

117TH CONGRESS
1ST SESSION

H. R. 4871

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 30, 2021

Mr. BUTTERFIELD (for himself and Mr. HORSFORD) 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 2021”.

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 adopt improvements to the data collection and stud-
9 ies, and make appropriate recommendations to Con-
10 gress on how to increase the number of minority-
11 and women-owned broadcast stations.

12 (3) Data from 2017 shows that, of the nearly
13 1,700 full-power commercial broadcast television sta-
14 tions in the United States, less than 6 percent are
15 owned by women, and less than 3 percent are minor-
16 ity-owned. With respect to the nearly 5,500 full-
17 power commercial broadcast radio stations, women
18 owned approximately 7 percent of FM broadcast
19 radio stations, and minorities owned less than 3 per-
20 cent of such stations.

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

24 (5) During the 17 years that a minority tax
25 certificate program was in place at the Commission

1 (from 1978 to 1995), the Commission issued 287
2 certificates for radio stations and 40 certificates for
3 television stations.

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

5 (a) BIENNIAL REPORT CONTAINING RECOMMENDA-
6 TIONS FOR INCREASING NUMBER OF MINORITY- AND
7 WOMEN-OWNED BROADCAST STATIONS.—Not later than
8 180 days after the date of the enactment of this Act, and
9 not less frequently than every 2 years thereafter, the Com-
10 mission shall submit to Congress a report containing rec-
11 ommendations for how to increase the total number of
12 broadcast stations that are owned or controlled by mem-
13 bers of minority groups or women, or by both members
14 of minority groups and women.

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

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

5 (a) REQUIREMENTS FOR ISSUANCE OF CERTIFICATE
 6 BY FCC.—

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

10 **“SEC. 344. TAX CERTIFICATE PROGRAM FOR BROADCAST**
 11 **STATION TRANSACTIONS FURTHERING OWN-**
 12 **ERSHIP BY SOCIALLY DISADVANTAGED INDI-**
 13 **VIDUALS.**

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

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

23 “(1) SALE RESULTING IN OR PRESERVING OWN-
 24 ERSHIP AND CONTROL BY SOCIALLY DISADVAN-
 25 TAGED INDIVIDUALS.—A sale of an interest in a
 26 broadcast station if, immediately following the sale,

1 the station is owned and controlled by socially dis-
2 advantaged individuals (regardless of whether the
3 station was owned and controlled by socially dis-
4 advantaged individuals before the sale).

5 “(2) SALE BY INVESTOR IN STATION OWNED
6 AND CONTROLLED BY SOCIALLY DISADVANTAGED
7 INDIVIDUALS.—In the case of a person who has con-
8 tributed capital in exchange for an interest in a
9 broadcast station that is owned and controlled by so-
10 cially disadvantaged individuals, a sale by such per-
11 son of some or all of such interest.

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

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

19 “(2) MINIMUM HOLDING PERIOD.—In the case
20 of a sale described in subsection (b)(1), a minimum
21 period following the sale during which the broadcast
22 station must remain owned and controlled by socially
23 disadvantaged individuals. The minimum period
24 shall be no shorter than 2 years and no longer than
25 3 years.

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

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

11 “(5) CERTIFICATION.—In the case of a sale de-
12 scribed in subsection (b)(1), a requirement that the
13 buyer of the interest in the broadcast station certify,
14 every 6 months during the minimum holding period
15 under paragraph (2), compliance with the rules
16 adopted under paragraphs (2) and (4). The Commis-
17 sion shall report a failure to make the certification
18 required under this paragraph to the Commissioner
19 of Internal Revenue and shall include such failure in
20 the report to Congress under subsection (d) that
21 covers the period during which such failure occurred.

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

1 “(e) DEFINITIONS.—In this section:

2 “(1) OWNED AND CONTROLLED BY SOCIALLY
3 DISADVANTAGED INDIVIDUALS.—The term ‘owned
4 and controlled by socially disadvantaged individuals’
5 means, with respect to a broadcast station, that—

6 “(A) such station is at least 51 percent
7 owned by one or more socially disadvantaged in-
8 dividuals, or, in the case of any publicly owned
9 broadcast station, at least 51 percent of the
10 voting stock of such station is owned by one or
11 more socially disadvantaged individuals, and
12 such individual or individuals have not con-
13 ferred the right to vote such stock to another;
14 and

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

18 “(2) SOCIALLY DISADVANTAGED INDIVIDUAL.—
19 The term ‘socially disadvantaged individual’ means a
20 woman or an individual who has been subjected to
21 racial or ethnic prejudice or cultural bias because of
22 the identity of the individual as a member of a
23 group without regard to the individual qualities of
24 the individual.”.

1 (2) DEADLINE FOR ADOPTION OF RULES.—The
2 Commission shall adopt rules to implement section
3 344 of the Communications Act of 1934, as added
4 by paragraph (1), not later than 1 year after the
5 date of the enactment of this Act.

6 (3) REPORT TO CONGRESS ON PROGRAM EX-
7 PANSION.—Not later than 6 years after the date of
8 the enactment of this Act, the Commission shall sub-
9 mit to Congress a report regarding whether Con-
10 gress should expand section 344 of the Communica-
11 tions Act of 1934, as added by paragraph (1), be-
12 yond broadcast stations to cover other entities regu-
13 lated by the Commission.

14 (4) EXAMINATION AND REPORT TO CONGRESS
15 ON NEXUS BETWEEN DIVERSITY OF OWNERSHIP
16 AND DIVERSITY OF VIEWPOINT.—

17 (A) EXAMINATION.—Not later than 60
18 days after the date of the enactment of this
19 Act, the Commission shall initiate an examina-
20 tion of whether there is a nexus between diver-
21 sity of ownership or control of broadcast sta-
22 tions (including ownership or control by mem-
23 bers of minority groups or women, or by both
24 members of minority groups and women) and

1 diversity of the viewpoints expressed in the mat-
 2 ter broadcast by broadcast stations.

3 (B) REPORT TO CONGRESS.—Not later
 4 than 2 years after the date of the enactment of
 5 this Act, the Commission shall submit to Con-
 6 gress a report on the findings of the Commis-
 7 sion in the examination under subparagraph
 8 (A), including supporting data.

9 (b) NONRECOGNITION OF GAIN OR LOSS FOR TAX
 10 PURPOSES.—

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

14 **“PART V—SALE OF INTEREST IN CERTAIN**
 15 **BROADCAST STATIONS**

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

16 **“SEC. 1071. NONRECOGNITION OF GAIN OR LOSS FROM**
 17 **SALE OF INTEREST IN CERTAIN BROADCAST**
 18 **STATIONS.**

19 “(a) NONRECOGNITION OF GAIN OR LOSS.—If a sale
 20 of an interest in a broadcast station, within the meaning
 21 of section 344 of the Communications Act of 1934, is cer-
 22 tified by the Federal Communications Commission under
 23 such section, such sale shall, if the taxpayer so elects, be
 24 treated as an involuntary conversion of such property

1 within the meaning of section 1033. For purposes of such
2 section as made applicable by the provisions of this sec-
3 tion, stock of a corporation operating a broadcast station
4 shall be treated as property similar or related in service
5 or use to the property so converted. The part of the gain,
6 if any, on such sale to which section 1033 is not applied
7 shall nevertheless not be recognized, if the taxpayer so
8 elects, to the extent that it is applied to reduce the basis
9 for determining gain or loss on any such sale, of a char-
10 acter subject to the allowance for depreciation under sec-
11 tion 167, remaining in the hands of the taxpayer imme-
12 diately after the sale, or acquired in the same taxable year.
13 The manner and amount of such reduction shall be deter-
14 mined under regulations prescribed by the Secretary. Any
15 election made by the taxpayer under this section shall be
16 made by a statement to that effect in his return for the
17 taxable year in which the sale takes place, and such elec-
18 tion shall be binding for the taxable year and all subse-
19 quent taxable years.

20 “(b) MINIMUM HOLDING PERIOD; CONTINUED MAN-
21 AGEMENT.—If—

22 “(1) there is nonrecognition of gain or loss to
23 a taxpayer under this section with respect to a sale
24 of property (determined without regard to this para-
25 graph), and

1 “(2) the sale of the interest in the broadcast
2 station fails to meet the requirements of the rules
3 adopted by the Federal Communications Commis-
4 sion under paragraph (2), (4), or (5) of section
5 344(c) of the Communications Act of 1934 (as such
6 rules are in effect on the date of such sale),
7 there shall be no nonrecognition of gain or loss under this
8 section to the taxpayer with respect to such sale, except
9 that any gain or loss recognized by the taxpayer by reason
10 of this subsection shall be taken into account as of the
11 first date on which the sale so fails to fulfill such require-
12 ments.

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

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

“Part V. Sale of interest in certain broadcast stations.”.

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

24 (d) SUNSET.—The amendments made by this section
25 shall not apply with respect to sales of interests in broad-

1 cast stations after the date that is 16 years after the date
2 of the enactment of this Act.

3 **SEC. 5. DEFINITIONS.**

4 In this Act:

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

9 (2) COMMISSION.—The term “Commission”
10 means the Federal Communications Commission.

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