

MINUTES

ADVISORY COMMITTEE ON DIVERSITY FOR COMMUNICATIONS IN THE DIGITAL AGE

DATE OF MEETING: December 21, 2006

LOCATION: Commission Meeting Room (TW-C305), Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554.

COMMITTEE MEMBERS PRESENT: Sheba Chacko, Susan Fox (in lieu of Robert Mendez), David Honig, Rodney Hood, Rebecca Klein, Ann Lucey (in lieu of Matthew Blank), Max Navarro, Andrew Schwartzman, Tara Sweeney, and James Winston. The following members participated by telephone: Maria A. Brennan, Paul Jones, and Kade Twist.

PARTICIPATING FCC PERSONNEL: Kevin J. Martin (FCC Chairman), Jonathan Adelstein (FCC Commissioner), Lisa Fowlkes (Designated Federal Officer), and Paula Silberthau (FCC Office of General Counsel). In addition, staff from the Office of Chairman Martin, the Office of Commissioner Adelstein and the Public Safety and Homeland Security Bureau attended the meeting.

MEMBERS OF THE PUBLIC PRESENT: There were an estimated 20 members of the public present at the meeting. No members of the public addressed the Committee.

DOCUMENTS DISTRIBUTED TO PANELISTS AT MEETING: (1) the meeting agenda; (2) the Committee's charter; (3) a list of Committee members; (4) a document titled "About the Federal Advisory Committee Act;" and (5) the following two documents distributed by Committee member David Honig: "Achievements of the FCC's Advisory Committee on Diversity for Communications in the Digital Age September 29, 2003 – November 29, 2006" and "Further Recommendation on a Tax Incentive Program."

CALL OF MEETING TO ORDER AND OPENING REMARKS

Lisa Fowlkes called the meeting to order at 10:20 a.m. and made opening remarks. She reported that the Committee Chair, Henry Rivera, would be unable to attend the meeting, that he sent his apologies and that he thanks the Committee members for attending the meeting and agreeing to participate on the Committee. Ms. Fowlkes then introduced Chairman Martin to the Committee.

WELCOMING REMARKS

Chairman Martin thanked Henry Rivera for agreeing to Chair the Committee. He also thanked the Committee members for their participation, noting that the importance of the work of the Committee is evidenced by the fact that so many highly qualified people with many other responsibilities are willing to take the time to participate. Chairman Martin noted that the Committee will try to further policies and practices that he hopes will enhance the ability of all Americans, particularly minorities and women, to be able to participate in the communications industry. He stated that Congress has tasked the Commission with bringing communications services to all Americans and promoting policies that favor diversity of media and vigorous economic competition and technological advancement. Chairman Martin stated that the Commission takes these responsibilities very seriously.

Chairman Martin noted that expanding the reach of broadband and other advanced communications services has been a top priority of the Commission and that he hopes that the Committee will find ways to ensure that all Americans have the opportunity to participate in such new technologies. Chairman Martin stated that the Committee includes representatives of various sectors of the communications industry and representatives of groups that the Chairman has previously worked with each of which are committed to ensuring that there is broader participation in the communications sector. He noted that he hopes they continue to find ways to ensure that all Americans have the opportunity to participate in the communications industry, particularly new technologies. Finally, the Chairman stated that he looks forward to the Committee's input.

DIVERSITY COMMITTEE OVERVIEW

Ms. Fowlkes again thanked the Committee members for agreeing to serve on the rechartered Diversity Committee. Ms. Fowlkes first addressed the background of the Committee, noting that it was originally chartered in 2003. She noted that, in creating the Committee, the Commission recognized the Communication Act required the Commission to: (1) make available to all Americans without discrimination on the basis of race, color, religion, national origin or sex, a rapid, efficient, nationwide wire and radio communications service; and (2) work to eliminate market entry barriers in order to "promote the policies and purposes of the Act favoring diversity of media voices, vigorous economic competition, technological advancement and promotion of the public interest, convenience, and necessity." Ms. Fowlkes noted that the Commission believed that these goals could best be achieved by assuring that as broad a cross-section of the public as possible has the opportunity to own and manage communications companies.

Ms. Fowlkes then noted that the previous Committee had a number of accomplishments, including recommending the creation of a Diversity Resource Directory which is a web tool designed to assist companies with their diversity efforts. She noted that the Committee had previously issued a Best Practices Report on workplace diversity. She stated that the Committee also previously submitted a number of policy and regulatory recommendations to the Commission in areas such as equal employment opportunity, access to spectrum, access to capital, and diversity of ownership in the communications industry. Ms. Fowlkes reported that many of those recommendations are pending before the Commission and under consideration.

Ms. Fowlkes stated that the Diversity Committee was rechartered effective December 5, 2006 for a two-year term and that its mission is to make recommendations to the FCC regarding policies and practices that will further enhance the ability of minorities and women to participate in the telecommunications and related industries. She also noted that the Committee's operations are governed by the Federal Advisory Committee Act, rules promulgated by the General Services Administration implementing the Federal Advisory Committee Act; and the Committee's charter. Ms. Fowlkes added that the Committee reports to the Chairman of the FCC and its function is advisory only.

Ms. Fowlkes reported that the duties of the Diversity Committee are to: (1) provide guidance to the Commission on policies and practices that could increase the diversity of ownership and create opportunities for minorities and women to advance to managerial positions in the communications sector; (2) make reports and recommendations concerning the need for any guidelines, incentives, regulations or other policy approaches to promote diversity of participation in the communications sector; and (3) develop best practices within the communications sector for promoting diversity of participation. She further stated that the Committee should focus on recommendations for actions and issues that fall within

the FCC's jurisdiction and statutory authority and should try to focus on recommendations that fall comfortably within constitutional parameters.

Maria Brennan asked if the new Committee members could receive the Best of the Best Practices issued by the previous Committee. Ms. Fowlkes noted that a list of past actions was distributed to the members, that it could be emailed to the members and that much of this information is on the Committee's website at www.fcc.gov/DiversityFAC.

OVERVIEW OF THE FEDERAL ADVISORY COMMITTEE ACT

Paula Silberthau from the FCC's Office of General Counsel gave a brief overview of the Federal Advisory Committee Act. Ms. Silberthau emphasized that one of the guiding principles under the Federal Advisory Committee Act is openness in government which addresses how Committee meetings are conducted. Generally, FACA meetings must be open to the public, timely notice must be provided in the Federal Register, minutes of meetings must be kept and made available to the public, and meeting handouts should be made available to the public. She also noted that meetings can be closed in limited circumstances such as when an advisory committee meeting will address trade secrets, classified government materials or national security matters related to foreign policy.

Ms. Silberthau explained that these requirements do not apply to the Committee's working groups, but working group activities need to be coordinated with the Designated Federal Officer. She also stated that working group recommendations should not be rubber stamped by the full Committee. Working Groups should present recommendations that the full Committee then discusses, debates and votes on. Otherwise, the working group may appear to have been transformed into a full committee. For the same reason, it is also better if the number of members in a working group is less than a quorum of the full Committee. Working groups can make recommendations to the full Committee, but cannot bind the parent Committee.

Ms. Silberthau also reported that, because Federal Advisory Committees are only advisory, members are subject to ex parte rules. If there is a communication with the Commissioners or with agency staff about the merits of a pending matter, that communication from any of the Committee members would be subject to the Commission's ex parte rules. Finally, Ms. Silberthau reiterated that the Committee is an advisory group only; it has no independent authority to function or run programs.

INTRODUCTION OF DIVERSITY COMMITTEE MEMBERS & MEMBERS' IDEAS FOR ISSUES TO BE ADDRESSED BY THE COMMITTEE

Each Committee member introduced himself or herself to the other Committee members. The following members also described issues already addressed by the previous Committee and proposed specific issues for the Committee's consideration.

Ms. Brennan noted that she wanted to make sure that the Committee is mindful of the work that the previously chartered Committees performed.

Paul Jones noted that the Committee could benefit from hearing about emerging technologies as it addresses the role and participation of minorities on a going-forward basis in what could become growth sectors. Mr. Jones agreed with Ms. Brennan that the Committee should start by reviewing the recommendations of the prior Committee. Mr. Jones also added that the Committee should review other programs to consider avenues that might bring additional success to programs that have already been recommended or implemented.

Kade Twist noted that the core issues that he is concerned with are those that impact Indian country tribal land, notably access to spectrum and broadband.

David Honig provided additional background about the Diversity Committee and previous recommendations made to the FCC and the status thereof. Mr. Honig noted that 1.5 percent of the asset value of broadcasting is controlled by people of color and that women control about the same percentage or maybe slightly more. He also noted that, for telecommunications, that percentage is almost zero notwithstanding programs intended to correct this. Mr. Honig noted that three broad principles overlay the work that the Committee did over the last three years: (1) this is an issue that will require the same kind of systematic approach that any serious issue requires and any solution will have to include multiple means of addressing access to capital, spectrum and opportunity; (2) Congressional mandates that the Commission oversee a system of communications without discrimination and that the Commission triennially report on efforts it has undertaken to reduce market entry barriers; and (3) diversity and competition are not at odds with each other at all. Mr. Honig then provided more detail regarding issues including access to capital and other financial issues, development of new technologies, transactional best practices, and scholarly research agenda for minority and female entrepreneurship.

Rodney Hood noted that he would like to help with the issue of providing access to capital as the Committee seeks to empower minority groups and women who would like to be active participants in the digital communications age.

Susan Fox, on behalf of Robert Mendez, stated that she agrees that the best place to start is with the best practices that have already been developed and how to communicate them to the relevant audiences.

Andrew Schwartzman stated that he will press for the Committee to play an active role in reestablishment of the minority tax certificate policy which he stated is achievable and would have the greatest impact of the items mentioned. Mr. Schwartzman also stated that the Committee might want to pursue avenues for empowering minorities and women in the broadband area.

James Winston recommended that all new members of the Committee acquaint themselves with the recommendations made by the previous Committees. Mr. Winston emphasized that the Committee should seek implementation of some or all of the recommendations already made. He also agreed that the most important recommendation that the Committee has made that could have a meaningful impact on the broadcast industry is the reintroduction of the tax certificate policy. Mr. Winston did note that reinstatement of the tax certificate policy would require an act of Congress, but asserted that a continuing voice from this Committee on the importance of such action could have some influence.

REMARKS FROM COMMISSIONER JONATHAN ADELSTEIN

Commissioner Adelstein joined the meeting and provided welcoming remarks. He stated that he is pleased that Chairman Martin rechartered the Committee because it has done good work in the past and has a great deal to offer. He noted how important the work of the Committee is and that it is fundamental to the role of the Commission and the goals of the Communications Act. Commissioner Adelstein thanked the members for participating. He also noted some of the previous Committee's recommendations and stated that this Committee should review those recommendations, help prioritize them, and advise the Commission about how it can move forward. Commissioner Adelstein added that he is hopeful that the Commission will be responsive to the Committee's recommendations on a going forward basis and will do a better job of fostering diversity.

CONTINUATION OF INTRODUCTION OF DIVERSITY COMMITTEE MEMBERS & MEMBERS' IDEAS FOR ISSUES TO BE ADDRESSED BY THE COMMITTEE

Ann Lucey, on behalf of Matthew Blank, stated that she agreed that it is important to get the recommendations out to the public and make sure there is an educational training component, perhaps through industry trade associations to make sure that people know what is in these documents and actually put them into practice. Ms. Lucey also stated that she thinks that the new and emerging technologies area seems like fertile ground for further study and is an area the Committee can look into.

NEXT STEPS – UPCOMING PRIORITIES

Ms. Fowlkes reported that the Committee will have informal subcommittees to help facilitate the Committee's work. She noted that, at this point, Mr. Rivera intended to establish two informal working groups, the Access to Capital Working Group and the New Technologies Working Group. Ms. Fowlkes stated that the Access to Capital subcommittee would have four objectives: (1) identify the obstacles to capital access faced by minorities and women in the communications industry; (2) assess current practices regarding access to capital; (3) develop recommendations and identify best practices to address these obstacles; and (4) focus both on industry-specific measures as well as issues that extend across the communications sectors. She also stated that the New Technologies Subcommittee would have two objectives: (1) assess what ownership and career advancement opportunities are available in new and emerging technologies and the convergence of these technologies; and (2) develop recommendations for facilitating opportunities for minorities and women in new industries as they form. Ms. Fowlkes noted that Mr. Rivera did not think it was necessary to have the two additional working groups that the previous Committee had, namely subcommittees addressing career advancement and transactional transparency issues.

Ms. Fowlkes then sought comment regarding whether any members had comments regarding the two subcommittees Mr. Rivera recommended or any suggestions regarding additional subcommittees. The members concurred with the two subcommittees recommended by Mr. Rivera.

Rebecca Klein suggested, and most other members agreed, that an Outreach Subcommittee would be useful to develop recommendations for conducting outreach on best practices and other Committee initiatives. This subcommittee could address the issue of how the FCC can leverage the Committee's best practices and recommendations and whether there are people or entities in industry sectors that can help promote awareness of these best practices and recommendations. Ms. Fox also noted that the Committee itself could explore ways to make its prior work more accessible and increase industry knowledge about the tools already developed. Ms. Fowlkes indicated that she would let Mr. Rivera know about the suggested Outreach Subcommittee so he could consider this third subcommittee. She also indicated that the FCC would have to approve any such structure changes.

Ms. Fowlkes then stated that Committee members should let her know if they want to work on a particular subcommittee and she will give that information to Mr. Rivera. Several Committee members did so. She noted that she thought that, during the next couple of weeks, Mr. Rivera will probably try to establish the informal working groups, the Chair of each informal working group, and which members will serve on each group.

Mr. Winston inquired about the state of the Commission's review of the previous Committee recommendations and asked what the Commission's next steps would be. Ms. Fowlkes stated that the recommendations are currently under review at the Commission. Mr. Winston asked if there was anything that the Committee could do to help with that review. Mr. Honig suggested that Committee

members with special expertise could serve as liaisons with Commission staff to help facilitate the review and consideration of the recommendations. Ms. Fowlkes said that she would look into this.

The Committee then discussed the way that the subcommittees would work and procedural matters regarding subcommittees.

OTHER BUSINESS/WRAP-UP

Ms. Fowlkes again thanked the members for attending the meeting and stated that she looked forward to working with them.

ADJOURN

Ms. Fowlkes adjourned the meeting at 11:35 a.m.

CERTIFICATION

This is to certify to the accuracy of these minutes of the December 21, 2006 Meeting of the Advisory Committee on Diversity for Communications in a Digital Age.



Lisa M. Fowlkes
Designated Federal Officer
Advisory Committee on Diversity for
Communications in a Digital Age¹

¹ Committee Chair Henry Rivera was not present at the December 21, 2006. Accordingly, Ms. Fowlkes is certifying to the accuracy of these minutes in lieu of Mr. Rivera.