

116TH CONGRESS
1ST SESSION

S. 2433

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 SENATE OF THE UNITED STATES

AUGUST 1, 2019

Mr. PETERS (for himself and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on Finance

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. DEFINITIONS.**

7 In this Act:

8 (1) BROADCAST STATION.—The term “broad-
9 cast station” has the meaning given the term in sec-

1 tion 3 of the Communications Act of 1934 (47
2 U.S.C. 153).

3 (2) COMMISSION.—The term “Commission”
4 means the Federal Communications Commission.

5 (3) OWNED BY SOCIALLY DISADVANTAGED IN-
6 DIVIDUALS.—The term “owned by socially disadvan-
7 taged individuals” has the meaning given the term
8 in section 344(a) of the Communications Act of
9 1934, as added by section 5(a)(1) of this Act.

10 **SEC. 3. FINDINGS.**

11 Congress finds the following:

12 (1) One of the main missions of the Commis-
13 sion, and a compelling governmental interest, is to
14 ensure that there is a diversity of ownership and
15 viewpoints in the broadcasting industry.

16 (2) The Commission should continue to collect
17 relevant data and conduct studies on the diversity
18 described in paragraph (1) and make appropriate
19 recommendations to Congress on how to increase the
20 number of minority- and women-owned broadcast
21 stations.

22 (3) Data from 2014 shows that, of the more
23 than 1,700 commercial broadcast television stations
24 in the United States, less than 6 percent are owned
25 by women and less than 3 percent are minority-

1 owned. With respect to radio stations, women owned
2 approximately 7 percent of FM broadcast radio sta-
3 tions and minorities owned less than 3 percent of
4 those stations.

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

8 (5) During the 17-year period between 1978
9 and 1995, when a minority tax certificate program
10 was in place at the Commission, the Commission
11 issued to minorities 287 certificates for radio sta-
12 tions and 40 certificates for television stations.

13 (6) The Commission can also support minority-
14 and women-owned entrants into the broadcasting in-
15 dustry by implementing an incubator program in
16 which existing licensees assist new entrants in the
17 operation of broadcast stations.

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

19 (a) BIENNIAL REPORT CONTAINING RECOMMENDA-
20 TIONS FOR INCREASING NUMBER OF MINORITY- AND
21 WOMEN-OWNED BROADCAST STATIONS.—Not later than
22 180 days after the date of enactment of this Act, and not
23 less frequently than once every 2 years thereafter, the
24 Commission shall submit to Congress a report containing
25 recommendations for how to increase the total number of

1 broadcast stations that are owned or controlled by mem-
 2 bers of minority groups or women, or by both members
 3 of minority groups and women.

4 (b) BIENNIAL REPORT ON NUMBER OF MINORITY-
 5 AND WOMEN-OWNED BROADCAST STATIONS.—Not later
 6 than 180 days after the date of enactment of this Act,
 7 and not less frequently than once every 2 years thereafter,
 8 the Commission shall submit to Congress a report that
 9 identifies the total number of broadcast stations that are
 10 owned or controlled by members of minority groups or
 11 women, or by both members of minority groups and
 12 women, based on data reported to the Commission on
 13 Form 323 of the Commission.

14 **SEC. 5. TAX CERTIFICATE PROGRAM FOR BROADCAST STA-**
 15 **TION TRANSACTIONS FURTHERING OWNER-**
 16 **SHIP BY SOCIALLY DISADVANTAGED INDIVID-**
 17 **UALS.**

18 (a) REQUIREMENTS FOR ISSUANCE OF CERTIFICATE
 19 BY FCC.—

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

1 **“SEC. 344. TAX CERTIFICATE PROGRAM FOR BROADCAST**
 2 **STATION TRANSACTIONS FURTHERING OWN-**
 3 **ERSHIP BY SOCIALLY DISADVANTAGED INDI-**
 4 **VIDUALS.**

5 “(a) DEFINITIONS.—In this section:

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

10 “(A) the station is at least 51 percent
 11 owned by 1 or more socially disadvantaged indi-
 12 viduals, or, in the case of any publicly owned
 13 broadcast station, at least 51 percent of the
 14 stock of such station is owned by 1 or more so-
 15 cially disadvantaged individuals; and

16 “(B) the management and daily business
 17 operations of the station are controlled by 1 or
 18 more socially disadvantaged individuals.

19 “(2) SOCIALLY DISADVANTAGED INDIVIDUAL.—
 20 The term ‘socially disadvantaged individual’
 21 means—

22 “(A) a woman; or

23 “(B) an individual who has been subjected
 24 to racial or ethnic prejudice or cultural bias be-
 25 cause of the identity of the individual as a

1 member of a group, without regard to the indi-
2 vidual qualities of the individual.

3 “(b) ISSUANCE OF CERTIFICATE BY COMMISSION.—

4 Subject to the rules adopted by the Commission under
5 subsection (d), upon application by a person that engages
6 in a sale described in subsection (c), the Commission shall
7 issue to that person a certificate stating that the sale
8 meets the requirements of this section.

9 “(c) SALES DESCRIBED.—A sale described in this
10 subsection is either of the following:

11 “(1) A sale of an interest in a broadcast station
12 that results in the station being owned by socially
13 disadvantaged individuals.

14 “(2) In the case of a person that has contrib-
15 uted capital in exchange for an interest in a broad-
16 cast station that is owned by socially disadvantaged
17 individuals, a sale by that person of some or all of
18 that interest.

19 “(d) RULES.—The Commission shall adopt rules for
20 the issuance of a certificate under subsection (b) that pro-
21 vide for the following:

22 “(1) A limit on the value of an interest the sale
23 of which qualifies for the issuance of such a certifi-
24 cate, which shall be not less than \$10,000,000 and
25 not greater than \$50,000,000.

1 “(2) In the case of a sale described in sub-
2 section (c)(1), a minimum period of not longer than
3 3 years after the sale during which the broadcast
4 station shall remain owned by socially disadvantaged
5 individuals.

6 “(3) A limit on the total number of sales or the
7 total value of sales, or both, for which a person may
8 be issued certificates under subsection (b).

9 “(4) Requirements for participation by socially
10 disadvantaged individuals in the management of the
11 broadcast station.

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

16 (2) DEADLINE FOR ISSUANCE OF RULES.—Not
17 later than 1 year after the date of enactment of this
18 Act, the Commission shall issue rules to implement
19 section 344 of the Communications Act of 1934, as
20 added by paragraph (1).

21 (3) REPORT TO CONGRESS ON PROGRAM EX-
22 PANSION.—Not later than 6 years after the date of
23 enactment of this Act, the Commission shall submit
24 to Congress a report regarding whether Congress
25 should expand section 344 of the Communications

1 Act of 1934, as added by paragraph (1), beyond
 2 broadcast stations to cover other entities regulated
 3 by the Commission.

4 (4) EXAMINATION AND REPORT TO CONGRESS
 5 ON NEXUS BETWEEN DIVERSITY OF OWNERSHIP
 6 AND DIVERSITY OF VIEWPOINT.—

7 (A) EXAMINATION.—Not later than 60
 8 days after the date of enactment of this Act,
 9 the Commission shall initiate an examination of
 10 whether there is a nexus between diversity of
 11 ownership or control of broadcast stations (in-
 12 cluding ownership or control by members of mi-
 13 nority groups or women, or by both members of
 14 minority groups and women) and diversity of
 15 the viewpoints expressed in the matter broad-
 16 cast by broadcast stations.

17 (B) REPORT TO CONGRESS.—Not later
 18 than 2 years after the date of enactment of this
 19 Act, the Commission shall submit to Congress
 20 a report on the findings of the Commission in
 21 the examination under subparagraph (A), in-
 22 cluding supporting data.

23 (b) NONRECOGNITION OF GAIN OR LOSS FOR TAX
 24 PURPOSES.—

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

4 **“PART V—SALE OF INTEREST IN CERTAIN**
5 **BROADCAST STATIONS.**

6 **“SEC. 1071. NONRECOGNITION OF GAIN OR LOSS FROM**
7 **SALE OF INTEREST IN CERTAIN BROADCAST**
8 **STATIONS.**

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

1 diately after the sale, or acquired in the same taxable year.
 2 The manner and amount of such reduction shall be deter-
 3 mined under regulations prescribed by the Secretary. Any
 4 election made by the taxpayer under this section shall be
 5 made by a statement to that effect in his return for the
 6 taxable year in which the sale takes place, and such elec-
 7 tion shall be binding for the taxable year and all subse-
 8 quent taxable years.

9 “(b) MINIMUM HOLDING PERIOD; CONTINUED MAN-
 10 AGEMENT.—If—

11 “(1) there is nonrecognition of gain or loss to
 12 a taxpayer under this section with respect to a sale
 13 of property (determined without regard to this para-
 14 graph), and

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

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

4 (2) CLERICAL AMENDMENT.—The table of
 5 parts for subchapter O of chapter 1 of the Internal
 6 Revenue Code of 1986 is amended by inserting after
 7 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.”.

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

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

16 **SEC. 6. INCUBATOR PROGRAM.**

17 Not later than 180 days after the date of enactment
 18 of this Act, the Commission shall amend its Report and
 19 Order in the matter of rules and policies to promote new
 20 entry and ownership diversity in the broadcasting services,
 21 MB Docket No. 17–289, FCC 18–114, adopted on August
 22 2, 2018, to do the following:

1 (1) Expand the incubator program provided for
2 in such Report and Order to permit a licensee to
3 provide financial support or operational support, or
4 both, to a qualifying incubated entity that owns or
5 wants to own a television broadcast station.

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

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