



March 3, 2014

Dear NABOB Members and Friends,

AFRICAN AMERICAN BUYERS CONTINUE TO BE SHUTOUT OF STATION PURCHASES

The refusal of station owners to sell to African American buyers continues to wreak havoc upon the African American community. In the latest development, YMF Media has sold WBLS and WLIB – the flagship stations of Inner City Broadcasting Corporation’s former radio group – to Emmis Communications. This means that, of the 17 stations previously owned by Inner City, **none** have been sold to African American owned companies. Moreover, potential African American buyers report that offers comparable to the Emmis offer were rejected.

This reflects a lack of concern on the part of YMF and other station sellers to keep ownership of stations previously owned by African Americans in the African American community. It also reflects a lack of policies in place at the FCC to encourage station sellers to sell stations to companies owned by African Americans.

As we report below, NABOB is continuing to encourage the FCC to establish policies that promote minority ownership. It is clear that, without such policies, the decline of minority ownership in the broadcast industry will continue.

NABOB ASKS FCC TO USE JSAS AND SSAS AS MECHANISMS FOR PROMOTING MINORITY OWNERSHIP OF TELEVISION STATIONS

In meetings with the FCC, NABOB has proposed a potential policy shift that might help address the abysmal state of African American commercial television station ownership. In an *ex parte* notice in the FCC’s Ownership proceeding, MB Docket No. 09-182, NABOB summarized a proposal that would encourage companies using joint sales agreements (“JSAs”) and shared services agreements (“SSAs”) to use these agreements to promote full minority operation of television stations.

In the *ex parte* notice, NABOB stated the following:

- The continuing decline in minority broadcast ownership needs to be addressed in the Commission's Quadrennial Review. Less than ten years ago there were 21 full power commercial television stations licensed to African American controlled companies in the United States, and today there are only three. Moreover, of those three stations, two were just recently acquired and are being operated pursuant to JSAs and SSAs. Therefore, there is only one full power commercial television completely operated by an African American owned licensee.
- The fact that there are so few African American owned television stations is a sad commentary on the state of diversity in the broadcast industry and calls for action on the part of the Commission to improve this abysmal ownership situation.
- The situation has caused NABOB to reconsider its previous position on JSAs and SSAs. NABOB has always opposed JSAs and SSAs, because they appeared to be mere gimmicks for group licensees to avoid the intent of the local ownership rules. However, NABOB and the Commission are faced with an unfortunate fact. Two of the three full power television stations licensed to African Americans are being operated under JSA and SSA agreements. In addition, given the precipitous fall-off of African American television ownership in the past few years, and the accelerating pace of consolidation that has roiled the television industry in recent months, there is no reason to be optimistic that the number of African American owned television stations is going to appreciably increase in the near future without some serious rethinking of the Commission's policies.
- The Commission has indicated that it might treat all JSAs and SSAs as attributable and require that existing JSAs and SSAs be dissolved over some fairly short time period. However, if the use of JSAs and SSAs is the most likely opportunity for short term growth in the minority ownership of full power television stations, the Commission should consider waivers of the attribution policy to allow JSAs and SSAs that are designed to promote the Commission's long term goal of creating meaningful minority ownership opportunities in the broadcast industry.
- NABOB proposed that the Commission look at JSAs and SSAs on a case-by-case basis to see if they have the potential to promote diversity of ownership. If so, the Commission could place conditions on such JSAs and SSAs such that these agreements would be structured to enable the licensee of the station to eventually operate the station without the need for a JSA or SSA. In other words, the JSA or SSA would have clear steps in place that turned over full operation of the station to the licensee over time. For example, the JSA or SSA might be structured such that at predetermined periods, perhaps annually, the licensee and the JSA or SSA operator would file a progress report with the Commission reporting on the operational changes that have occurred in the reporting period that have turned over specific responsibilities to the licensee, and the licensee would identify the

personnel and other enhancements it has made to the station to take over these responsibilities.

- In this arrangement, the JSA or SSA operator would be required to turn over full control to the licensee in a set period, perhaps five years. The annual reporting to the Commission should demonstrate that the licensee was making progress toward taking control. If the annual reporting failed to demonstrate that the licensee was making progress toward operating the station, the Commission could order an early termination of the JSA or SSA. In any event, regardless of whether the licensee had fully obtained the ability to operate the station over the five year period, the JSA or SSA would terminate at the end of that period.
- This proposal would not have to replace the Commission's plan to treat JSAs and SSAs as attributable, but would work to obtain a waiver of the attribution rule for the JSA or SSA operator. Existing JSAs and SSAs that are not amended to contain the required structured turnover of operation to the licensee would be subjected to the Commission's contemplated attribution rule and be dissolved over a much shorter period of time. Future JSAs and SSAs that did not have the structured turnover in place would be denied at the outset.

**NABOB AND NNPA OBJECT TO PROPOSED DEPARTMENT OF JUSTICE
AND TOBACCO COMPANY REMEDIAL ADVERTISING PLAN AND ASK
FOR THE ADDITION OF BLACK MEDIA**

On January 13, 2014, Target Market News broke the story that the U.S. Department of Justice and the largest tobacco companies had negotiated a consent order in the long running litigation between the Department of Justice and Philip Morris, RJ Reynolds, and Lorillard, in the U.S. District Court for the District of Columbia. The proposed consent order provides the details of an advertising program the tobacco companies have been directed to air to provide the public the truth about the negative health effects of using tobacco products. The consent order creates a national advertising campaign. **But the national ad campaign directs no advertising dollars to the African American community, even though for decades our community has been heavily targeted by the tobacco companies' misleading ads promoting smoking and hiding the truth about the potential negative health effects.**

On January 15, 2014, NABOB wrote to Attorney General Eric Holder asking him to review the consent order proposed by the Department of Justice. In the letter, NABOB explained that the consent order requires the tobacco companies to air commercials that contain "corrective statements" informing the public of the harmful effects that smoking causes. NABOB pointed out that, in the litigation, it was demonstrated that the tobacco companies had specifically targeted African American communities, particularly young people, with advertising and promotions designed to increase smoking. Yet, the proposed consent order requires that the corrective commercial campaign be run exclusively on ABC, CBS, NBC, and 35 newspapers, including some Spanish language newspapers. The consent decree does not obligate the tobacco companies to place any

commercials on Black owned media, or even media targeting the African American community. We asked Attorney General Holder to have his Department revise the consent decree to specifically require the tobacco companies to advertise on Black owned media.

On January 17, 2014, NABOB was invited by the National Newspaper Publishers Association to join in filing an amicus brief advising the court of the need to use Black owned media to effectively reach and inform the African American community. NABOB and NNPA requested that our members be added to the media included in the consent decree. On January 21, 2014, the NAACP filed an amicus brief.

On January 22, 2014, Judge Gladys Kessler held a status conference. Judge Kessler noted that the settlement that the DOJ and tobacco companies have offered to her for approval raises a number of concerns that she plans to consider before deciding whether to approve the settlement. **The first concern that the judge raised is whether the advertising plan in the settlement fails to target a significant part of the public.** This is clearly the point that NABOB and NNPA raised in our amicus brief. While this does not mean that the judge is prepared to reject the settlement and direct the tobacco companies to revise the plan to target the African American community, it does mean that she has not ruled out such a result. The judge gave all interested parties until February 18th to file additional comments on whether the proposed settlement will adequately reach all affected Americans. NABOB and NNPA will continue to press our case that the settlement must be rejected by the judge and be renegotiated to include Black owned media in the advertising campaign.

The settlement can be set aside and the parties can be forced to consider adding Black owned media to the advertising plan if the Department of Justice tells the judge that it agrees with her that the plan needs to be amended to target Black consumers. The DOJ will only change its position and oppose the current advertising plan if there is a vocal outcry from the African American community. Right now the African American community does not know about this issue.

Therefore, we need all Black owned stations to discuss this story on your airwaves. Please invite me, your local members of Congress, your local NAACP chapter, and anyone else who is knowledgeable about this issue to come on your station to discuss it. The Black community has suffered greatly from tobacco related diseases because we were targeted for promotion of smoking, particularly young people in our community.

It is imperative that our community receives a substantial amount of the advertising designed to correct decades of misinformation. New young people in our community continue to begin smoking daily. We must get a significant portion of the advertising campaign on our stations so that we can help to stop the growth of smoking in our community.

We must get the word out. Please contact me with questions or ideas you have for bringing this issue to the attention of the public.

CONTACT

NABOB is here to serve you. Please contact me at (202) 463-8970 or at jwinston@nabob.org.

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