

**REMARKS OF  
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OF THE  
FEDERAL COMMUNICATIONS COMMISSION  
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*SPURRING GROWTH, DIVERSITY AND FREEDOM THROUGH ABUNDANT CAPITAL*

**[AS PREPARED FOR DELIVERY]**

Thank you, Sherman, for that kind introduction. It is wonderful to be back at a NABOB event. At the outset, I'd like to congratulate Bill Koenigsberg on his successful efforts in promoting the adoption of non-discrimination policies and complaint processes by advertising agencies. Your work has been very valuable, positive and constructive. Thank you.

I am also deeply humbled to accept this award from NABOB. I'm all the more honored to learn that NABOB has never bestowed a recognition quite like this before. And I have to confess that I feel a bit unworthy. In December of 2007, four other commissioners and I voted to adopt the 13 action items contained in the historic Diversity Order. All of them deserve equal credit: Debi Tate, Jonathan Adelstein, Mike Copps and the chairman who put it on the agenda, Kevin Martin – and we should never forget the talented career public servants at the Commission who do all of the real work. Without this bipartisan team effort, it never would have happened. Among other things, this terrific achievement can serve as an example of what can be done in Washington when people of different backgrounds and political parties pledge in good faith to *work together* toward a common goal.

The Diversity Order was indeed ground breaking. Among other things, it codified the first federal civil rights rule in a generation: the FCC's non-discrimination rule prohibiting so-called "no urban, no Hispanic" dictates in broadcast advertising. These insidious race-based dictates functioned as barriers to entry for minority broadcasters.

NABOB first proposed the non-discrimination rule to the FCC in 1984. The long road to its codification 23 years later can serve as a lesson in the virtues of patience and persistence. All of the people who toiled for so long on this project deserve thanks as well.

In the months leading up to that historic vote, I could not understand how it was legal in the first place for advertisers, or more specifically media buyers, to prohibit advertising on broadcast stations that serve primarily African American and Hispanic audiences without any rational business reason for doing so. It still confounds me because not only are such dictates obviously morally wrong, but they make no business sense. Demographic targeting is one thing; it can add tremendous value to the economy. But mindless flat-out bans on advertising to specific minority groups smacked of the last century's Jim Crow world.

With all of that in mind, it quickly became a no-brainer for all five of us to support a sensible and narrowly tailored removal of what amounted to a toxic barrier to acquiring capital. I should note that the broadcasting and advertising industries have supported this common-sense effort, as exemplified by Bill's work. In fact, it was the private sector that brought to our attention the 2009 incident involving a media buyer's "no urban" solicitation on behalf of BMW. Revelation of this incident laid to rest any doubts about the very real existence of this problem.

In the course of all of this, I want to thank NABOB, the Minority Media and Telecommunications Council and other like-minded organizations for their effective advocacy and watch-dog vigilance. I am told by these groups that implementation of the non-discrimination rule may have resulted in an additional \$200 million per year in advertising revenue flowing to stations serving predominantly minority audiences. Those are vital funds that have enabled more small broadcasters to stay on the air to serve their communities.

I'd like to give a special thanks to Sherman Kizart for his tireless and steadfast leadership on many things, but this issue in particular. He has been a joy to work with over the years, and his energy and vision have been at the heart of the success of this endeavor. In following up on our actions in 2007, Sherman has led me to the pinnacles of the advertising industry in his quest to forge constructive relationships with the "Mad Men" and women who are important partners in making sure there is never a need again to enforce the non-discrimination rule. Please join me in thanking Sherman!

The theme that underlies the effort behind the non-discrimination rule is promoting access to capital. If we want America to be an ownership society, then providing an equal opportunity for all to have a chance to access capital is essential to that vision. Frederick Douglass argued for this when he fought for the sovereignty of the individual. He passionately and eloquently argued the case for private ownership of property, saying not only was it a person's "duty to possess it, [but to] possess it in that way in which its energies and properties can be made most useful to the human family."<sup>1</sup>

Whether we are speaking of the ownership of land, factories, intellectual property or broadcast stations, America needs policies that not only allow entrepreneurs to invest capital into new ventures, but *encourage* them to do so as well. Expanded entrepreneurialism empowers individual freedom and personal growth, sustains independence and increases prosperity. Ownership of property is the open door that leads to social progress. And the key to unlock that door is abundant capital.

A great influence on my approach to economic policy is the late Jack Kemp, who I was privileged to meet several times during my life, the first time being when I was 17. He once wrote, "By giving people access to capital and allowing them to take ownership of assets, entrepreneurship will be encouraged and the cycle of poverty can begin to be broken. All persons should have the opportunity to go as high as their merit and determination can carry

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<sup>1</sup> FREDERICK DOUGLASS, *Property in Soil and Property in Man* (Nov. 18, 1848), in 5 THE LIFE AND WRITINGS OF FREDERICK DOUGLASS, (SUPPLEMENTARY VOLUME) 1844-1860, 104, 105 (Philip S. Foner ed., Int'l Publishers 1975).

them.”<sup>2</sup> His philosophy is inspirational to those of us who want to encourage small and historically disadvantaged businesses to invest in the media industry.

Of course, like all entrepreneurs, NABOB’s members would benefit tremendously if American tax and regulatory policy did more to encourage the free formation and exchange of capital. Such a climate would make investing easier for everyone, but especially small and disadvantaged businesses.

Included in those policies should be a new and improved tax certificate program which would help tremendously. (I have to admit that I just cut and pasted that line from some of last year’s speeches; and those were copied from my 2010 speeches, which were lifted from my 2009 speeches, and so on. So, in some ways, these speeches regarding diversity in broadcasting get easier to write, but not necessarily for a good reason.)

Providing broadcasters with a tax incentive to sell to small and disadvantaged businesses would increase the volume and frequency of such exchanges dramatically. And we could accomplish these goals without the flawed loopholes of yore, thus restoring integrity and certainty to the program. The tax certificate bills sponsored during the last Congress didn’t move, but that is no reason to despair. Don’t give up the fight. As Frederick Douglass also said, “If there is no struggle, there is no progress.”<sup>3</sup>

More generally, we would witness a tremendous economic surge in America’s cities if we revitalized the long-standing bipartisan effort to spur the creation of urban enterprise zones – areas designed free from excessive taxes and regulations to attract new job-creating businesses. Building on that concept, broadcast entrepreneurs could leverage the freedom provided by enterprise zones and grow stronger while serving urban audiences and enhancing their local communities.

For that matter, it is time to largely – if not completely – eliminate the newspaper/broadcast cross ownership ban. Established in 1975, it is as out of date as the disco music and polyester leisure suits of its birth year. A growing body of evidence indicates that this obsolete rule actually may be exacerbating the demise of diverse local voices that provide important news and information. In other words, the ban is producing the opposite result of its intended effect. In cities such as Chicago that support several daily newspapers serving local ethnic communities, the ban prevents minorities and women from distributing content across *all* platforms – all in the name of diversity.

The notion that a producer of content is allowed to distribute its product over radio, television, the Internet, outdoor advertising and other platforms, but that being able to print that same content on a piece of paper every day is a threat to democracy in the eyes of those who occupy powerful government offices is nothing more than a defenseless policy that is out of touch with today’s dynamic and competitive communications market.

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<sup>2</sup> Jack Kemp, Op-Ed., *Obama and Economic Opportunity*, WALL ST. J., Apr. 17, 2008, at A19.

<sup>3</sup> FREDERICK DOUGLASS, *West India Emancipation*, in TWO SPEECHES BY FREDERICK DOUGLASS, 3, 22 (Rochester, N.Y., C.P. Dewey 1857).

Reform of this rule could help preserve news-gathering operations to the benefit of consumers and their communities by allowing refreshing new capital to flow to otherwise withering newsrooms. But as long as legacy 20<sup>th</sup> Century rules continue to sit on the chest of broadcasters operating in a 21<sup>st</sup> Century marketplace, new investment dollars will continue to flow primarily to the less regulated new media market. The term “uneven playing field” comes to mind.

Until such barriers are cleared away, I am hopeful that as a matter of good government the Commission will move forward soon on reviewing our policies and rules regarding diversity in broadcasting built upon the firm foundation of new *Adarand* studies. (That’s another cut-and-paste line.)

But broadcasters, especially smaller broadcasters, don’t need more rules. They need the freedom to pursue opportunities. I have great faith in the creative brilliance of America’s entrepreneurs, entrepreneurs like NABOB’s members. Your grit and determination inspire me. I was reminded of such virtues when I read earlier this month about the passing of Woodrow Wilson Crockett at age 93. It ends up that he was practically a neighbor of mine in Fairfax County. Col. Crockett led an amazing life and he serves as an example of what is best about America. He was born in 1918 in a segregated sharecropping community in Arkansas. Using his inexhaustible courage and intelligence, he enlisted in the Army Air Corp and passed the rigorous testing requirements to join the now-famous flight school in Tuskegee, Alabama.

During his military career, he flew 149 combat missions in World War II and 45 in the Korean War. He and his colleagues faced bigotry the whole way, and during his service in Italy they were forced to use second-class equipment as they fought against the relentless Nazis. But that didn’t stop Col. Crockett. He was even more relentless. He went on to become one of the most decorated pilots in U.S. history earning: the Distinguished Flying Cross, the Soldier’s Medal, the Meritorious Service Medal, *five* awards of the Air Medal, the Army Commendation medal, two awards of the Air Force Commendation Medal and, ultimately, the Congressional Gold Medal in 2007. Perhaps best of all, he stayed married to the same woman, Daisy, for 58 years until her death.

When asked about how he was able to overcome so many barriers and achieve so much success in all aspects of his life, he revealed his simple secret. “You just have to have perseverance. Set your goal and go for it,” he told an audience several years ago. “Hell, if you wait for the playing field to get level, you may not do anything.”<sup>4</sup>

Each of us can learn from the wise words and deeds of this great American.

Thank you again for giving me this unique honor. You are very thoughtful in presenting it to me, and I’d like to share it with all who made the historic 2007 Diversity Order possible. I look forward to continuing to work with NABOB, its members and other advocates on these and other issues. In the meantime, I wish you the very best success in all of your endeavors.

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<sup>4</sup> Megan McDonough, *Woodrow W. Crockett, 93, Tuskegee Airman Flew in WWII, Korea*, WASH. POST, Sept. 10, 2012, at B1, B5.