

115TH CONGRESS
1ST SESSION

H. R. 1883

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

APRIL 4, 2017

Mr. BUTTERFIELD 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 2017”.

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 AND ECONOMICALLY DIS-**
 6 **ADVANTAGED INDIVIDUALS.**

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 AND ECONOMICALLY**
 15 **DISADVANTAGED INDIVIDUALS.**

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 OWNERSHIP BY SO-
2 cially and economically disadvantaged indi-
3 viduals.—A sale—

4 “(A) of an interest in a broadcast station
5 that, before such sale, is not owned by socially
6 and economically disadvantaged individuals; and

7 “(B) that results in the station being
8 owned by socially and economically disadvan-
9 taged individuals.

10 “(2) SALE BY INVESTOR IN STATION OWNED BY
11 socially and economically disadvantaged in-
12 dividuals.—In the case of a person who has con-
13 tributed capital in exchange for an interest in a
14 broadcast station that is owned by socially and eco-
15 nomically disadvantaged individuals, a sale by such
16 person of some or all of such interest.

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

20 “(1) LIMIT ON VALUE OF SALE.—A limit on the
21 value of an interest the sale of which qualifies for
22 the issuance of such a certificate.

23 “(2) MINIMUM HOLDING PERIOD.—In the case
24 of a sale described in subsection (b)(1), a minimum
25 period following the sale during which the broadcast

1 station must remain owned by socially and economi-
2 cally disadvantaged individuals.

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 AND ECONOMICALLY DISADVANTAGED
10 INDIVIDUALS.—Requirements for participation by
11 socially and economically disadvantaged individuals
12 in the management of the broadcast 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 AND ECONOMICALLY
19 DISADVANTAGED INDIVIDUALS.—The term ‘owned
20 by socially and economically disadvantaged individ-
21 uals’ means, with respect to a broadcast station,
22 that—

23 “(A) such station is at least 51 percent
24 owned by one or more socially and economically
25 disadvantaged individuals, or, in the case of any

publicly owned broadcast station, at least 51 percent of the stock of such station is owned by one or more socially and economically disadvantaged individuals; and

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

“(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUAL.—The term ‘socially and economically disadvantaged individual’ means an individual who is socially and economically disadvantaged. The Commission shall presume that socially and economically disadvantaged individuals include—

“(A) Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and other minorities; and

“(B) women.

“(3) SOCIALLY DISADVANTAGED INDIVIDUAL.—The term ‘socially disadvantaged individual’ means an individual who has been subjected to racial or ethnic prejudice or cultural bias because of the identity of the individual as a member of a group without regard to the individual qualities of the individual.

1 “(4) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—The term ‘economically disadvantaged individual’ means a socially disadvantaged individual
2 whose ability to compete in the free enterprise system has been impaired due to diminished capital and
3 credit opportunities as compared to others in the
4 same business area who are not socially disadvantaged. In determining the degree of diminished credit
5 and capital opportunities, the Commission shall
6 consider, but not be limited to, the assets and net
7 worth of such socially disadvantaged individual.”.

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

17 (3) REPORT TO CONGRESS ON PROGRAM EXPANSION.—Not later than 6 years after the date of
18 the enactment of this Act, the Commission shall submit to Congress a report regarding whether Congress
19 should expand section 344 of the Communications Act of 1934, as added by paragraph (1), beyond broadcast
20 stations to cover other entities regulated by the Commission.
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1 (4) REPORT TO CONGRESS ON NEXUS BETWEEN
2 DIVERSITY OF OWNERSHIP AND DIVERSITY OF VIEW-
3 POINT.—Not later than 6 years after the date of the
4 enactment of this Act, and not less frequently than
5 every 5 years thereafter until the amendments made
6 by this section cease to apply in accordance with
7 subsection (d), the Commission shall submit to Con-
8 gress a report, including supporting data, on wheth-
9 er there is a nexus between diversity of ownership or
10 control of broadcast stations (including ownership or
11 control by members of minority groups or women, or
12 by both members of minority groups and women)
13 and diversity of the viewpoints expressed in the mat-
14 ter broadcast by broadcast stations.

15 (b) NONRECOGNITION OF GAIN OR LOSS FOR TAX
16 PURPOSES.—

17 (1) IN GENERAL.—Subchapter O of chapter 1
18 of the Internal Revenue Code of 1986 is amended by
19 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 PILOT PROGRAM.**

14 (a) IN GENERAL.—Not later than 180 days after the
 15 date of the enactment of this Act, the Commission shall
 16 establish a program under which the Commission may
 17 grant a waiver of paragraph (a), (b), or (c) of section
 18 73.3555 of title 47, Code of Federal Regulations, to a li-
 19 censee of a broadcast station to enable the licensee to ac-
 20 quire an interest that would otherwise be prohibited by
 21 such paragraph in a broadcast station that is owned by
 22 socially and economically disadvantaged individuals.

1 (b) REPORT TO CONGRESS.—The Commission shall
 2 submit to Congress a report on the effectiveness of the
 3 program established under subsection (a) not later than
 4 the date that is 4 years after the date on which the Com-
 5 mission establishes the program under such subsection.

6 (c) SUNSET.—The Commission may not grant a
 7 waiver under subsection (a) after the date that is 5 years
 8 after the date on which the Commission establishes the
 9 program under such subsection.

10 **SEC. 6. DEFINITIONS.**

11 In this Act:

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

16 (2) COMMISSION.—The term “Commission”
 17 means the Federal Communications Commission.

18 (3) OWNED BY SOCIALLY AND ECONOMICALLY
 19 DISADVANTAGED INDIVIDUALS.—The term “owned
 20 by socially and economically disadvantaged individ-
 21 uals” has the meaning given such term in section
 22 344 of the Communications Act of 1934, as added
 23 by section 4.

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