-AM | Santa Maria | Hispanic | 500 watts-D |

Source: Broadcasting Yearbook 1980

D-day; N-night; DA-directional antenna

*Also 100 watts Wednesday and Sunday night

Programming formats at the minority-owned stations are as diverse as the State's population. Of the 13 stations, 6 emphasize programming for minority listeners.

The other 7 stations offer programs for general audiences (often referred to in the broadcasting industry as persons between the ages of 18 and 49) or speciality programming such as big bands or jazz.

In the larger cities, such as Los Angeles and San Francisco, advertising rates for major radio stations range between $100 and $300.[8] Of those minority-owned stations with known rates, none of the rates exceed $50. Table III shows the programming formats for each minority and women-owned radio station, including the advertising rates charged by each station.

Five of the 14 minority-owned stations, including the Hispanic-owned television station, were purchased within the last 2 years through Federal Communications Commission incentives established to open opportunities for minority ownership. From 1978 to 1980 minority ownership has gone from 1.7 percent of all commercial stations to 2.7 percent.[9]

TABLE III

Women and
Minority Owned Commercial Radio Stations
Programming Formats

| Station | Format 1/ | Advertising Rates 2/ |
|---|---|---|
| KACE-FM | Contemporary soul | $32, 32, 34, 34 |
| KAZA-AM | Spanish | $15, 15, 15, 15 |
| KBLX-FM | General Market 3/ | NA 4/ |
| KFOX-FM | Middle of the Road | $19, 15.25, 19, 15.25 |
| KGFJ-AM | Black | $50, 45, 50, 35 |
| KGUY-AM | News | $ 8, 7, 8, -- |
| KJAZ-FM | Jazz | $24, 24, 34, 34 |
| KJLH-FM | Black, middle of the road | NA |
| KLIP-AM | Black, Spanish, Special programs | NA |
| KMPX-FM | Big Bands | $48, 48, 48, 48 |
| KNEZ-AM | Middle of the road, talk | NA |
| KRE -AM | General market, black | NA |
| KUTE-FM | Rhythm and blues, disco | NA |
| KZON-AM | Spanish | $6.35, 6.35, 6.35, 6.35 |

Source: Broadcasting Yearbook 1980

1. Format categories are those used by Broadcasting Yearbook 1980 unless otherwise noted.

2. Rates are the prices a station charges for a 12-times-a-week, one minute spot for each of four day parts: 6 a.m.-10 a.m.; 10 a.m.-3 p.m.; 3 p.m.-7 p.m.; 7 p.m.-midnight.

3. Interview with John Marin, general manager, KBLX-FM, January 1980.

4. NA - not available.

NOTES TO SECTION II

1. 1980 U.S. Census, Regional Census Data Center, Southern California Association of Governments, Los Angeles. (Hereafter referred to as 1980 U.S. Census.)

2. Broadcasting Yearbook 1980, Broadcasting Publications, Inc., Washington, D.C., pp. A-2; B-90 to B-94; C-17 to C-33. Approximately 6 percent of the nation's 8,450 commercial stations are in California. There are 93 non-commercial stations in California (14 t.v. and 79 radio). Two of these are minority-owned; KPOO-FM in San Francisco and KBBF-FM in Santa Rosa. Thus, minority ownership of noncommercial properties (2.1 percent) is about equal to the percentage of minority ownership of commercial properties (2.7 percent).
"Distress Sales Approved" Mimeo, August 12, 1980 provided to the Advisory Committee by the Federal Communications Commission (FCC). (Hereafter cited as "Distress Sales Approved.") Telephone interview with Ed Cardona, chief, Minority Enterprise Division, Federal Communications Commission, February 1981. For this report, ownership means more than 50 percent control.

3. Interview with Richard Hernandez, co-owner, KBSA-TV, Guasti, January 1981.

4. "Distress Sales Approved." The FCC has no records of stations owned by minorities other than Blacks and Hispanics. Interview with Barbara Moran, Minority Enterprise Division, FCC, March 1981.

5. "The average American home watches TV for 6 hours and thirteen minutes a day, according to A.C. Nielsen statistics." Broadcasting Yearbook 1980, p. A-2. The 10 billion viewing hours estimated here is conservatively based on 5 hours of viewing time a day.

6. Of California's 4.51 million Hispanics, 2,065,727 (45.8 percent) reside in Los Angeles County. 1980 U.S. Census.

7. Broadcasting Yearbook 1980, pp. C-17 to C-33.

8. Ibid.

9. "Distress Sales Approved." FCC incentives are discussed in another section of this report.

## III. OWNERSHIP AND THE PUBLIC INTEREST

A 1981 State report describes one result of minorities' exclusion from the media in California:

> /Minorities/ do not see the form and texture of the life they know reflected in the mirror the media holds to society. Nor do they hear their voice expressed in it. Missing from the reflected image are the cultures which give their lives meaning. Absent also is the pervasive discrimination which demeans the significance of their cultures and threatens their survival.[1]

Many persons interviewed by the California Advisory Committee for this report agreed. They perceived neglect of minorities and women by the media as a direct result of their exclusion from station ownership. United States Representative Edward Roybal, one of several Congressmen concerned about the absence of minority owners in broadcasting, stated:

> The broadcasting industry has been a monopoly. It is owned and run by a few. Hispanics have generally been excluded or ignored. Minorities should be given the opportunity for ownership because it is a matter of being equitable and fair, and the monopoly of ownership should be eliminated.[2]

Minority entrepreneurs in California also emphasized the importance of ownership. Lloyd Edwards, co-owner of KMPX-FM, said:

> Having power in American society means having one of two things: money and media control. If you have control of the media, you are able to reach a lot of people.

According to the FCC, minority ownership is beneficial for the entire listening audience. In 1978, it stated:

> The FCC believes that ownership of broadcast facilities by minorities is another significant

> way of fostering the inclusion of minority views in...programming.../Lack of minority viewpoints/ is detrimental not only to the minority audience but to all of the viewing and listening public. Adequate representation of minority viewpoints in programming serves not only the needs and interests of the minority community but also enriches and educates the non-minority audience.[3]

In 1973, a Federal court of appeals recognized:

> The fact that /non-minority license/ applicants propose to present the views of...minority groups in their programming, although relevant, does not offset the fact that it is upon ownership that public policy places primary reliance with respect to diversification of content, and that historically has proved to be significantly influential with respect to editorial comment and the presentation of news.[4]

To minority entrepreneurs in California, the public has suffered because minorities and women have not been able to offer their viewpoints in broadcasting. Emilio Nicholas, general manager of KDTV, a Spanish language station, commented:

> Because of the lack of minority broadcast ownership in the past, minorities were often stereotyped by insensitive media. Many of these stereotypes were adopted by the general public. Minorities have little input to correct these myths and many broadcasters continue to lack sensitivity in depicting minorities. Some Hispanics developed an inferiority complex in that they were afraid to speak Spanish outside the home or felt compelled to suppress our culture and adopt Anglo norms. This complex is lessened by Spanish television and radio which strive to present positive images of Hispanics.

Nolan Bowie, director, Citizens Communication Center, a public interest law firm in Washington, D.C., related the inclusion of minority viewpoints in broadcasting to the preservation of First Amendment rights of all citizens:

> "Minority" problems and "minority" issues in the telecommunications...concern and have an impact on all of us. These are not issues exclusive to

> or affecting only the racial and ethnic minorities. The issues which concern us most are those which have their foundation in the First Amendment which we believe demands diversity of viewpoints and a marketplace of ideas to insure that all Americans will have adequate information to decide what is in the best interest of this country.[5]

Ownership diversity provides other benefits for the total community. Don Mizell, general manager of KJLH-FM, stated that minority owners are not as pressured to cater to general audiences so they are free to do more specialized programming which is often listened to by non-minority audiences. William Shearer of KACE-FM added that minority ownership is valuable because it allows Blacks and Whites to interface.

Underrepresentation of minorities in station ownership has had its severest impact of minority audiences, according to many interviewees. They emphasized that non-minority broadcasters often fail to include minority issues in providing community service programming, even if they are cognizant of minority needs. While some felt that minority owners would not necessarily devote more time to public service than non-minority owners, there was a consensus that minority owners/managers would address more minority interests and problems in news, editorials, and public service announcements. According to Alberto Rodriguez, owner of KAZA-AM, programming targeted to minorities has far-reaching implications for assuring minorities full participation in American society:

> With a non-Hispanic owner, the enthusiasm is not there to get Hispanics to vote or to become U.S. citizens. This is what will make Hispanics a more powerful group politically. A minority owner tells

> his community these things because he knows their needs and can advertise programs that are available to help.

He added that many community problems are ignored at the local level, and minority broadcasters fill the gap by reaching out and educating the public.

Experience with a community is an important factor for better serving minority interests, according to minority entrepreneurs. August Ruiz of KFTV commented:

> General public service obligations of licensees do not guarantee that minority group needs will be met. Ascertainment /determining the local public interest/ is merely a "paper" process; community interests and problems do not sink in if they are not personally experienced by the owner.

William Shearer said:

> Experience in the community does affect programming. More minorities would introduce more diverse programming. For example, Black stations give a lot of attention to Martin Luther King's birthday because it is a big deal to Blacks; he was a person they believed in.
>
> The bottom line is that a /minority/ owner has a higher level of empathy and sensitivity toward the /minority/ community because he lives there. A Black owner cannot forget what color he is, no matter how profit motivated he is.

Identity with a community creates credibility for the station among minority listeners, he added; "People believe in you, and it is more than just the act of tuning into their radios." Kernie Anderson of KDIA-AM had a similar view:

> There is a very positive effect for the minority community to have a station programming for them. The community perceives that the news is more reliable than on the general market stations. They

> trust the factual statements of the radio station. In addition, the news tends to try to give insight into the /minority/ community.

Mary Neiswender, the only woman owner in California, KGUY-AM, improved her station's ratings from last place to second place within eight months; she attributed her success to the fact that "the station has become a part of the community."

## NOTES TO SECTION III

1. California State Health and Welfare Agency, Report of the Task Force of Incarcerated Minorities (February 1981), p. 2.

2. Unless otherwise cited, all statements and views in this section are derived from staff and advisory committee interviews. Interview reports are on file in the Western Regional Office, U.S. Commission on Civil Rights.

3. Federal Communications Commission, "Statement of Policy on Minority Ownership of Broadcasting Facilities", No. 78-322 (May 25, 1978), p. 3.

4. TV 9, Inc. v. FCC, 495 F.2d 929, 938 (D.C. Cir. 1973), cert. den., 419 U.S. 986 (1974) (emphasis added).

5. Testimony before the U.S. House of Representatives Subcommittee on Communications, "Minorities and Women's Perspectives on Telecommunications Issues", Oct. 20, 1977.

## IV. BARRIERS TO OWNERSHIP

Locating a Station

Finding an available station is difficult.[1] There are a limited number of stations because there are a limited number of frequencies. Most frequencies in California are already licensed; therefore, the primary way to acquire a station is to purchase an existing one. But even though 52 stations changed ownership in California from January 1979 through August 1980, minority ownership rose only one percent.[2]

Few stations advertise that they are for sale; most stations are sold by word-of-mouth through broadcasting brokers. For minorities traditionally excluded from the broadcasting industry, it is difficult to learn when a station comes on the market. Recent FCC programs to provide incentive for the business community to seek out potential minority buyers has often meant replacing one minority owner with another, resulting in few gains for minorities. For example, five of the ten Black-owned radio stations in California were previously owned by Blacks or were identified as Black-formated stations.[3]

As the lone woman owner in California, Mary Neiswender of KGUY-AM found that locating a station was easier if a potential buyer had numerous professional contacts within the broadcasting industry, but she also found that some men "didn't think women were serious about buying a station."

Financing a Station

Sales of commercial stations are big business. In 1954, station sales nationwide totaled 60 million dollars. By 1979, station sales increased to more than one billion dollars nationwide. (See Appendix A) The average price for a television station in 1979 was $6,757,042 and for a radio station $614.646.[4] Stations in California sold for as high as $14 million (KGSC-TV in San Jose) and as low as $210,000 (KBIK-AM in Lompoc).[5]

Broadcasting stations obtain high sales prices not only in large cities. During 1979-1980, a television station in Salinas sold for $8.25 million, and an FM radio station in Gilroy sold for $2.5 million.[6]

Kernie Anderson, general manager of KDIA-AM, estimated that 90 percent of a station's value is its "potential to generate significant dollars" and 10 percent represents equipment and real estate. The potential to raise money, he added, is dependent on two factors: size of listening audience and possession of a license to broadcast from the FCC. In other words, although licenses are awarded on a temporary (3 years) basis and by law the licensee retains no proprietary claim in it, licenses constitute a valuable commodity.

Minorities find it extremely difficult to purchase stations in such an expensive and competitive market. Richard Hernandez, co-owner of KBSA-TV, said:

> Minorities just don't have any opportunities to acquire the huge amount of funds it takes to buy and run stations. Even if they have money, they usually aren't aware of business opportunities in broadcasting.

Don Mizell, vice president of KJLH-FM, voiced concern about access to funds:

> Often, there is a problem in finding someone willing to sell a station to a Black. Many banks discriminate in providing loans to minorities. Racism in society prevents minorities from amassing capital and developing resources to buy stations.

William Shearer, general manager of KACE-FM, stated that there is nothing to use as collateral when trying to obtain a bank loan since a prospective buyer with no previous broadcasting experience cannot guarantee the automatic transfer of a license.

Mary Neiswender found a solution with the Federal Government. She was able to arrange full financial support and technical assistance through the Small Business Administration. She considered such help "the key to success as far as women are concerned."

But most minority entrepreneurs found that Federal assistance for minorities is inadequate. Ed Roper, co-owner of KFOX-FM, stated that the Federal loans are too small to be of significant help. Alberto Rodriguez, owner of KAZA-AM, said he constantly hears about big Federal Government loans at low interest rates, but "these loans are usually given to businesses which don't really need them, such as medium-size corporations."

## Operating a Station

While stressing that minority ownership is important, Kernie Anderson emphasized that "an owner must be able to implement a successful station and that depends on the where-with-all, the financial resources to make the station viable." To receive revenues, a station must advertise. Being a minority owner, particularly one whose station's programming focuses on minority audiences, presents advertising problems non-minorities seldom encounter.

Station managers with minority formats find that few national advertisers or large local businesses consider them. Kernie Anderson asserted, for example, that financial institutions do not place ads for credit cards, because Blacks are perceived as poor credit risks, or for housing developments, because Blacks are considered unqualifiable. Advertising agencies show a lack of interest in Black stations and won't buy time from them, according to Don Mizell:

> They don't view minority audiences as important even though minorities may be buying their products in greater proportion than Whites.

Hispanics operating Spanish language stations confront similar problems. Alberto Rodriguez, owner of KAZA-AM which is the oldest Hispanic-owned station in the State, commented "Spanish radio gets the crumbs /of advertising/." He feels compelled to have an Anglo salesman on his staff "to get the big advertising accounts."

In designing their program formats, minorities must keep in mind what will generate advertising revenue in order to stay financially solvent. For owners committed to serving their communities, this often puts them "between a rock and a hard place," Ed Roper stated. Lloyd Edwards, co-owner of KMPX-FM, chose not to program for minorities "because the minority market won't pay off," although he added that minority ownership may service the community in other ways such as providing employment for minorities. August Ruiz, general manager of KFTV, said that limiting programming entirely to minority interests often means smaller advertising dollars.

Some suggestions were made to improve revenues for minority-owned stations. Alberto Rodriguez suggested that large national corporations which say they are equal employment opportunity employers should advertise for employees on minority-owned and formated stations. Ed Roper suggested that the Federal Government place a certain percentage of its advertising with minority-owned stations, much the same way it deposits a percentage of its funds in minority banks.

Non-minority broadcasters dismiss these complaints about advertising for minority-owned and formated stations, stating that the rating systems on which much of advertising is based creates problems for non-minority broadcasters as well. For example, of the 84 radio stations in Los Angeles, according to Ed Roper, only half even get on the Arbitron rating system; some advertisers will not even talk with a sales representative if a station is not in the ratings.

But in ratings, minorities seem to face greater barriers than non-minority owners. Representatives of many minority-owned and formated stations complained that the rating system undercounts their listeners. Kernie Anderson summarized these complaints:

> The problem with the /rating/ system is that it relies on the census for its sample and census figures tend to undercount minorities more than the majority. Another major problem is that there is no face-to-face contact with the listeners. Surveys are done over the telephone and Blacks tend to respond less over the phone than in person /to outsiders/.

While many minority stations receive poor revenues because of low ratings, other factors are involved. Kernie Anderson perceived a contradiction:

> ...in that some general market stations have less audience than minority-format stations, according to the ratings, but they get higher advertising rates because the advertisers think that the general market stations have listening audiences with larger buying power.

Gaining the Expertise

According to Ed Roper:

> It is important for minorities to have access to ownership because everyone deserves the opportunity ...Media is an excellent way to make money.../But/ a station must be run with business considerations in order to succeed.

Many minorities and women lack the management and technical experience needed to successfully operate a station. Lloyd Edwards pointed out:

> There is still a lack of minorities in corporate positions. These positions give the experience one needs to own and run a station. Many /non-minority/ owners have had 20 years or more of employment experience in broadcasting.

Other minority entrepreneurs concurred. William Shearer stated, "Management positions give training and experience in operating a station and open up your eyes." Susan Horwitz of Western Public Radio added that "there is no overall commitment by the broadcasting industry" to assure that minorities and women receive management training.

Emilio Nicolas of KDTV noted that often Spanish language stations train and employ more minorities than non-minority owned stations, thus providing a valuable opportunity for them. Relying on this source, however, creates a catch-22 situation. With limited management opportunities for minorities and women, few can aspire to station ownership; with limited minority and women ownership, few opportunities exist for them to learn the business.

NOTES TO SECTION IV

1. This section is based on the views of minority and women owners, their general managers and other minorities and women within the broadcasting industry. See Appendix B. Interview reports on file in the Western Regional Office, U.S. Commission on Civil Rights.

2. Broadcasting Magazine, issues from January 1979 through August 1980.

3. These stations are KACE-FM, KBLX-FM, KGFJ-AM, KJLH-FM and KRE-AM.

4. "Station Trading Breaks Billion Dollar Barrier," Broadcasting Magazine, January 21, 1980.

5. Ibid.

6. Ibid.

## V. FEDERAL COMMUNICATIONS COMMISSION POLICIES AND PRACTICES

### Licensing A Station

No broadcaster can operate a television or radio station in the United States without the approval of the Federal Communications Commission (FCC). In return for the use of an assigned frequency to benefit the public, broadcasters receive temporary three-year licenses.[1]

Any person may apply for a license to use any frequency or channel when an incumbent's term expires. The FCC is required by law to give new applicants equal standing with incumbents in determining which applicants are better qualified to serve the public interest of broadcast service areas.[2]

Because the FCC awards most license renewals to incumbents, it is essentially an automatic process.[3]

The near automatic renewal of incumbents creates a further barrier to station ownership for minorities and women. Prospective buyers are denied an opportunity to locate stations in a competitive market by challenging existing licensees. In addition, the expectancy of license renewal makes it possible for sellers to ask inflated sales prices for stations.

Although licensees have no proprietary interest in licenses and pay no money to the public for the privilege of using assigned frequencies, licenses have become a valuable commodity due to fierce competition for existing stations. For example, an average radio station may have facilities of an estimated value of $250-300,000; however, that station will probably be sold on the market for several million dollars. Some minority entrepreneurs believe that the difference between the real estate and equipment and the selling price represents mainly the "value" of the license rather than the "goodwill" of a business.[4]

Programs to Increase Minority Ownership

At a 1978 conference on minority ownership sponsored by the FCC, participants recommended that the FCC initiate affirmative policies, not merely neutral, non-discriminating ones, to encourage minority ownership. The FCC adopted such a policy, stating, "Without intervention by government and others, the prospects for minority ownership in /broadcasting/ markets are minimal."[5]

The FCC has introduced some programs aimed at increasing ownership diversity:[6]

> Tax Certificates - The FCC issues tax certificates to owners who propose transferring licenses to minority entrepreneurs.
>
> "Distress Sales" - The FCC permits licensees, whose licenses are being challenged, to sell their stations to minority entrepreneurs at below market prices.
>
> Clear-Channel Broadcasting in the AM Band - In 1980, the FCC assigned 125 new full-time AM radio channels by constricting the coverage area of clear-channel stations to a 750-mile radius. It also designated that prospective minority and public, noncommercial radio applicants be given a preference in the awarding of these new licenses.[7]
>
> EEO Program - In 1969, the FCC adopted regulations requiring non-discrimination and equal opportunity in employment practices of broadcast licensees; in 1975, the agency established a rule requiring licensees to go beyond employment neutrality and take affirmative action to correct underutilization of minorities and women. According to the FCC, these regulations "will ensure not only that minorities and women have equal employment opportunities, but also that they can get much needed experience operating, managing and ultimately owning broadcasting stations."[8]

Since 1978, the numbers of minority-owned stations have increased nationwide and in California.[9] However, FCC incentives have not substantially increased minority ownership since such stations still comprise less than 3 percent of the nation's and the State's commercial television and radio facilities.

In addition to the above programs, the FCC plans to adopt permanent rules before the end of 1981 for the establishment of a new "low-power" television service which would permit the operation of hundreds of new stations with simplified application procedures and relaxed technical and operating rules. FCC publicity stresses that minorities will be given preferential consideration for such stations.[10] However, of the first set of applications, fewer than 10 percent were filed by minorities.[11] Many minorities are fearful that most of the channels will be allocated before minority groups can prepare and file their applications.

While minority entrepreneurs in California stated that FCC programs are "a step in the right direction," most found these initiatives to be insufficient. Chris Kobayashi, executive director of Minorities' and Women's Telecommunications Network, Inc., commented on the creation of new stations by the FCC:

> Minorities do not have the broadcasting and programming experience of White males in the industry. If they become owners of new stations, these persons will be forced to sell the stations later, and it will be another "try and fail thing" for minorities.[12]

A December 1980 article by the Latino Consortium in Los Angeles echoed Ms. Kobayashi:

> More important and critical is the question of readiness to enter this /low power/ market. For the Latino community the answer to this

> question may once again determine if it's to be excluded from participation in use of the air-waves to meet media needs of the community.[13]

The advantage of new stations for minority viewers was also questioned. August Ruiz of KFTV was concerned that low power stations will be ineffective unless minority markets are within their transmitting areas. Kernie Anderson of KDIA-AM stated:

> There is a need for stronger radio stations, not low-power and low-economically viable ones. If minorities own all low-power stations at the end of the dial or in rural areas, all the FCC will have done is dump a white elephant on them.

Ed Roper, co-owner of KFOX-FM, was against the increase in the number of AM radio stations because there is only a limited amount of advertising money available to minorities; this amount will be spread thinner with the addition of new stations, making existing ones less viable.

Minority entrepreneurs did not view the distress sale and tax certificate programs as effective. Some stated that stations sold under distress sales are often in economic trouble, making it even more difficult for minority owners to compete with other broadcasters. Others said that only a small percentage of broadcasters are interested in taking advantage of tax certificates. According to Alberto Rodriguez, owner of KAZA-AM:

> The tax certificate program only appeals to a seller who wants to get out of the broadcasting business. Most people want to acquire another, bigger station and don't care if they sell to a minority or not; they are just looking for a buyer who can offer the highest price.

## Deregulation

In recent years, the FCC and commercial broadcasters have advocated a sharply reduced role for the Federal Government in broadcasting. They advocate reliance on competition in the marketplace rather than government regulation to serve the "public interest," arguing that program content is not affected by ownership but by economic incentives.[14]

Minorities and women entrepreneurs fear the marketplace philosophy will emphasize commercial interests and undermine public service responsibilities of broadcasters. Pluria Marshall, chairperson of the National Black Media Coalition, has contended that deregulation will "work serious inequities" on minority groups because it will create programming aimed at listeners who are most attractive to advertisers. He stated:

> Minorities and the poor will be served only by a few ethnic stations, usually with weak signals and inferior facilities. We will have de facto segregation of the airwaves.[15]

Mary Neiswender, owner of KGUY-AM, said:

> Public service is what /broadcasting/ is all about and broadcasters often forget that radio is primarily a public service. Some have virtually ignored the public interest mandate. Without regulation, public service may stop altogether.

Don Mizell, general manager for KJLH-FM, echoed Ms. Neiswender:

> While licensees are trustees and have obligations to the public, most broadcasters don't really want to comply with any regulations...they don't really care about anyone but themselves.

For some minority owners and managers, deregulation will mean the end of FCC initiatives which promote minority station ownership and equal employment opportunity. Without Federal oversight,some minority entrepreneurs fear that minorities will be excluded from broadcasting completely. According to William Shearer of KACE-FM, the broadcasting industry "has traditionally been a closed country club."

## NOTES TO SECTION V

1. 47 U.S.C. §§301, 303, 307(a)(d) (1976).

2. 47 U.S.C. §309(a) (1976).

3. According to the FCC, about 80 percent of California license renewal applications are approved by the FCC within a four-month period after filing. The remainder of the applications are deferred for approval beyond this renewal period. Telephone interview with Jim Brown, deputy director, Renewal and Transfer Division, Apr. 14, 1981.

4. Interview with Kernie Anderson, general manager, KDIA-AM, Oakland, Calif., Jan. 8, 1981.

5. FCC, Minority Ownership Taskforce, Minority Ownership in Broadcasting (1978), pp. 7-9.

6. FCC, Office of Public Affairs, EEO-Minority Enterprise Division, Minority Ownership of Broadcast Facilities: A Report (1979), pp. 8-9. (Hereafter cited as the 1979 Minority Ownership Report.)

   The FCC has also created the following programs to assist minorities; however, the California Advisory Committee was unable to obtain any information about the effects of these programs in California.

   Financial Qualification Reduction - Under earlier FCC regulations, license applicants had to show that they had enough capital to operate their stations for one year. The FCC reduced this requirement in 1978 to three months for radio station applicants and in 1979 to three months for television station applicants.

   FCC List of Minority Buyers - The FCC established a list of minority persons interested in purchasing broadcast stations. This list, which is periodically updated, is available to potential sellers of broadcasting properties.

   Rule Waivers - The FCC stated that it would consider waiving certain rules if such action furthered minority ownership. For example, FCC regulations restrict the transfer of a license if the licensee has held the license less than three years, but the FCC would relax this rule if the new owner were minority.

7. The FCC is also proposing to create new AM stations by expanding the AM broadcast band.

8. 1979 Minority Ownership Report, p. 7, emphasis added.

9. "Distress Sales"mimeo, Aug. 12, 1980, provided to the California Advisory Committee by the FCC, Public Affairs Office, EEO-Minority Enterprise Division.

10. 45 Fed. Reg. 69178 (1980); FCC News, "FCC Sets Interim 15 Station Limit on Low Power TV Applicants; Partially Grants Reconsideration in Low Power Television Proceeding," Report No. 16135 (Jan. 8, 1981).

11. Tyrone Brown, former FCC Commissioner, at the University of California at Los Angeles Law School, Communications Law Program, "1981 Communications Law Symposium," Feb. 20-21, 1981. (Hereafter cited as the 1981 Communications Law Symposium.)

12. Unless otherwise cited, all statements and views in this section are derived from staff and advisory committee interviews. Interview reports are on file in the Western Regional Office, U.S. Commission on Civil Rights.

13. "Latino Consortium Newsletter" (December 1980), Los Angeles, California.

14. 1981 Communications Law Symposium.

15. Los Angeles Daily Journal, "Broadcast Deregulation Weighed in Washington", Mar. 2, 1981.

## CONCLUSIONS AND RECOMMENDATIONS

Eight million minorities in California, one-third of the State's total population, are denied their legal right to participation in public control over broadcast communication. The other 16 million members in California society are subjected to a broadcasting service that ignores and distorts the roles of Blacks, Hispanics, Asian Americans, Native Americans, and other minorities in American life.

This condition exists because of the grossly imbalanced control of the public airwaves by licensed owners of the 518 commercial radio and television stations in the State. Minorities and women own only one television station and 14 radio stations.

The responsibility for this imbalance in ownership rests in the continuing failure of the Federal Communications Commission to enforce the public interest standard of the Communications Act of 1934, and the continuing failure of Congress to oversee the performance of the FCC. The FCC has allowed station ownership to be vested in one group, White males.

The licensing policies and practices of the FCC have countenanced the exorbitantly inflated costs of stations to the point that ownership is beyond the economic reach of many potential minority and women broadcasters who might otherwise provide broadcasting services.

Ownership by minorities and women is inhibited by the unavailability of stations, limited financial capability, and inadequate business expertise. These barriers are heightened for minorities and women because of their historic exclusion from participation in the broadcasting industry.

FCC policies and programs designed to alleviate the exclusion of minorities are stopgap remedies. They have failed to solve the problem. The latest of the FCC's much publicized but ineffectual efforts to assure diversity - low-power television - will not remedy existing inequities. Low-power television is exactly that: low-power signal, low-power audience, and low-power economics.

Therefore, the Advisory Committee recommends that

1. Because this California study suggests a national condition, the Commission on Civil Rights should undertake a nationwide study of broadcasting policies and practices which have contributed to the exclusion of minorities and women from full and equal access to station ownership.

Further, the Advisory Committee recommends to the Commission on Civil Rights that

2. It recommend that Congress instruct the FCC to establish rules and procedures that will correct the imbalances in the ownership control of broadcasting.

3. It recommend that the FCC institute comprehensive rule-making hearings before proceeding with radio deregulation and low-power television to examine the potential impact of these initiatives on ownership diversity.

# APPENDIX A

## Station Trading Since 1954

Dollar volume of transactions approved by FCC

| | Total | Radio only | Combined Radio-TV† | TV only |
|---|---|---|---|---|
| **1954** | $ 60,344,130 | $ 10,224,047 | $ 26,213,323 | $ 23,906,760 |
| **1955** | 73,079,366 | 27,333,104 | 22,351,602 | 23,394,660 |
| **1956** | 115,605,828 | 32,563,378 | 65,212,055 | 17,830,395 |
| **1957** | 124,187,660 | 48,207,470 | 47,490,884 | 28,489,206 |
| **1958** | 127,537,026 | 49,868,123 | 60,872,618 | 16,796,285 |
| **1959** | 123,496,581 | 65,544,653 | 42,724,727 | 15,227,201 |
| **1960** | 99,341,910 | 51,763,285 | 24,648,400 | 22,930,225 |
| **1961** | 128,804,167 | 55,532,516 | 42,103,708 | 31,167,943 |
| **1962** | 101,742,903 | 59,912,520 | 18,822,745 | 23,007,638 |
| **1963** | 105,303,078 | 43,457,584 | 25,045,726 | 36,799,768 |
| **1964** | 205,756,736 | 52,296,480 | 67,185,762 | 86,274,494 |
| **1965** | 135,123,766 | 55,933,300 | 49,756,993 | 29,433,473 |
| **1966** | 135,718,316 | 76,633,762 | 28,510,500 | 30,574,054 |
| **1967** | 172,072,573 | 59,670,053 | 32,086,297 | 80,316,223 |
| **1968** | 152,455,412 | 71,310,709 | 47,556,634 | 33,588,069 |
| **1969** | 231,697,570 | 108,866,538 | 35,037,000 | 87,794,032 |
| **1970** | 174,785,442 | 86,292,899 | 1,038,465 | 87,454,078 |
| **1971** | 393,547,924 | 125,501,514 | 750,000 | 267,296,410 |
| **1972** | 271,330,537 | 114,424,673 | 0 | 156,905,864 |
| **1973** | 230,381,145 | 160,933,557 | 2,812,444* | 66,635,144 |
| **1974** | 307,781,474 | 168,998,012 | 19,800,000** | 118,983,462 |
| **1975** | 259,485,961 | 131,065,860 | 0 | 128,420,101 |
| **1976** | 290,923,477 | 180,663,820 | 1,800,000 | 108,459,657 |
| **1977** | 289,871,604 | 161,236,169 | 0 | 128,635,435 |
| **1978** | 651,728,398 | 331,557,239 | 30,450,000 | 289,721,159 |
| **1979** | 1,116,648,000 | 335,597,000 | 463,500,000*** | 317,581,000 |
| **Total** | $6,078,750,984 | 2,651,888,265 | 1,155,769,883 | 2,257,722,736 |

Number of stations changing hands

| | Radio only | Combined Radio-TV† | TV only |
|---|---|---|---|
| **1954** | 187 | 18 | 27 |
| **1955** | ~~242~~ | 11 | 29 |
| **1956** | 316 | 24 | 21 |
| **1957** | 357 | 28 | 38 |
| **1958** | 407 | 17 | 23 |
| **1959** | 436 | 15 | 21 |
| **1960** | 345 | 10 | 21 |
| **1961** | 282 | 13 | 24 |
| **1962** | 306 | 8 | 16 |
| **1963** | 305 | 3 | 16 |
| **1964** | 430 | 20 | 36 |
| **1965** | 389 | 15 | 32 |
| **1966** | 367 | 11 | 31 |
| **1967** | 316 | 9 | 30 |
| **1968** | 316 | 9 | 20 |
| **1969** | 343 | 5 | 32 |
| **1970** | 268 | 3 | 19 |
| **1971** | 270 | 1 | 27 |
| **1972** | 239 | 0 | 37 |
| **1973** | 352 | 2* | 25 |
| **1974** | 369 | 5** | 24 |
| **1975** | 363 | 0 | 22 |
| **1976** | 413 | 1 | 32 |
| **1977** | 344 | 0 | 25 |
| **1978** | 586 | 3 | 51 |
| **1979** | 546 | 52*** | 47 |
| **Total** | 8,094 | 294 | 747 |

Note: Dollar volume figures represent total considerations reported to all transactions, with the exception of minority-interest transfers in which control of the licensee did not change hands. All sales have been approved by the FCC.

*Two acquisitions of radio-TV combinations were approved in 1973 on waiver of FCC one-to-a-customer rule that became effective in 1971

**Figure represents merger of Pacific & Southern's combination of four radio and one television stations into Combined Communications Corp.

***Figures represent deals involving sales of radio and television stations in single transactions. Six deals included 17 television stations and 35 radio stations.

Note: Prior to 1978, a combined AM-FM facility was counted as one radio unit in computing total number of stations traded.

†Includes single properties consisting of radio and TV stations.

Source: Broadcasting Yearbook, 1980

## APPENDIX B

Station Owners and Managers Interviewed by California Advisory Committee

Kernie Anderson, general manager, KDIA-AM, Oakland

Ira Campbell, program director, KPOO-FM, San Francisco

Michael Day, general manager, KJAZ-FM, Oakland

Lloyd Edwards, co-owner, KMPX-FM, San Francisco

Richard Hernandez, co-owner, KBSA-TV, Santa Ana

Susan Horwitz, vice-president, Western Public Radio, San Francisco

B.J. Howell, co-owner, KFOX-FM, Redondo Beach

Chris Kobayashi, executive director, Minorities' and Women's Telecommunications Network, Inc., San Francisco

John Marin, general manager, KRE-AM and KBLX-FM, Berkeley

Cal Milner, operations manager, KUTE-FM, Los Angeles

Don Mizell, vice-president, KJLH-FM, Los Angeles

Emilio Nicholas, vice-president, KDTV, San Francisco

Mary Neiswender, owner, KGUY-AM, Palm Desert

Alberto Rodriquez, owner, KAZA-AM, San Jose

Ed Roper, co-owner, KFOX-FM, Redondo Beach

August Ruiz, general manager, KFTV, Fresno

William Shearer, general manager, KACE-FM, Los Angeles

The Advisory Committee also interviewed Honorable Edward Roybal, U.S. House of Representatives, for this study.