

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS**

Re: *Broadcast and Cable Equal Employment Opportunity Rules and Policies*, Further Notice of Proposed Rulemaking, MB Docket No. 98-204.

Diversity matters. This is particularly clear in the media space, where representation is not abstract or theoretical—how we receive and process information is deeply intertwined with what we see and hear, and who delivers the message. Broadcasters tell our story to America, and so it is imperative that they represent all of America. Who sits in front of the camera; who decides what is newsworthy; and who decides what talent is hired and promoted—all of these are mission critical factors that go on behind the public’s view.

Recent stories in the news confirm the need for more transparency and insight into how media companies hire, retain, and treat people of color and women, in particular. For example, one investigation reported allegations that a major television broadcaster has for many years been cultivating a hostile work environment that included bullying female managers and blocking efforts to hire and retain Black journalists.¹ Harmful reverberations from such practices can be felt not only by employees directly, but also more broadly by members of the public when they are subjected to content that lacks balance, fairness, or accuracy.²

Without a reliable window into the Equal Employment Opportunity (EEO) practices of broadcasters, we may never be able to fully understand the scope of the issue, least of all address it. Diversity in the media is critical to ensuring that all stories are told and all communities are well-served.

EEO data will help us develop a better understanding of the landscape of our media workforce, and the failure to collect it has hampered our ability to determine what regulatory actions are necessary to ensure equal employment opportunities. This inquiry is therefore long overdue.

In 2001, the Commission temporarily paused the use of Form 395-B to collect EEO data after a pair of D.C. Circuit decisions determined that *using* employment data to assess EEO compliance implicated the equal protection component of the Due Process Clause of the Fifth Amendment of the Constitution.³ The rulings did not, however, invalidate the collection of employment data or making the data available to the public—and no decision has ever done so. While the EEO data collection has been

¹ *Inside CBS’ fraught investigation into allegations of racism and misogyny*, L.A. TIMES (Jan. 24, 2021), <https://www.latimes.com/entertainment-arts/business/story/2021-01-24/cbs-television-stations-peter-dunn-racism-sexism>.

² More broadly, several major newspapers also have confirmed the value of diversity in media company hiring and management, including one close to home for me personally. In December 2020 the Kansas City Star issued an apology, acknowledging that over decades through its news coverage the paper had “disenfranchised, ignored and scorned generations of Black Kansas Citizens” and “robbed an entire community of opportunity, dignity, justice and recognition.” The paper explained: “Like most metro newspapers of the early to mid-20th century, The Star was a white newspaper produced by white reporters and editors for white readers and advertisers.” *The truth in Black and white: An apology from The Kansas City Star*, THE KANSAS CITY STAR (Dec. 20, 2020), <https://www.kansascity.com/news/local/article247928045.html>. Other papers, including the LA Times, have made similar public apologies. *Editorial: An examination of The Times’ failures on race, our apology and a path forward*, L.A. TIMES (Sep. 27, 2020), <https://www.latimes.com/opinion/story/2020-09-27/los-angeles-times-apology-racism>.

³ *Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344 (D.C. Cir. 1998), *pet. for reh’g denied*, 154 F.3d 487, *pet. for reh’g en banc denied*, 154 F.3d 494 (D.C. 1998); *MD/DC/DE Broadcasters Association v. FCC*, 236 F.3d 13 (D.C. Cir. 2001), *pet. for reh’g denied.*, 253 F.3d 732 (D.C. Cir. 2001), *cert. denied*, 122 S. Ct. 920 (2002).

stalled for two decades, I am proud to say that this Notice starts our long overdue work to finally address any valid outstanding concerns—constitutional or otherwise—regarding our statutory obligation to monitor broadcaster employment practices and ensure that broadcasters provide equal employment opportunities.

Years ago, I raised the urgent need to restart the collection of EEO data as soon as possible. I would like to extend my thanks to the Acting Chairwoman for bringing this item to a vote, and to my fellow commissioners for working with me to advance this proceeding, which should be among our highest priorities in the media regulatory space. Also, thank you to staff in the Media and Enforcement Bureaus, and in the Office of General Counsel for their work on this important item.