

116TH CONGRESS
1ST SESSION

H. R. 3957

To direct the Federal Communications Commission to take certain actions to increase diversity of ownership in the broadcasting industry, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Mr. BUTTERFIELD (for himself, Ms. CLARKE of New York, Mr. CÁRDENAS, Mr. RUSH, Mr. VEASEY, and Mr. HASTINGS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Federal Communications Commission to take certain actions to increase diversity of ownership in the broadcasting industry, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Expanding Broadcast
5 Ownership Opportunities Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) One of the main missions of the Federal
2 Communications Commission, and a compelling gov-
3 ernmental interest, is to ensure that there is a diver-
4 sity of ownership and viewpoints in the broadcasting
5 industry.

6 (2) The Commission should continue to collect
7 relevant data and conduct studies on such diversity
8 and make appropriate recommendations to Congress
9 on how to increase the number of minority- and
10 women-owned broadcast stations.

11 (3) Data from 2014 shows that, of the over
12 1,700 commercial broadcast television stations in the
13 United States, less than 6 percent are owned by
14 women, and less than 3 percent are minority-owned.
15 With respect to radio stations, women owned ap-
16 proximately 7 percent of FM broadcast radio sta-
17 tions, and minorities owned less than 3 percent of
18 such stations.

19 (4) Women and minority ownership is 5 to 10
20 times higher in other industries than in the broad-
21 casting industry.

22 (5) During the 17 years that a minority tax
23 certificate program was in place at the Commission
24 (from 1978 to 1995), the Commission issued 287

1 certificates for radio stations and 40 certificates for
2 television stations.

3 (6) The Commission can also support minority-
4 and women-owned entrants into the broadcasting in-
5 dustry by implementing an incubator program in
6 which existing licensees assist new entrants in the
7 operation of broadcast stations.

8 **SEC. 3. FCC REPORTS TO CONGRESS.**

9 (a) BIENNIAL REPORT CONTAINING RECOMMENDA-
10 TIONS FOR INCREASING NUMBER OF MINORITY- AND
11 WOMEN-OWNED BROADCAST STATIONS.—Not later than
12 180 days after the date of the enactment of this Act, and
13 not less frequently than every 2 years thereafter, the Com-
14 mission shall submit to Congress a report containing rec-
15 ommendations for how to increase the total number of
16 broadcast stations that are owned or controlled by mem-
17 bers of minority groups or women, or by both members
18 of minority groups and women.

19 (b) BIENNIAL REPORT ON NUMBER OF MINORITY-
20 AND WOMEN-OWNED BROADCAST STATIONS.—Not later
21 than 180 days after the date of the enactment of this Act,
22 and not less frequently than every 2 years thereafter, the
23 Commission shall submit to Congress a report that states
24 the total number of broadcast stations that are owned or
25 controlled by members of minority groups or women, or

1 by both members of minority groups and women, based
 2 on data reported to the Commission on Form 323.

3 **SEC. 4. TAX CERTIFICATE PROGRAM FOR BROADCAST STA-**
 4 **TION TRANSACTIONS FURTHERING OWNER-**
 5 **SHIP BY SOCIALLY DISADVANTAGED INDIVID-**
 6 **UALS.**

7 (a) REQUIREMENTS FOR ISSUANCE OF CERTIFICATE
 8 BY FCC.—

9 (1) IN GENERAL.—Part I of title III of the
 10 Communications Act of 1934 (47 U.S.C. 301 et
 11 seq.) is amended by adding at the end the following:

12 **“SEC. 344. TAX CERTIFICATE PROGRAM FOR BROADCAST**
 13 **STATION TRANSACTIONS FURTHERING OWN-**
 14 **ERSHIP BY SOCIALLY DISADVANTAGED INDIV-**
 15 **VIDUALS.**

16 “(a) ISSUANCE OF CERTIFICATE BY COMMISSION.—
 17 Upon application by a person who engages in a sale of
 18 an interest in a broadcast station described in subsection
 19 (b), subject to the rules adopted by the Commission under
 20 subsection (c), the Commission shall issue to such person
 21 a certificate stating that such sale meets the requirements
 22 of this section.

23 “(b) SALES DESCRIBED.—The sales described in this
 24 subsection are the following:

1 “(1) SALE RESULTING IN OR PRESERVING OWN-
2 ERSHIP BY SOCIALLY DISADVANTAGED INDIVID-
3 UALS.—A sale of an interest in a broadcast station
4 if, immediately following the sale, the station is
5 owned by socially disadvantaged individuals (regard-
6 less of whether the station was owned by socially
7 disadvantaged individuals before the sale).

8 “(2) SALE BY INVESTOR IN STATION OWNED BY
9 SOCIALLY DISADVANTAGED INDIVIDUALS.—In the
10 case of a person who has contributed capital in ex-
11 change for an interest in a broadcast station that is
12 owned by socially disadvantaged individuals, a sale
13 by such person of some or all of such interest.

14 “(c) RULES.—The Commission shall adopt rules for
15 the issuance of a certificate under subsection (a) that pro-
16 vide for the following:

17 “(1) LIMIT ON VALUE OF SALE.—A limit on the
18 value of an interest the sale of which qualifies for
19 the issuance of such a certificate. The limit shall be
20 no lower than \$10,000,000 and no higher than
21 \$50,000,000.

22 “(2) MINIMUM HOLDING PERIOD.—In the case
23 of a sale described in subsection (b)(1), a minimum
24 period following the sale during which the broadcast
25 station must remain owned by socially disadvantaged

1 individuals. The minimum period shall be no longer
2 than 3 years.

3 “(3) CUMULATIVE LIMIT ON NUMBER OR
4 VALUE OF SALES.—A limit on the total number of
5 sales or the total value of sales, or both, for which
6 a person may be issued certificates under subsection
7 (a).

8 “(4) PARTICIPATION IN STATION MANAGEMENT
9 BY SOCIALLY DISADVANTAGED INDIVIDUALS.—Re-
10 quirements for participation by socially disadvan-
11 tagged individuals in the management of the broad-
12 cast station.

13 “(d) ANNUAL REPORT TO CONGRESS.—The Commis-
14 sion shall submit to Congress an annual report describing
15 the sales for which certificates have been issued under sub-
16 section (a) during the period covered by the report.

17 “(e) DEFINITIONS.—In this section:

18 “(1) OWNED BY SOCIALLY DISADVANTAGED IN-
19 DIVIDUALS.—The term ‘owned by socially disadvan-
20 tagged individuals’ means, with respect to a broadcast
21 station, that—

22 “(A) such station is at least 51 percent
23 owned by one or more socially disadvantaged in-
24 dividuals, or, in the case of any publicly owned
25 broadcast station, at least 51 percent of the

1 stock of such station is owned by one or more
2 socially disadvantaged individuals; and

3 “(B) the management and daily business
4 operations of such station are controlled by one
5 or more of such individuals.

6 “(2) SOCIALLY DISADVANTAGED INDIVIDUAL.—
7 The term ‘socially disadvantaged individual’ means a
8 woman or an individual who has been subjected to
9 racial or ethnic prejudice or cultural bias because of
10 the identity of the individual as a member of a
11 group without regard to the individual qualities of
12 the individual.”.

13 (2) DEADLINE FOR ADOPTION OF RULES.—The
14 Commission shall adopt rules to implement section
15 344 of the Communications Act of 1934, as added
16 by paragraph (1), not later than 1 year after the
17 date of the enactment of this Act.

18 (3) REPORT TO CONGRESS ON PROGRAM EX-
19 PANSION.—Not later than 6 years after the date of
20 the enactment of this Act, the Commission shall sub-
21 mit to Congress a report regarding whether Con-
22 gress should expand section 344 of the Communica-
23 tions Act of 1934, as added by paragraph (1), be-
24 yond broadcast stations to cover other entities regu-
25 lated by the Commission.

1 (4) EXAMINATION AND REPORT TO CONGRESS
2 ON NEXUS BETWEEN DIVERSITY OF OWNERSHIP
3 AND DIVERSITY OF VIEWPOINT.—

4 (A) EXAMINATION.—Not later than 60
5 days after the date of the enactment of this
6 Act, the Commission shall initiate an examina-
7 tion of whether there is a nexus between diver-
8 sity of ownership or control of broadcast sta-
9 tions (including ownership or control by mem-
10 bers of minority groups or women, or by both
11 members of minority groups and women) and
12 diversity of the viewpoints expressed in the mat-
13 ter broadcast by broadcast stations.

14 (B) REPORT TO CONGRESS.—Not later
15 than 2 years after the date of the enactment of
16 this Act, the Commission shall submit to Con-
17 gress a report on the findings of the Commis-
18 sion in the examination under subparagraph
19 (A), including supporting data.

20 (b) NONRECOGNITION OF GAIN OR LOSS FOR TAX
21 PURPOSES.—

22 (1) IN GENERAL.—Subchapter O of chapter 1
23 of the Internal Revenue Code of 1986 is amended by
24 inserting after part IV the following new part:

1 **“PART V—SALE OF INTEREST IN CERTAIN**
2 **BROADCAST STATIONS**

3 **“SEC. 1071. NONRECOGNITION OF GAIN OR LOSS FROM**
4 **SALE OF INTEREST IN CERTAIN BROADCAST**
5 **STATIONS.**

6 “(a) NONRECOGNITION OF GAIN OR LOSS.—If a sale
7 of an interest in a broadcast station, within the meaning
8 of section 344 of the Communications Act of 1934, is cer-
9 tified by the Federal Communications Commission under
10 such section, such sale shall, if the taxpayer so elects, be
11 treated as an involuntary conversion of such property
12 within the meaning of section 1033. For purposes of such
13 section as made applicable by the provisions of this sec-
14 tion, stock of a corporation operating a broadcast station
15 shall be treated as property similar or related in service
16 or use to the property so converted. The part of the gain,
17 if any, on such sale to which section 1033 is not applied
18 shall nevertheless not be recognized, if the taxpayer so
19 elects, to the extent that it is applied to reduce the basis
20 for determining gain or loss on any such sale, of a char-
21 acter subject to the allowance for depreciation under sec-
22 tion 167, remaining in the hands of the taxpayer imme-
23 diately after the sale, or acquired in the same taxable year.
24 The manner and amount of such reduction shall be deter-
25 mined under regulations prescribed by the Secretary. Any
26 election made by the taxpayer under this section shall be

1 made by a statement to that effect in his return for the
2 taxable year in which the sale takes place, and such elec-
3 tion shall be binding for the taxable year and all subse-
4 quent taxable years.

5 “(b) MINIMUM HOLDING PERIOD; CONTINUED MAN-
6 AGEMENT.—If—

7 “(1) there is nonrecognition of gain or loss to
8 a taxpayer under this section with respect to a sale
9 of property (determined without regard to this para-
10 graph), and

11 “(2) the taxpayer ceases to fulfill any require-
12 ments of the rules adopted by the Federal Commu-
13 nications Commission under paragraph (2) or (4) of
14 section 344(c) of the Communications Act of 1934
15 (as such rules are in effect on the date of such sale),
16 there shall be no nonrecognition of gain or loss under this
17 section to the taxpayer with respect to such sale, except
18 that any gain or loss recognized by the taxpayer by reason
19 of this subsection shall be taken into account as of the
20 date on which the taxpayer so ceases to fulfill such re-
21 quirements.

22 “(c) BASIS.—For basis of property acquired on a sale
23 treated as an involuntary conversion under subsection (a),
24 see section 1033(b).”.

1 (2) CLERICAL AMENDMENT.—The table of
2 parts for subchapter O of chapter 1 of the Internal
3 Revenue Code of 1986 is amended by inserting after
4 the item related to part IV the following new part:

“PART V—SALE OF INTEREST IN CERTAIN BROADCAST STATIONS

“Section 1071. Nonrecognition of gain or loss from sale of interest in certain
broadcast stations.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply with respect to sales of interests
7 in broadcast stations after the date that is 1 year after
8 the date of the enactment of this Act.

9 (d) SUNSET.—The amendments made by this section
10 shall not apply with respect to sales of interests in broad-
11 cast stations after the date that is 16 years after the date
12 of the enactment of this Act.

13 **SEC. 5. INCUBATOR PROGRAM.**

14 Not later than 180 days after the date of the enact-
15 ment of this Act, the Commission shall amend its Report
16 and Order in the matter of rules and policies to promote
17 new entry and ownership diversity in the broadcasting
18 services, MB Docket No. 17–289, FCC 18–114, adopted
19 on August 2, 2018, to do the following:

20 (1) Expand the incubator program provided for
21 in such Report and Order to permit a licensee to
22 provide financial support or operational support, or

1 both, to a qualifying incubated entity that owns or
2 wants to own a television broadcast station.

3 (2) Expand the eligibility criteria for an incu-
4 bated entity under such program to include broad-
5 cast stations owned by socially disadvantaged indi-
6 viduals.

7 **SEC. 6. DEFINITIONS.**

8 In this Act:

9 (1) BROADCAST STATION.—The term “broad-
10 cast station” has the meaning given such term in
11 section 3 of the Communications Act of 1934 (47
12 U.S.C. 153).

13 (2) COMMISSION.—The term “Commission”
14 means the Federal Communications Commission.

15 (3) OWNED BY SOCIALLY DISADVANTAGED IN-
16 DIVIDUALS.—The term “owned by socially disadvan-
17 taged individuals” has the meaning given such term
18 in section 344 of the Communications Act of 1934,
19 as added by section 4.

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