

**REMARKS OF COMMISSIONER MICHAEL J. COPPS
RAINBOW/PUSH WALL STREET PROJECT ECONOMIC SUMMIT
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I want to start by thanking Reverend Jackson, Martin King, and all the good folks at Rainbow-Push—not just for hosting this event today, but for your proactive participation in the Commission’s media ownership proceedings over the past several months. In September, you opened your headquarters to us and hundreds of Chicago residents to hold an FCC field hearing on media ownership. Indeed, Reverend Jackson flew back that very evening from the Jena march to take part in the hearing—and he stayed into the wee hours. Reverend also testified powerfully in October at our FCC Localism hearing in Washington, DC. He’s been tried and true on these issues for years and I thank him for his leadership and his inspiration. I just wish the Commission would have had the good sense to take his good advice to heart. Instead, a Commission majority decided, over my objections and Commissioner Adelstein’s, that the best way to deal with the media consolidation that has wreaked such havoc on minority and female ownership is to give us more—what?—more media consolidation!

Some would have you believe differently, but the news on minority ownership is not so good. Certainly not anything like it easily could have been. You know, when it comes to minority ownership, it seems there’s always an excuse for why we can’t do more. “We need more comment.” “The data isn’t good enough.” “We don’t have a record.” “The courts might overturn us.” But those doubts magically disappear when it comes to unleashing further media consolidation—which has done more than anything else to exclude minorities and women from the media marketplace. Then it’s pedal to the metal, full speed ahead.

I’m disappointed, but I’m not really surprised. Last October, I spoke at a Rainbow-Push gathering in Washington. It was clear then that the FCC majority would soon be pushing for more media consolidation. But the majority also realized that the Third Circuit Court had taken the Commission to the woodshed the last time we tried to loosen the ownership rules without considering the impact on minority ownership. So a decision was made, somewhat grudgingly I thought, to tee up some of the minority ownership proposals that had been gathering dust for years at the FCC. When I spoke in October, I warned that instead of taking these issues really seriously, the Commission might only be checking a box so it could vote for more consolidation.

Here’s what being serious would have meant—postponing the vote on consolidation until we did justice to minority ownership; convening an independent panel with leadership from Reverend Jackson and others and tasking it to work through and prioritize the dozens of proposals before us and give us some new ones, too; opening up real opportunities for minorities and women *before* we voted again to loosen any ownership rules. Instead we had a mad rush to judgment so Big Media would have a nice present to open the week before Christmas. So Big Media got a new loophole-ridden, loosey-goosey cross ownership rule, and minorities and women got...not very much.

In our short-circuited consideration of minorities last month, the most important issue we faced was defining the group of “eligible entities” that would benefit from the few steps we did take. Diversity groups told us it would be better to have no definition at all than adopt a general “small business” definition that would largely benefit white men. Rainbow-Push and NABOB warned that adoption of a “small business” definition would have “little or no benefit for minority owners or potential minority owners.” So what did the majority do? You guessed it—they adopted the very “small business” definition opposed by the diversity community.

The majority apparently hopes they can finesse the issue by seeking further comment on a more targeted definition. “Gee, we'd like to do more,” they seem to be saying, “but the legal standard is high and we don't have the studies or the data to do anything more right now.” I'm sorry, but I don't buy it. These issues have been sitting at the FCC for years. If we don't have the record we need, it's for one reason and one reason only—minority ownership has not been a priority at the FCC. The majority's position reminds me of the child who killed his parents and then asks for leniency on the ground he's an orphan.

And when it comes to these issues, I hope your antennae go up when the FCC tells you it is going to act as soon as it gets more comments. Often, that's not the way things unfold at the FCC. One example: the FCC released a set of Section 257 studies looking at market entry barriers back in December 2000—*at the end of the Clinton Administration*. But the FCC didn't take any further action until *June 2004*, when those studies were belatedly put out for comment. Then radio silence again for *another three years until August 2007*, when the FCC took that record and *again sought comment* on the definition of “eligible entity” proposed by minority advocates.

Maybe the third time will be the charm and this time the majority really, really means it. I have my doubts. I'm not aware of any plans at the FCC to improve our roundly-criticized lack of data on minority ownership. We don't even have a basic census of what stations minorities actually own! Both the GAO and the Congressional Research Service recently took us to task for lacking the studies we'd need to justify good proactive programs. And the majority even rejected the idea of applying a race-neutral “full file review” while we examined the possibility of more race-conscious remedies. “Full file review” is used by major universities to make admission decisions, but even that small interim step was beyond where the FCC majority was prepared to go.

To be fair, there were some decisions last month that don't rely on the definition of “eligible entity” that I supported and that I believe have the potential to do some good—like the ban on discrimination in advertising and a “zero tolerance” policy for ownership fraud. But don't take these to the bank too quickly. To be more than mere slogans, these policies need strict enforcement. Take “zero tolerance.” When I saw this in the Chairman's draft Order, I went back and looked at what the proponents of the original “zero tolerance” recommendation had in mind, and what they had in mind was a proactive enforcement program that included the use of random audits, strengthened discovery, and other enforcement tools to make sure that “zero tolerance” actually had

some teeth. Lacking these protections, the draft Order could result in “*partial tolerance*” of fraud. So Commissioner Adelstein and I proposed to our colleagues that we adopt the protections just mentioned, but our suggestion was—you guessed it again—rejected. So about all we may get out of our new zero tolerance is the media equivalent of “Just Say No”—a feel-good slogan with little real-world impact.

This is no time for hand-wringing and “woe is me, if only we could do more” as minorities are pushed almost completely out of our media. Maybe a full-scale assault on this problem isn’t in the cards for 2008, but there are tangible steps we could take right now, even in the current environment, to make things better. First and foremost, we could—and we should—reconsider our decision and implement “full file review.” I simply don’t understand why we couldn’t agree on this compromise race-neutral approach, regardless of one’s political views. Second, we could—and we should—adopt a strict enforcement regime to put some teeth into our anti-discrimination and anti-fraud rules. Third, we need to do *now* the data-gathering and studies that have been ignored for too long—because next time we go down this path, the claim that “it’s too late to do the research” is going to ring even more hollow than it does today.

Baby steps, new programs without definitions and without enforcement and without the kind of vision it takes to change things from the way they are to the way they could be aren’t going to get us very far. I am awfully tired of the counsels of caution we always get when it comes to diversity issues. That’s why we have a country that’s almost one-third minority and yet people of color own only around 3% of full-power commercial television stations. That’s why our Equal Employment Opportunity rules are little more than a sham. I know the Supreme Court has thrown some hurdles in the way, but we need to treat these as problems to be overcome, not as excuses to do nothing. If we can’t be proactive, if we can’t be affirmative, if we can’t commit to pushing the envelope, then we’re never going to have media opportunity or media justice for minorities. We are a country whose future is wedded to our diversity, so don’t tell me there is no compelling government interest in having media that truly reflect and truly nourish our diversity. If there is fairness for minorities in our media, how can we expect there to be fairness for minorities in our country? If there is no justice for minorities in our media, how can we expect there to be justice for minorities in our country?

So I come here today to ask for your help—your assertive, creative and organized help. I know you’ve done a lot already. But now is the time to do more—to redouble our efforts to build even stronger coalitions to make minority and female voices heard in the halls of power in Washington. Politics is a game of addition and we must all work more closely together. This is not an “African-American” issue, or a “Latino” issue,” or an “Asian-American” issue or a “Native American” issue, or a “women’s” issue. This is an *American* issue. It’s about who we are as a people and where we are headed as a nation. It’s a Main Street Project as well as a Wall Street Project and, like Reverend Jackson, each of us needs to be walking both those streets.

When the history of the last several years of FCC action on media ownership is written, I want it said that the end result was not to flash a green light for more media

consolidation in America. I want it written that the end result was to flash a green light for citizen action across America that took the concern and anger that millions of us feel about what has happened to our media and translated it into a bright new era of media opportunity and media justice. This is what the decisions you make and I make and we all make in the next several months will determine. Let's do it right this time.