

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Petition for Rulemaking Seeking to Allow the Sole) MB Docket No. 16-410
Use of Internet Sources for FCC EEO Recruitment)
Requirements)

DECLARATORY RULING

Adopted: April 21, 2017

Released: April 21, 2017

By the Commission:

I. INTRODUCTION

1. In this Declaratory Ruling, we update our policy implementing our equal employment opportunity (EEO) rules. Specifically, we find that Internet usage has become sufficiently widespread to permit broadcasters and multichannel video programming distributors (MVPDs) to use it as a sole recruitment source to meet the "wide dissemination" requirement in our rules.

2. In late 2002 when the Federal Communications Commission (Commission) adopted its EEO rules, it found that Internet usage was not yet widespread enough to justify sole reliance on Internet sources to meet the wide dissemination requirement of the rules. Advertisements in widely circulated local newspapers, in contrast, were considered "sufficient to ensure wide dissemination reasonably calculated to reach the entire community" for purposes of the rule. In the more than 14 years that have elapsed since the Commission explained this policy, print newspaper circulation has significantly decreased and Internet use has dramatically increased. In recognition of those changes and the fact that most Americans use online resources for their job search, Sun Valley Radio, Inc. and Canyon Media Corporation (collectively, Sun Valley) filed a Petition for Rulemaking asking the Commission to modify its EEO policies. In response to the Petition, we update our existing Internet recruiting policy as set forth below to better reflect the significant growth in Internet usage and online recruitment sources that has occurred since we last addressed this issue.

1 We recognize, however, that some people still do not have broadband at home. According to one study based on consumer surveys, 27% of Americans do not have broadband at home, and their findings indicate this figure is even higher among racial minorities. See, Pew Research Center, http://www.pewinternet.org/fact-sheet/internet-broadband.

2 See 47 CFR §§ 73.2080(c)(1)(i), 76.75(b)(1)(i).

3 See Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, Second Report and Order and Third Notice of Proposed Rule Making, 17 FCC Rcd 24018, 24051, para. 99 (2002), recon. pending (2002 EEO Order).

4 Id. at 24047, n.147.

5 See infra Section III.A-B.

6 Sun Valley Radio, Inc. and Canyon Media Corporation, Petition for Rulemaking (filed Dec. 12, 2016) (Petition).

II. BACKGROUND

3. On November 7, 2002, the Commission adopted the current broadcast and MVPD EEO rules.⁷ The purpose of the EEO rules is “to ensure equal opportunity and nondiscrimination for all prospective applicants, not to achieve the proportional representation of particular groups.”⁸ Among other requirements, the EEO rules provide that each broadcast station employment unit and MVPD employment unit must “use recruitment sources for each [full-time] vacancy sufficient in its reasonable, good faith judgment to widely disseminate information concerning the vacancy.”⁹ The Commission explained “that the recruitment source or sources used [must] be reasonably calculated to reach the entire community.”¹⁰ Although the Commission provided employment units with flexibility to select the number and type of recruitment sources, it stated that it was “unable to conclude that Internet usage has become sufficiently widespread to justify allowing it to be used as the sole recruitment source.”¹¹ Since issuing this decision in 2002, the Commission has issued forfeitures to several broadcast stations and MVPDs for relying on the Internet as their sole external recruitment source.¹²

4. On December 12, 2016, Sun Valley filed a petition requesting that the Commission permit broadcasters to choose to rely on Internet recruitment sources, in concert with on-air advertising, to recruit for new job openings.¹³ The Petition explained that the request is justified given today’s employment marketplace, in which employers generally conduct recruitment online and job seekers tend to use the Internet to find open positions, and given the widespread availability of the Internet.¹⁴ The

⁷ See 2002 EEO Order.

⁸ *Id.* at 24042, para. 67.

⁹ See 47 CFR §§ 73.2080(c)(1)(i), 76.75(b)(1)(i). A “full-time employee” is defined as “a permanent employee whose regular work schedule is 30 hours per week or more.” *Id.* §§ 73.2080(e)(1), 76.75(h). A “station employment unit” is “a station or a group of commonly owned stations in the same market that share at least one employee.” *Id.* § 73.2080(e)(2). In the MVPD context, the rules “apply to cable entities as employment units. Each cable entity may be considered a separate employment unit; however, where two or more cable entities are under common ownership or control and are interrelated in their local management, operation, and utilization of employees, they shall constitute a single employment unit.” *Id.* § 76.71(b). For purposes of the EEO requirements, Congress defined the term “cable operator” to include MVPDs that control the programming they distribute. See 47 U.S.C. § 554(h)(1); 47 CFR § 76.71(a).

¹⁰ 2002 EEO Order, 17 FCC Rcd at 24048, para. 89.

¹¹ *Id.* at 24051, para. 99; see also *id.* at 24049, para. 94 (the requirement “that EEO recruitment sources be reasonably calculated to reach the entire community . . . neither requires nor precludes the use of any number or type of sources a broadcaster deems appropriate to achieve broad outreach”). The requirement to widely disseminate information about full-time job vacancies does not pertain to internal promotions, to instances in which vacancies are filled in exigent circumstances, to broadcast station employment units with fewer than five full-time employees, or to MVPD employment units with fewer than six full-time employees. See 47 CFR §§ 73.2080(c)(1) and (d), 76.75(b)(1) and (i), 76.77(a), 76.1702(a); 2002 EEO Order, 17 FCC Rcd at 24045-46, para. 80 (providing as an example of exigent circumstances an instance in which an employee departs without notice and needs to be replaced immediately because other station employees cannot fulfill the departed employee’s duties). In addition, there are distinct requirements for religious broadcasters. See 47 CFR § 73.2080(c)(1) (“Religious radio broadcasters who establish religious affiliation as a qualification for a job position are not required to comply with these recruitment requirements with respect to that job position or positions, but will be expected to make reasonable, good faith efforts to recruit applicants who are qualified based on their religious affiliation.”).

¹² See, e.g., *Fidelity Cablevision, Inc., Lawton, Oklahoma*, Notice of Apparent Liability for Forfeiture, 31 FCC Rcd 8845, 8847, para. 5 (MB, Aug. 8, 2016) (explaining that the employment unit “hired an employee . . . based on a combination of walk-ins, internal postings, and Internet websites”).

¹³ Petition at 1.

¹⁴ *Id.* at 1-2, 5-10.

Media Bureau issued a public notice seeking comment on the Petition.¹⁵ Commenters unanimously agreed with the Petition that the Commission's current policy against sole use of Internet recruitment sources is outdated.

III. DISCUSSION

A. Changed Circumstances Justify Adoption of This *Declaratory Ruling*

5. In the *2002 EEO Order*, the Commission stated that it would “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” that the Internet cannot be used as the sole recruitment source.¹⁶ As supported unanimously by all commenters in this proceeding,¹⁷ and for the reasons discussed herein, we find that circumstances have changed such that we should now consider online dissemination of information about a full-time job vacancy as potentially sufficient to widely disseminate information about that vacancy.

6. Internet use has skyrocketed since 2002 when the Commission concluded that Internet job postings were not sufficient to widely disseminate job vacancy information. At that time, the Commission cited a report by the National Telecommunications and Information Administration (2002 NTIA Report) showing that as of September 2001, only half of U.S. households had an Internet connection.¹⁸ Today, in contrast, 85 percent of American adults either have broadband Internet service at home or use smartphones.¹⁹ Based on the Commission's own data, the number of Internet connections in the U.S. (nearly 342 million as of June 2015) has surpassed the U.S. population (nearly 321 million as of June 2015).²⁰ According to the Pew Research Center, 77 percent of American adults now own smartphones (as compared to 35 percent in May 2011), roughly half of American adults now own a tablet device (as compared to three percent in May 2010), and nearly 80 percent of American adults now own a

¹⁵ *Media Bureau Seeks Comment on Petition for Rulemaking Seeking to Allow the Sole Use of Internet Sources for FCC EEO Recruitment Requirements*, Public Notice, 31 FCC Rcd 13182 (MB, Dec. 15, 2016). Comments were due January 30, 2017, and reply comments were due February 14, 2017. We received 18 comments and two reply comments.

¹⁶ *2002 EEO Order*, 17 FCC Rcd at 24051, para. 99.

¹⁷ *See, e.g.*, American Cable Association (ACA) Comments at 2; Alpha Media LLC (Alpha Media) *et al.* Comments at 1; Beasley Media Group, Inc. (Beasley) *et al.* Comments at 2; Local and Regional Broadcasters (LRB) Comments at 2-3; Meredith Corporation and Raycom Media, Inc. (Meredith/Raycom) Comments at 1; Multicultural Media, Telecom and Internet Council (MMTC) Comments at 1-2; MonsterMedia, LLC (MonsterMedia) Comments; Morgan Murphy Media (Morgan Murphy) Comments at 1; National Association of Broadcasters (NAB) Comments at 1; Noncommercial Educational (NCE) Licensees Comments at 2; NCTA – The Internet and Television Association (NCTA) Comments at 3-4; Nexstar Broadcasting, Inc. (Nexstar) Comments at 1; Radio One, Inc. (Radio One) Comments at 2; Sinclair Broadcast Group, Inc. (Sinclair) Comments; Named State Broadcasters Associations (State Associations) Comments at 3; University of Northwestern – St. Paul (UNWSP) Comments at 2; United States Telecom Association (USTelecom) Comments at 1-2.

¹⁸ *2002 EEO Order*, 17 FCC Rcd at 24050-51, para. 98.

¹⁹ Pew Research Center, *Internet/Broadband Fact Sheet* (Jan. 12, 2017), available at <http://www.pewinternet.org/fact-sheet/internet-broadband/> (finding that 73 percent of American adults have broadband Internet service at home, and 12 percent use smartphones to receive Internet service). Commenters cite a variety of data supporting the conclusion that Internet use has increased dramatically since 2002. *See, e.g.*, ACA Comments at 3; Alpha Media *et al.* Comments at 2; Beasley *et al.* Comments at 4; LRB Comments at 4; Morgan Murphy Comments at 3; Nexstar Comments at 5; Radio One Comments at 3.

²⁰ *See* Internet Access Services: Status as of June 30, 2015, Industry Analysis and Technology Division, Wireline Competition Bureau, Aug. 2016, at 2, available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-340664A1.pdf; United States Census Bureau, U.S. and World Population Clock, available at <http://www.census.gov/popclock>.

desktop or laptop computer (the same figure as in 2010).²¹ Further, according to USTelecom, Internet traffic in the U.S. quadrupled between 2010 and 2015, and USTelecom predicts that it will grow by two-and-a-half times between 2015 and 2020.²² These statistics on Internet use today lead us to conclude that computer access has become sufficient “so that it could be reliably assumed that an Internet job posting will be readily available to all segments of the community” if posted on a widely available site.²³

7. In addition to the growth in Internet use generally, use of the Internet in connection with job searches has greatly increased since 2002. Job applicants today generally use the Internet to search for job vacancies.²⁴ For example, a Pew Research Center study from 2015 found that 90 percent of Americans who looked for work in the preceding two years used online resources for their job search, and 84 percent of them submitted a job application online.²⁵ The same Pew study found that more than 40 percent of smart phone owners have used their phones for a job search.²⁶ Indeed, many employers, including the Commission, currently require job applicants to submit applications online unless doing so poses a hardship.²⁷ For all of the above reasons, we conclude that today online job banks are well-established, well-known, and generally available to employers and job-seekers alike.²⁸

8. We agree with Sun Valley that although there still may be some disparities in Internet use among certain demographic groups, Internet use has grown dramatically among all demographic groups since 2002.²⁹ Moreover, MMTC states that minorities now use wireless broadband to search for jobs more often than non-minorities do.³⁰ In light of these statistics, we agree with MMTC that online

²¹ Pew Research Center, *Mobile Fact Sheet* (Jan. 12, 2017), available at <http://www.pewinternet.org/fact-sheet/mobile>.

²² USTelecom Comments at 5 (citing Patrick Brogan, Vice President of Industry Analysis, USTelecom, *U.S. Internet Usage and Global Leadership are Expanding*, Research Brief (Aug. 12, 2015), available at <https://www.ustelecom.org/sites/default/files/documents/081215%20Internet%20Usage%20%26%20Global%20Leadership.pdf>).

²³ *2002 EEO Order*, 17 FCC Rcd at 24050, para. 95.

²⁴ See Alpha Media *et al.* Comments at 3; Beasley *et al.* Comments at 3; MMTC Comments at 2; Morgan Murphy Comments at 4; NAB Comments at 4; NCE Licensees Comments at 2; Nexstar Comments at 5; Radio One Comments at 2, 3; Sinclair Comments.

²⁵ Petition at 7 (citing Aaron Smith, *Searching for Work in the Digital Era*, Pew Research Center, at 9 (Nov. 19, 2015), available at <http://www.pewinternet.org/2015/11/19/searching-for-work-in-the-digital-era>). This Pew study also reported that, while 79 percent of Americans who looked for a new job in the preceding two years utilized online resources and information as part of their most recent job search, only 32 percent utilized advertisements in print publications as part of their most recent job search.

²⁶ Petition at 8.

²⁷ *Id.* at 8-9. See also Beasley *et al.* Comments at 3; NCTA Comments at 4. The Commission’s website states that use of its web-based recruitment system “significantly improves our competitiveness in the job market and is imperative to our ability to reach top talent.” See <https://www.fcc.gov/general/fcc-jobs>.

²⁸ See also *2002 EEO Order*, 17 FCC Rcd at 24050, para. 95 (noting the Commission’s prior statement that it would revisit the issue of whether an Internet job posting is sufficient to widely disseminate information about a job vacancy “based on petitions demonstrating that Internet job banks (1) are well established and provide[] comprehensive statewide job listings; (2) are sufficiently publicized throughout the community; (3) are available to stations that are not members of the association sponsoring the Internet job bank to list their job vacancies; and (4) that computer access has become sufficiently universal so that it could be reliably assumed that an Internet job posting will be readily available to all segments of the community.”).

²⁹ Petition at 5-6. See also Alpha Media *et al.* Comments at 7; Radio One Comments at 3.

³⁰ MMTC Comments at 2-3; see also Alpha Media *et al.* Comments at 7 (“minority populations and lower income smartphone owners are more likely to use mobile devices to access career opportunities”).

recruitment today “does not impede diversity.”³¹ Further, through its E-Rate and Lifeline programs, the Commission has sought to ensure that low-income, minority, and rural individuals have Internet access.³² Nonetheless, we recognize that adoption of broadband at home remains discernably lower among minorities, according to Pew Research Center data.

B. Costs and Benefits of Using Internet Job Postings

9. Commenters claim that in “today’s highly connected information age,” it is becoming increasingly more challenging to widely disseminate information concerning job vacancies using non-Internet sources.³³ The record indicates that in today’s employment marketplace it is more difficult for broadcasters and MVPDs to reach a broad applicant base about a job vacancy through newspaper advertisements than through online postings,³⁴ and online postings are far more effective.³⁵ For example, parties contend that newspaper advertisements may be costly, they are constrained by space limitations and printing schedules, and preparing them may be more time consuming than preparing an online job posting.³⁶ The newspaper industry has changed significantly since 2002 when the Commission stated, “[I]f a broadcaster placed advertisements for a general manager position in a widely circulated local newspaper every day for a week, we would consider this recruiting effort to be sufficient to ensure wide dissemination reasonably calculated to reach the entire community.”³⁷ Print newspaper circulation has declined since 2002,³⁸ and there were 126 fewer daily newspapers in 2014 than in 2004.³⁹ Commenters assert that job applicants today rarely learn of job vacancies through newspaper advertisements and other such traditional recruitment sources.⁴⁰ In recognition of that fact, newspapers have largely moved to online classified employment listings instead of print listings.⁴¹

10. Online job postings have many benefits that are missing from traditional recruitment sources like newspapers. Specifically, online job resources are “generally free or cost-effective for employers,” free to those seeking jobs, available at any time of day and from any location, and they are

³¹ MMTC Comments at 2.

³² See Nexstar Comments at 6-7 (citing *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016)).

³³ See Nexstar Comments at 1-2 (explaining that “[n]ewspapers have moved their classified advertising primarily online; colleges and universities no longer have job ‘books,’ they have job websites; and instead of being required to go into job centers to find out about open positions, job seekers are required to login to such agencies’ websites”).

³⁴ See, e.g., *id.* at 4-5 (stating that the “days in which a job vacancy notice listed in the local newspaper captured an audience that made up most of the community are long gone”).

³⁵ See *id.* at 5-6 (“Online job resources are available 24/7, generally free or cost effective for employers, free to job seekers, omnipresent, and more interactive”).

³⁶ See NCE Licensees Comments at 2; Nexstar Comments at 5; Radio One Comments at 2.

³⁷ *2002 EEO Order*, 17 FCC Rcd at 24047, n.147.

³⁸ See ACA Comments at 5; NAB Comments at 5; Nexstar Comments at 5. According to data previously cited in a report by the Commission’s Working Group on Information Needs of Communities, daily newspapers in the U.S. had a total paid circulation of 55,773,000 in the year 2000, and that total declined to 45,653,000 in 2009. See Steve Waldman and the Working Group on Information Needs of Communities, FCC, *The Information Needs of Communities: The Changing Media Landscape in a Broadband Age*, at 35 (2011) (available at https://transition.fcc.gov/osp/inc-report/The_Information_Needs_of_Communities.pdf).

³⁹ See LRB Comments at 6 (citing Michael Barthel, *Newspapers: Fact Sheet*, Pew Research Center (June 15, 2016), available at <http://www.journalism.org/2016/06/15/newspapers-fact-sheet/>).

⁴⁰ See Jonathan Appelbaum (Appelbaum) Comments; LRB Comments at 6; MonsterMedia Comments; NAB Comments at 5-6; Radio One Comments at 2; UNWSP Comments at 1.

⁴¹ See Beasley *et al.* Comments at 3.

searchable.⁴² Employers can automate the process of posting jobs online, and they can automate the process of retaining records.⁴³ Today online job postings are more effective than traditional means of advertising job vacancies like newspapers, with job applicants tending to learn of vacancies through online postings.⁴⁴ Given the relative popularity of online postings in comparison to newspaper advertisements,⁴⁵ the record indicates that the use of online job postings likely will disseminate information about a job vacancy to the largest number of people possible, if posted on a widely available site. Broadcasters, MVPDs, and job seekers all will benefit from the use of the more effective and more efficient online job postings, and small entities in particular will benefit from the enhanced efficiency.⁴⁶ For all of these reasons, we conclude that the public interest would be served by updating our current policy regarding the use of online job advertisements to widely disseminate information about job vacancies.

C. Permissible Use of Internet Job Postings

11. Based on the record and our conclusions above, we find that Internet usage has become sufficient⁴⁷ to justify allowing online job postings to be used as a sole recruitment source, in circumstances where doing so meets the “widely disseminate” requirement of the rules, and we update our EEO policy to reflect this conclusion.⁴⁸ As is the case today, Commission staff will continue to examine the specifics of each case to ascertain whether a particular broadcaster or MVPD has satisfied the requirement to widely disseminate information about a full-time job vacancy. Rather than adopting additional specific requirements as some commenters propose,⁴⁹ we will continue to rely on the terms of the EEO rules, which provide that each employment unit must “use recruitment sources for each [full-

⁴² See *id.* at 4; LRB Comments at 7; NAB Comments at 5; Nexstar Comments at 5-6; State Associations Comments at 4.

⁴³ See Meredith/Raycom Comments at 1.

⁴⁴ See ACA Comments at 5; Alpha Media *et al.* Comments at 5; MonsterMedia Comments; NAB Comments at 1; NCTA Comments at 4; Radio One Comments at 2; UNWSP Comments at 1.

⁴⁵ See *supra* Section III.A.

⁴⁶ See, e.g., Morgan Murphy Comments at 5.

⁴⁷ See *supra* n.1.

⁴⁸ Although Sun Valley’s original request was styled a “Petition for Rulemaking,” some commenters maintained that “a rulemaking is not required to adopt this change in Commission policy, and that instead relief can more expeditiously be granted by the Commission issuing a declaratory ruling” See ACA Comments at 2; *see also* State Associations Comments, at 3-4. In its reply, Sun Valley urged the Commission to undertake whichever approach (rulemaking or declaratory order) will most promptly effectuate the requested change. See Sun Valley Reply at 1-2. We note that updating our existing Internet recruiting policy will not require any change in the rules. See 47 CFR §§ 73.2080(c)(1)(i) (requiring that a broadcast employment unit “use recruitment sources for each vacancy sufficient in its reasonable, good faith judgment to widely disseminate information concerning the vacancy”); 76.75(b)(1)(i) (same requirement for MVPD employment units). The rules do not specify which sources qualify as those that “widely disseminate” vacancy information, but rather leave that determination to the “reasonable, good faith judgement” of the broadcaster or MVPD. The notice and comment rulemaking requirements of the Administrative Procedure Act (APA) do not apply to interpretative rules or general statements of policy such as this *Declaratory Ruling*, in which we provide guidance on how the existing EEO rules apply to online job postings. See 5 U.S.C. § 553(b). See also 5 U.S.C. § 554(e) (classifying declaratory orders as “adjudications,” not rulemakings, and providing that an agency, in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty). No commenter has objected to the Commission proceeding via declaratory ruling.

⁴⁹ See, e.g., Appelbaum Comments; MMTC Comments at 3-4.

time] vacancy sufficient in its reasonable, good faith judgment to widely disseminate information concerning the vacancy.”⁵⁰

12. Broadcasters and MVPDs will remain free to select the number and type of recruitment sources that they use as long as they meet the requirement for wide dissemination.⁵¹ A broadcaster or MVPD may choose to rely on a single online job posting if the posting appears on a website that is so widely used that it can reasonably be expected to widely disseminate information about the job vacancy.⁵² Given that some websites may meet this requirement, we will not require all online job postings to be accompanied by on-air information about the vacancy as the Petition proposed.

13. We note that MMTC has endorsed the Petition with three caveats: (1) the online job posting must be easy to find; (2) job openings should be posted online for an adequate period of time with auditable interview records maintained; and (3) broadcasters should “continue to cultivate job referral relationships with resources that are likely to include diverse candidates.”⁵³ We agree with MMTC that these three features, though not requirements, are important factors in evaluating whether the online job posting process meets the “widely disseminated” requirement. We, therefore, encourage broadcasters and MVPDs to consider these factors when fulfilling their obligation to widely disseminate information about full-time job vacancies.

14. The broadcast and MVPD EEO rules contain identical language,⁵⁴ and we thus find it appropriate to maintain a consistent policy in implementing these rules. Although the Petition focused on the rule that applies to broadcasters,⁵⁵ we find that our updated policy should be applied uniformly to broadcasters and MVPDs alike.⁵⁶ Commenters representing MVPDs, while supporting Sun Valley’s Petition, urge the Commission to take “identical action” with respect to MVPDs.⁵⁷ No commenter objects to extending the updated Internet recruiting policy to MVPDs and, indeed, we see no basis upon which to distinguish the two groups of regulatees for purposes of the modernized policy. Accordingly, we believe that it is in the public interest for our EEO requirements to apply uniformly to both categories of entities.⁵⁸

⁵⁰ See 47 CFR §§ 73.2080(c)(1)(i), 76.75(b)(1)(i). See also Sun Valley Reply at 2-3 (“It goes without saying that, if a broadcaster uses online sources, it needs to pick ones that actually disseminate information about job openings. The same policies that MMTC urges respecting online recruiting are ones that could equally apply to the current recruiting rules, yet the Commission has never felt obligated to spell out the kinds of details MMTC is now suggesting.”).

⁵¹ 2002 EEO Order, 17 FCC Rcd at 24049, para. 94.

⁵² See Alpha Media *et al.* Comments at 1, 9-10; NAB Comments at 1, 6-7 n.26; NCTA Comments at 1; Radio One Comments at 1; USTelecom Comments at 2. But see Appelbaum Comments (licensees “should be required to use multiple recognized aggregation sites . . . to ensure the notice is available to all seekers”).

⁵³ MMTC Comments at 3-4.

⁵⁴ 47 CFR §§ 73.2080(c)(1)(i), 76.75(b)(1)(i).

⁵⁵ Petition at 1.

⁵⁶ See ACA Comments at 5.

⁵⁷ See *id.* at 2; NCTA Comments at 1.

⁵⁸ See ACA Comments at 5-6; NCTA Comments at 1; USTelecom Comments at 2-3; MMTC Reply at 2.

IV. ORDERING CLAUSE

15. Accordingly, **IT IS ORDERED** that, pursuant to the authority found in sections 4(i), 4(j), 303, 307, 308, 309, 310, and 634 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303, 307, 308, 309, 310, and 554, and section 1.2 of our rules; 47 CFR § 1.2, the *Declaratory Ruling* in MB Docket No. 16-410 **IS ADOPTED**, effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary