

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

In the Matter of)
)
Review of the Commission’s Broadcast and) MB Docket No. 16-410
Cable Equal Employment Opportunity Rules)
and Policies)
)

To: The Commission

**JOINT COMMENTS OF
LOCAL AND REGIONAL BROADCASTERS**

Local and Regional Broadcasters (“LRB”),¹ by their attorneys, hereby submit these Joint Comments in response to the Commission’s *Public Notice* released on December 15,

¹ The members Local and Regional Broadcasters include the following entities:

KOCE-TV Foundation, the licensee of noncommercial TV station KOCE-TV, Huntington Beach, California.

Bicoastal Media LLC, comprised of commercial radio stations licensed to Bicoastal Media Licenses, LLC; Bicoastal Media Licenses II, LLC; Bicoastal Media Licenses III, LLC; Bicoastal Media Licenses IV, LLC; Bicoastal Media Licenses V, LLC; and Bicoastal Media Licenses VI, LLC.

Capitol Broadcasting Association, Inc, the licensee of noncommercial FM station KMFA, Austin, Texas.

Cascade Public Media, the licensee of noncommercial TV stations KCTS-TV, Seattle, Washington and KYVE, Yakima, Washington.

Minnesota Public Radio, comprised of noncommercial FM stations serving communities in Minnesota, Iowa, Michigan, Idaho, Southern California, and South Dakota.

Four R Broadcasting, Inc., the licensee of commercial FM stations KDCD and KMDX serving San Angelo, Texas.

MBC Grand Broadcasting, Inc., the licensee of commercial stations KGLN(AM), Glenwood Springs, Colorado; KKVT(FM), Grand Junction, Colorado; KMGJ(FM), Grand Junction, Colorado; KMOZ-FM, Grand Junction, Colorado; KNAM(AM), Silt, Colorado; KNZZ(AM), Grand Junction, Colorado; KSTR-FM, Montrose, Colorado; and KTMM(AM), Grand Junction, Colorado.

Lehigh Valley Community Broadcasters Association, the licensee of noncommercial FM station WDIY, Allentown, Pennsylvania.

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2016, seeking comment on the Petition for Rulemaking filed by Sun Valley Radio, Inc. and Canyon Media Corporation (the “Petition”), which asks the Commission to allow broadcasters, if they so choose, to rely on Internet recruitment sources, coupled with their on-air advertising, when conducting outreach for new job openings.² LRB concurs with the Petition that “it is time

National Federation of Community Broadcasters, a nonprofit whose mission is to provide services that enable locally-based media organizations to best serve their communities.

Max Media LLC, comprised of commercial radio and television stations licensed to MMK License LLC, MHR License LLC, Max Radio of the Carolinas Licenses LLC, MRR License LLC and Max Radio of Denver LLC.

BAS Broadcasting, Inc., the licensee of commercial stations WCPZ(FM), Sandusky, Ohio; WFRO-FM, Fremont, Ohio; WLEC(AM), Sandusky, Ohio; WMJK(FM), Clyde, Ohio; WMVO(AM), Mount Vernon, Ohio; WOHF(FM), Bellevue, Ohio; and WQIO(FM), Mount Vernon, Ohio.

Listeners Community Radio of Utah, Inc., the licensee of noncommercial FM station KRCL, Salt Lake City, Utah.

Thoroughbred Communications, Inc., the licensee of commercial FM station WRHQ, Richmond Hill, Georgia.

Quinnipiac University, the licensee of commercial station WQUN(AM) and noncommercial station WQAQ(FM), Hamden, Connecticut.

Icicle Broadcasting, Inc., the licensee of commercial stations KOHO-FM, Leavenworth, Washington; KOZI(AM), Chelan, Washington; KOZI-FM, Chelan, Washington; and KZAL(FM), Manson, Washington.

New Hampshire Public Radio, Incorporated, the licensee of noncommercial FM stations WCNH, Bow, New Hampshire; WEVC, Gorham, New Hampshire; WEVF, Colebrook, New Hampshire; WEVH, Hanover, New Hampshire; WEVJ, Jackson, New Hampshire; WEVN, Keene, New Hampshire; WEVO, Concord, New Hampshire; WEVQ, Littleton, New Hampshire; and WEVS, Nashua, New Hampshire.

Texas Public Radio, the licensee of radio stations KCTI(AM), Gonzales, Texas; KPAC(FM), San Antonio, Texas; KSTX(FM), San Antonio, Texas; KTPD(FM), Del Rio, Texas; KTPR(FM), Snyder, Texas; KTXI(FM), Ingram, Texas; and KVHL(FM), Llano, Texas.

All Classical Public Media, Inc., the licensee of noncommercial FM stations KQAC, Portland, Oregon; KQHR, The Dalles, Oregon; KQMI, Manzanita, Oregon; and KQOC, Gleneden Beach, Oregon.

Mount Wilson FM Broadcasters, Inc., the licensee of commercial stations KBOQ(AM), Beverly Hills, California; KIDD(AM), Monterey, California; KKGO(FM), Los Angeles, California; and KNRY(AM), Monterey, California.

Kayser Broadcast Ministries, Inc., the licensee of noncommercial FM stations WXMF, Marion, Ohio; WXML, Upper Sandusky, Ohio; and WXMW, Sycamore, Ohio.

Cumberland Communities Communications Corporation, the licensee of noncommercial FM station WDVX, Clinton, Tennessee.

² *Media Bureau Seeks Comment on Petition for Rulemaking Seeking To Allow the Sole Use of Internet Sources for FCC EEO Recruitment Requirements*, Public Notice, MB Docket No. 16-410 (Dec. 15, 2016).

to update the Commission’s rules to reflect today’s technological and employee recruitment landscape.”

The LRB is comprised of over 20 licensees, totaling over 220 commercial and noncommercial TV and Radio stations, and one trade organization with a mission to advocate for and provide services to community broadcasters. LRB members operate in many different locations from coast to coast and are deeply involved in their respective communities of license. Although the members of the LRB represent a diverse spectrum of broadcasters, they are united in support of the Petition. LRB asks the FCC to revise Section 73.2080(c)(1)(i) of the Commission’s rules, which requires broadcasters to use recruitment sources that will “widely disseminate” information for each full-time vacancy,³ in order to allow broadcasters to recruit for open positions through online recruitment sources.

I. In an Increasingly Digital World, Online Access is the Most Effective Method for Recruitment.

The Commission’s EEO rules are designed to prevent discrimination and to attract diverse groups of people as employees in the broadcast industry. One of the ways the FCC seeks to increase diversity is Section 73.2080(c)(1)(i)’s requirement that information regarding all vacancies for full time employment be widely disseminated.⁴ The FCC has long held, and recently reaffirmed, that this rule requires advertisement of job openings in print publications and that advertising only through Internet sources does not comply with this rule.⁵

When the Commission adopted the current EEO rules in 2002, it examined the “widely disseminated” standard and determined that allowing broadcasters to fill vacancies solely through Internet sources would be premature because the Internet was not “known as a principal

³ 47 C.F.R. 73.2080(c)(1)(i).

⁴ *Id.*

⁵ Capstar TX LLC, 29 FCC Rcd. 15526 (2014).

resource for job seekers.”⁶ The Commission based this conclusion on a 2001 report from the National Telecommunications and Information Administration (“NTIA”) that found only half of US households had an Internet connection, and that various communities faced inequalities when it comes to Internet access.⁷ While the Commission refused to allow sole use of online recruitment sources, it did state that it “will continue to monitor the viability of the Internet as a recruitment source and will consider petitions seeking to demonstrate in the future that circumstances have changed sufficiently to warrant a change in our policy.”⁸

Access to the Internet has changed dramatically in the 16 years since the 2001 NTIA study. According to the 2013 American Community Survey conducted by the U.S. Census Bureau, 83.3% of US households own a computer, and 74.4% of households have Internet access.⁹ While disparity between regions and groups still exists, nearly all Americans now have access to the Internet, either through a smartphone, a home computer, or their local library. In fact, more recent NTIA data has found that as of the end of 2013, “99 percent of Americans have access to wired and/or wireless broadband.”¹⁰

The Commission is clearly aware of the Internet’s increasingly universal nature that has developed over the last 15 years since the 2002 Order. For example, recent revisions to other Commission rules allow online compliance with existing regulations, such as contest rules and local public file requirements. In 2015, a blog titled “Embrace the Internet for EEO ‘Widely

⁶ *Review of the Commission’s Broadcast and Cable Equal Employment Opportunity Rules and Policies*, MM Docket No. 98-204, Second Report and Order and Third Notice of Proposed Rulemaking, 17 FCC Rcd. 24018 at 24050 (2002), recon pending (“2002 Order”).

⁷ *Id.* at 24050.

⁸ *Id.* at 24051.

⁹ *Computer and Internet Use in the United States: 2013*, U.S. Census Bureau, Report Number ACS-28 (2014) (available at <http://www.census.gov/library/publications/2014/acs/acs-28.html>).

¹⁰ *Faster Broadband, Reaching More*, Anne Neville (Jul. 17, 2014) (discussing the National Telecommunications & Information Administration’s data from 2013) (available at <https://www.ntia.doc.gov/blog/2014/faster-broadband-reaching-more>).

Disseminated Rule” by Commissioner Michael O’Rielly called for the FCC to allow broadcasters to recruit for vacancies using solely online sources.¹¹ Commissioner O’Rielly states that the FCC’s application of FCC Rule 73.2080(c)(1)(i) is “based on a remarkably outdated assessment of Internet deployment and access in the United States” and urges the Commission to revise how the rule is interpreted in order to allow sole use of Internet recruitment sources.¹²

In its 2002 Order, the Commission said that it will consider a change in the policy preventing sole online recruitment if “circumstances change sufficiently.”¹³ Recent studies clearly demonstrate that a massive technological change has taken place with regard to how employers utilize the Internet for recruiting, and a change in FCC policy is indisputably warranted.

II. The Internet is Now the Primary Resource Used for Recruitment.

The way average Americans seek employment has changed drastically since 2002. When the Commission adopted the current EEO rules 15 years ago, the Internet was experiencing a dramatic period of development and growth. Since then, the Internet has transformed the way that companies seek new employees through the introduction of employment websites, such as linkedin.com and monster.com, and social media sites.

As noted in the Petition, a recent Pew Research Center Study found that 90% of Americans who have looked for work in the last two years utilized online resources.¹⁴ The Federal Government and the Commission have recognized this trend and have switched to online resources as a primary source of recruitment. The Federal Government, and by extension the

¹¹ *Embrace the Internet for EEO “Widely Disseminated Rule,”* Commissioner Michael O’Rielly (Feb. 20, 2015) (available at <https://www.fcc.gov/news-events/blog/2015/02/20/embrace-internet-eeo-widely-disseminated-rule>).

¹² *Id.*

¹³ *2002 Order* at 24051.

¹⁴ *Searching for Work in the Digital Era*, Aaron Smith, Pew Research Center (Nov. 19, 2015) (available at <http://www.pewinternet.org/2015/11/19/searching-for-work-in-the-digital-era/>).

FCC, now recruits for vacancies almost exclusively via the website USAJobs.gov. In the words of Commissioner O’Rielly, “these technologies have allowed employees to expand the potential talent pool... [and] the Internet has become a central component in personal networking and job identification.”¹⁵

While the Internet has become the “principal resource for job seekers,”¹⁶ the newspaper industry has been contracting due to the increasing availability of digital news sources.¹⁷ The newspaper workforce has declined by 39% in the past 20 years and as of 2014, there were 126 fewer daily papers than in 2004.¹⁸ One-fourth of newspaper advertising revenue now comes from digital advertising, while print advertising revenues continue to fall, largely due to a decrease in print circulation.¹⁹ As print circulation continues to decrease in the wake of an increasingly digital media landscape, recruitment advertising in local newspapers has become increasingly ineffective.

On average, members of LRB report having to pay around \$300-\$500 to list a job opening in a local newspaper. The cost is incommensurate with the results. LRB members rarely receive applications that cite the print ad as the source of information about the position. Not one member can report having hired a candidate referred from a print ad in the past three years. Plain and simple, the FCC’s requirement for paper ads for every vacancy in an era when recruiting is done online imposes an unnecessary burden on broadcasters with little to no gain.

¹⁵ *Embrace the Internet for EEO “Widely Disseminated Rule”* (2015).

¹⁶ *2002 Order* at 24050.

¹⁷ *Newspapers: Fact Sheet*, Michael Barthel, Pew Research Center (June 15, 2016) (available at <http://www.journalism.org/2016/06/15/newspapers-fact-sheet/>).

¹⁸ *Id.*

¹⁹ *Id.*

As Commissioner O’Rielly wrote, “companies are now forced to duplicate their recruiting efforts using other less efficient technologies... **for little to no benefit.**”²⁰

Instead, members have reported having far more success targeting diverse communities through means other than print ads. Advertisements in any form are only one means of disseminating information about job vacancies, and broadcasters are in the best position to know what will be effective in their respective communities. LRB members have reported success with reaching out to local schools and regional groups aimed at employing minorities, actions which are currently encouraged by the FCC’s EEO rules. In the words of one LRB member, “there are a lot of websites [an employer can utilize] that target different diverse communities that we have used and continue to explore.”

These online, and often free, targeted recruiting sources allow local broadcasters to reach parts of their community that a printed newspaper simply doesn’t reach. As one LRB member said of their community outreach efforts, “people don’t have their noses stuck in the newspaper in the morning, they have it glued to their phone.” Continuing to require broadcasters to utilize newspapers as a recruiting source in order to comply with the “widely disseminated” standard only serves to add an additional burden on broadcasters, and does little to nothing to further the goals of the Commission’s EEO rules.

III. Conclusion.

Local and Regional Broadcasters is committed to fostering diversity in broadcasting. It is not asking the Commission for a top-to-bottom revision of the EEO rules, only a minor change that would reduce the regulatory burden placed on broadcasters and result in more effective recruitment. Requiring broadcasters to utilize print ads for every vacancy does nothing to further

²⁰ *Id.*

the goal of creating diversity in the broadcast industry. It functions only to invest limited resources in a practice that will not yield practical results. The Internet has clearly become a “principle resource for job seekers” and it is time for the FCC to recognize it as such. Consequently, the FCC’s EEO rules should be amended to allow broadcasters the option to fill open positions using solely online recruitment sources.

Respectfully submitted,

**LOCAL AND REGIONAL
BROADCASTERS**

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