115TH CONGRESS
1ST SESSION
H. R.

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

Mr. BUTTERFIELD introduced the following bill; which was referred to the Committee on ________________

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) One of the main missions of the Federal Communications Commission, and a compelling governmental interest, is to ensure that there is a diversity of ownership and viewpoints in the broadcasting industry.

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

(3) Data from 2014 shows that, of the over 1,700 commercial broadcast television stations in the United States, less than 6 percent are owned by women, and less than 3 percent are minority-owned. With respect to radio stations, women owned approximately 7 percent of FM broadcast radio stations, and minorities owned less than 3 percent of such stations.

(4) Women and minority ownership is 5 to 10 times higher in other industries than in the broadcasting industry.

(5) During the 17 years that a minority tax certificate program was in place at the Commission (from 1978 to 1995), the Commission issued 287
certificates for radio stations and 40 certificates for television stations.

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

SEC. 3. FCC REPORTS TO CONGRESS.

(a) Biennial Report Containing Recommendations for Increasing Number of Minority- and Women-owned Broadcast Stations.—Not later than 180 days after the date of the enactment of this Act, and not less frequently than every 2 years thereafter, the Commission shall submit to Congress a report containing recommendations for how to increase the total number of broadcast stations that are owned or controlled by members of minority groups or women, or by both members of minority groups and women.

(b) Biennial Report on Number of Minority- and Women-owned Broadcast Stations.—Not later than 180 days after the date of the enactment of this Act, and not less frequently than every 2 years thereafter, the Commission shall submit to Congress a report that states the total number of broadcast stations that are owned or controlled by members of minority groups or women, or
by both members of minority groups and women, based
on data reported to the Commission on Form 323.

SEC. 4. TAX CERTIFICATE PROGRAM FOR BROADCAST STA-
TION TRANSACTIONS FURTHERING OWNERSHIP BY SOCIALLY AND ECONOMICALLY DIS-
ADVANTAGED INDIVIDUALS.

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

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

“SEC. 344. TAX CERTIFICATE PROGRAM FOR BROADCAST
STATION TRANSACTIONS FURTHERING OWNERSHIP BY SOCIALLY AND ECONOMICALLY
DISADVANTAGED INDIVIDUALS.

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

“(b) SALES DESCRIBED.—The sales described in this
subsection are the following:
“(1) Sale resulting in ownership by socially and economically disadvantaged individuals.—A sale—

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

“(B) that results in the station being owned by socially and economically disadvantaged individuals.

“(2) Sale by investor in station owned by socially and economically disadvantaged individuals.—In the case of a person who has contributed capital in exchange for an interest in a broadcast station that is owned by socially and economically disadvantaged individuals, a sale by such person of some or all of such interest.

“(c) Rules.—The Commission shall adopt rules for the issuance of a certificate under subsection (a) that provide for the following:

“(1) Limit on value of sale.—A limit on the value of an interest the sale of which qualifies for the issuance of such a certificate.

“(2) Minimum holding period.—In the case of a sale described in subsection (b)(1), a minimum period following the sale during which the broadcast
station must remain owned by socially and economically disadvantaged individuals.

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

“(4) Participation in station management by socially and economically disadvantaged individuals.—Requirements for participation by socially and economically disadvantaged individuals in the management of the broadcast station.

“(d) Annual report to Congress.—The Commission shall submit to Congress an annual report describing the sales for which certificates have been issued under subsection (a) during the period covered by the report.

“(e) Definitions.—In this section:

“(1) Owned by socially and economically disadvantaged individuals.—The term ‘owned by socially and economically disadvantaged individuals’ means, with respect to a broadcast station, that—

“(A) such station is at least 51 percent owned by one or more socially and economically 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.
“(4) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—The term ‘economically disadvantaged individual’ means a socially disadvantaged individual whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Commission shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individual.”.

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

(3) REPORT TO CONGRESS ON PROGRAM EXPANSION.—Not later than 6 years after the date of the enactment of this Act, the Commission shall submit to Congress a report regarding whether Congress should expand section 344 of the Communications Act of 1934, as added by paragraph (1), beyond broadcast stations to cover other entities regulated by the Commission.
(4) Report to Congress on nexus between diversity of ownership and diversity of viewpoint.—Not later than 6 years after the date of the enactment of this Act, and not less frequently than every 5 years thereafter until the amendments made by this section cease to apply in accordance with subsection (d), the Commission shall submit to Congress a report, including supporting data, on whether there is a nexus between diversity of ownership or control of broadcast stations (including ownership or control by members of minority groups or women, or by both members of minority groups and women) and diversity of the viewpoints expressed in the matter broadcast by broadcast stations.

(b) Nonrecognition of gain or loss for tax purposes.—

(1) In general.—Subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after part IV the following new part:
“PART V—SALE OF INTEREST IN CERTAIN
BROADCAST STATIONS.

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

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

taxable year in which the sale takes place, and such elec-
tion shall be binding for the taxable year and all subse-
quently taxable years.

“(b) MINIMUM HOLDING PERIOD; CONTINUED MAN-

AGEMENT.—If—

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

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

“(c) BASIS.— For basis of property acquired on a
sale treated as an involuntary conversion under subsection
(a), see section 1033(b).”.
(2) Clerical Amendment.—The table of parts for subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after 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.”

(c) Effective Date.—The amendments made by this section shall apply with respect to sales of interests in broadcast stations after the date that is 1 year after the date of the enactment of this Act.

(d) Sunset.—The amendments made by this section shall not apply with respect to sales of interests in broadcast stations after the date that is 16 years after the date of the enactment of this Act.

SEC. 5. INCUBATOR PILOT PROGRAM.

(a) In General.—Not later than 180 days after the date of the enactment of this Act, the Commission shall establish a program under which the Commission may grant a waiver of paragraph (a), (b), or (c) of section 73.3555 of title 47, Code of Federal Regulations, to a licensee of a broadcast station to enable the licensee to acquire an interest that would otherwise be prohibited by such paragraph in a broadcast station that is owned by socially and economically disadvantaged individuals.
(b) Report to Congress.—The Commission shall submit to Congress a report on the effectiveness of the program established under subsection (a) not later than the date that is 4 years after the date on which the Commission establishes the program under such subsection.

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

SEC. 6. DEFINITIONS.

In this Act:

(1) Broadcast station.—The term “broadcast station” has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

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

(3) Owned by socially and economically disadvantaged individuals.—The term “owned by socially and economically disadvantaged individuals” has the meaning given such term in section 344 of the Communications Act of 1934, as added by section 4.