

MINORITY EMPLOYMENT AND THE ADVERTISING INDUSTRY
IN NEW YORK CITY

A Commission on Human Rights Analysis of Compulsory Versus
Voluntary Affirmative Action

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NEW YORK CITY
COMMISSION ON HUMAN RIGHTS

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INTRODUCTION

The New York City Commission on Human Rights has experienced an evolutionary growth from a crisis mediation and resolution agency to a strong law enforcement body. From its roots in the Mayor's Committee on Unity, a voluntary advisory body established by Fiorello H. LaGuardia in 1944, it grew into the Commission on Intergroup Relations (COIR), established in 1955 by Local Law 55 which conferred formal government status on it. Since then, through repeated amendments the Human Rights Law has become one of the nation's broadest municipal anti-discrimination laws. During this time, one of the Commission's most significant programmatic developments has been the creation and implementation of systemic enforcement techniques designed to remedy entire systems or patterns of discrimination, instead of relying solely on the resolution of individual cases of discrimination.

This report recounts the involvement of the Commission on Human Rights with the advertising industry. It is a history which parallels the agency's own - beginning with appeals for voluntary affirmative action programs and growing to an enforcement strategy producing dramatic results.

BACKGROUND

The New York City Commission on Human Rights has monitored employment statistics in the advertising industry for more than a decade, feeling that the industry's high visibility and wide influence would enable the Commission to effect change in employment patterns that would have far-reaching consequences.

In September of 1967, the Commission sent questionnaires to a selected group of advertising agencies and members of the broadcasting industry preparatory to informational public hearings scheduled for the following Spring. The hearings were to investigate both industries' employment practices, as well as the image of minority group members presented in the media. Of 50 advertising agencies having the greatest radio and TV billing, 40 had offices in New York City, and agreed to cooperate with the Commission.

Of the total of 17,970 people employed by them at that time, only 634 were blacks and 291 were Spanish surnamed Americans. Thus, in the Fall of 1967, this prominent industry included in its aggregate New York City workforce only slightly more than 5% black and Hispanic workers. At the same time, the metropolitan area labor force was about 25% minority.

Believing that the limited minority employment was not simply the result of neutral forces, but emanated rather from discriminatory practices which have historically excluded minorities from meaningful participation in these

industries, the Commission convened, in March, 1968, its "Public Hearing on the Employment Practices of the Broadcasting and Advertising Industries and the Image Projection of Members of Minority Groups in Television and Radio." While the 10-day hearings considered broadcasting and minority image-projection as well as advertising, this report focuses on the latter only.

Among the principal findings of the hearings, which served as a springboard for continuing Commission involvement with the advertising industry, were the following:

-- Advertising agencies in the New York area had consistently failed to employ blacks, Puerto Ricans, and other minority group members overall, and especially in professional and executive positions. This low minority employment rate represented a state of de facto segregation strongly suggesting discrimination.

-- Despite expressed intentions to reform, the industry's past record cast doubt upon its willingness and ability to police itself. Spokesmen testified that, since they had been alerted to the problem and its urgency by the Commission hearings, the industry and individual companies might be trusted to make the necessary changes without governmental intervention. But critics contended that the industry had forfeited the confidence of the minority communities, and that government agencies must step in.

-- Recent history showed that progress had been spasmodic: gains were recorded as pressures were exerted, but not maintained as they were relaxed. Constant surveillance by government agencies, or by a body set up by the industry itself, seemed to be the only answer.

Participants from numerous advertising agencies expressed genuine concern over the situation revealed by their employment statistics, and volunteered to establish in-house affirmative action programs to increase the representation of minority group members in their work forces. The Human Rights Commission agreed to forego enforcement proceedings pending an ongoing review of the results of this voluntary remedial program.

In a series of recommendations which grew out of the hearings, the Commission pinpointed practices needing reform: inflated selection criteria, usually relying upon degrees and years of experience not demonstrated to be job-related; recruiting only at colleges with low minority enrollment; and reliance upon other agencies as a source of "recruitment" for seasoned people instead of developing their own employees. The Commission urged companies to place job orders with recruitment sources specializing in minority placements, in addition to those they had used in the past; to instruct their recruiters in unbiased interviewing techniques; to place new minority employees in all departments and maintain vigilance against any tendency to exclude them from certain areas; to train and promote minority

employees with a view towards integrating management-level positions; and to monitor all separations to prevent discriminatory firings as well as patterns of voluntary resignations indicative of an atmosphere of discrimination within a particular department or job area.

Hoping that the agencies' commitment to reform their employment practices would be pursued with energy and determination, the Commission resolved to continue to monitor their employment statistics, initially through an annual survey, to determine whether the voluntary approach could work.

INFORMAL FOLLOW-UP

Work force figures collected from the participating advertising agencies in 1967 are compared with statistics produced one year later (Appendix A).^{*} Although gains were registered in every category but one, the level of improvement was so slight as to be very discouraging - especially in the face of the commitment and enthusiasm expressed by agency leaders at the hearings.

^{*}While 40 agencies responded to the original questionnaire, by the time the follow-up report was prepared, only 35 had resubmitted data, so the figures referred to here include only the 35 agencies for which before and after figures were available.

More significant than the token level of increased minority employment was the fact that increases fell disproportionately in the areas where skills are transferable to a variety of employment situations: Data Processing, Secretarial, Accounting, Traffic, and 'All Others,' rather than in the decision-making and creative areas of the advertising industry. (See Appendix A for definitions of the principal job areas.) Minority employees continued to be excluded from significant participation in the job areas which comprise the heart of the business (for example, Account Handling, Copywriting, Radio and TV Production, etc.). Thus, while in both surveys, roughly 55% of the total work force was distributed in the first 10 job areas (as listed on Appendix A), minority employees were concentrated in the lower categories: 78.6% in 1967, 74.2% in 1968. As long as minorities were denied opportunities in the critical areas of advertising, any numerical improvements could only be viewed as partial and deceptive.

In this first measure of progress, then, little impact was seen to result from the hearings. Abiding by its pledge to monitor voluntary affirmative action, the Commission continued to survey work force changes in the industry until, when the 1973 annual survey demonstrated very meager progress, there was finally no choice but to undertake enforcement action. In that year, the Commission targeted three companies as the object of Commission-initiated

complaints of discrimination. The three agencies selected were at the bottom (in terms of minority employment statistics) of the ranking of agencies with over 400 employees.

ENFORCEMENT STRATEGY

Since its origination in 1968, the Commission's Systemic Employment Division has pioneered in techniques to achieve a major Commission priority: the total reform of employment patterns and practices in large companies to eliminate discrimination against minorities and women in New York City. Target companies are selected so as to concentrate the Commission's resources where the return will be the greatest for the affected classes. Companies are chosen based on their size, statistical profile, and employment practices believed to be at variance with the law. Such companies are taken through detailed procedures beginning with the Commission-initiated complaint. Such complaints are not findings of discrimination, but open the way to an intricate process: first, a thorough investigation of the specified companies' employment practices; second, if warranted by the investigation, an administrative Finding of Probable Cause and backup analysis, enumerating the discriminatory practices uncovered by the investigation; and third, negotiation of an enforceable, bilateral

Conciliation Agreement detailing the procedures to be implemented to produce affirmative, measurable change.

When Agreements are signed, the companies and the Commission move from an adversarial relationship into a compliance period with the Commission serving in an advisory capacity. During this period, companies submit quarterly reports on all employment activities of the preceding 12 weeks. Commission representatives perform detailed analyses of these reports, and are able to detect emerging problems and respond with recommendations for keeping the programs on course.

Advertising agencies were not selected for the systemic approach prior to 1973, because of their small size (usually not more than a few hundred employees), as well as their earlier good faith commitment to voluntary programs of affirmative action. At that time, however, the decision was made to issue complaints of discrimination against three agencies. This action was taken because that year's annual survey revealed that the desired results had not been achieved by voluntary efforts, and because the Commission continues to believe in one of the original, long-range premises of the 1968 hearings: that effecting changes in this industry would have an impact far wider than the immediate numbers of employees involved; that truly integrated advertising (as well as broadcasting) company staffs would project a more balanced image of

minority group members through the media around the country, and help build a more just, integrated society.

MEASURING THE IMPACT OF ENFORCEMENT ON AFFIRMATIVE ACTION

The three originally targeted agencies have signed Conciliation Agreements (a fourth is currently under investigation). While none of the three has experienced smooth sailing in implementing the procedures mandated by their Agreements, there has been measurable positive change in their statistics which contrasts with the lack of progress, and even reversals, demonstrated by companies not in compliance with the Commission and having only voluntary affirmative action programs.

A study comparing two of the compliance agencies with agencies being monitored informally, reveals startling contrasts (Appendix B). The third agency signed so recently that no impact can yet be revealed in its data. The superiority of the enforcement approach is clearly demonstrated: companies having signed Conciliation Agreements, even while undergoing cutbacks nevertheless managed to increase minority employment; agencies monitored informally, however, though expanding overall in aggregate work force, showed net losses in minority employment.

The study compares work force and hiring figures for the seven largest (employing over 500) New York City based advertising agencies not having Conciliation Agreements, with the two in compliance with the Commission. Between 1975 and 1977, overall employment in the seven increased by 2.9% (169 people); however, the employment of minorities decreased by 4.7% (35 people), and their representation in the work force dropped from 12.9% to 11.9%. By contrast, the two compliance agencies (one signed in January, 1975, the other in July, 1976) showed comparatively significant change in a brief time. Even though their combined non-minority work force declined by 5.5% minority employment in the two increased by 59.1%; and the total representation of Blacks and Spanish-surnamed Americans in their work forces rose from 8.6% in 1975 to 13.7% in 1977.

During these two years, minority representation in the exempt work force (professional and executive positions) at the seven largest agencies decreased by 8% while it increased in the compliance agencies by 280%. Similarly, the hiring rate of minorities decreased at the seven agencies while it increased at the two compliance agencies. In the former group, 17.1% of the hires in 1975 were minorities, 15.3% in 1976 and 12.8% in 1977. In 1973, in the two compliance agencies at that time under investigation, 13.7% of the hires were minorities; by 1976, their minority hiring rate was 18.7%.

CONCLUSION

Even in light of the comparative gains made by the compliance companies, their performance has not been completely praise-worthy.

Nevertheless, the study clearly shows that, by comparison to companies operating under non-compulsory affirmative action programs (which have worsening minority employment profiles), the companies in compliance, with unrelenting Commission analysis and advice, have shown marked improvements.

Its history of involvement with the advertising industry has given the Commission the opportunity for long-term comparisons. Because figures have been collected regularly from the same companies over a period of ten years, the study amounts to a controlled experiment in which one group of samples (the companies in compliance) are compared to another (those adhering to voluntary affirmative action programs) which are like them in every respect but one. All the advertising agencies studied create the same type of product, are similarly organized, and seek the same kind of employees. Indeed, many long-time advertising people move from agency to agency as their careers advance. The sharp contrast in minority employment figures may therefore be viewed as a direct result of having, or not having, a Conciliation Agreement with the Human Rights Commission.

There remain obstacles to opening employment opportunities for minorities in the industry in such areas as:

Selection Criteria: Job descriptions have been found to be inflated, sometimes even requiring incoming candidates to meet the credentials of the incumbent, instead of delineating the scope and responsibilities of the actual position, and enumerating the minimum degree and experience requirements.

College Recruitment: Because of their reliance upon MBA degrees (which have not been proven necessary for successful job performance), agencies have not been recruiting at undergraduate schools, where a larger number of minority students could be found.

Recruitment Sources: When positions requiring a high degree of technical competence become available, agencies often hire employees away from competitors, or hire people through search firms on a rush basis. Because there are fewer minorities with experience in this field than Caucasians, the Commission advises the placement of open recruitment orders with minority recruitment sources for the purpose of developing a pool of candidates for consideration when such positions are available.

Training: Formal training programs, principally in the Account Handling area, once the best access to professional positions in advertising (especially for minorities), were terminated several years ago for reasons of economy. The continued absence of these programs means that there is no pool of minorities currently in the pipeline, and there will continue to be a dearth of minorities with experience relevant to critical positions. The Commission urges that companies establish new training programs to fill this gap.

Perhaps as great a hurdle to opening job opportunities for minorities in advertising is coasting along on the belief that voluntary efforts to date are sufficient. They have failed to bring minorities into the work forces of the industry leaders, who together employ half the people working in advertising. And although the advertising industry work force in New York City overall is small (approximately 6,000 in 1977) compared with other industries under Commission pattern and practice review, developments in advertising are closely related to and consequently influence industries such as media, publishing and communications that are concentrated here. A commitment to change is needed, expressed in terms of concrete personnel reforms, expansions in outreach, and technical improvements such as those adopted by agencies with compulsory affirmative action plans.

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35 TOP ADVERTISING AGENCIES

APPENDIX A

September, 1967

September, 1968

JOB AREAS*	TOTAL EMPS.	BLACK	SSA	% BLACK	% SSA	% MIN.	TOTAL EMPS.	BLACK	SSA	% BLACK	% SSA	% MIN.	% MIN. CHANGE
1. Management	400	4	1	1.0	0.25	1.25	415	4	1	0.96	0.24	1.2	-0.05
2. Account Handling	2,100	11	4	0.52	0.19	0.7	1,949	14	8	0.71	0.41	1.1	+0.4
3. Mktg. & Mchndsg.	309	6	3	0.97	1.9	2.9	239	7	4	2.9	1.7	4.6	+1.7
4. Research	723	16	5	2.2	0.69	2.9	689	29	5	4.2	0.73	4.9	+2.0
5. Copy	1,384	13	9	0.94	0.65	1.6	1,296	19	8	1.5	0.62	2.0	+0.4
6. Visualization	1,194	20	12	1.7	1.0	2.7	1,153	37	8	3.2	0.69	3.9	+1.2
7. Radio & TV Prod'n.	868	12	2	1.4	0.2	1.6	854	24	2	2.8	0.23	3.0	+1.4
8. Media	1,834	33	16	1.8	0.9	2.7	1,731	67	24	3.9	1.4	5.2	+2.5
9. Print Prod'n.	351	9	8	2.6	2.3	4.9	324	12	10	3.7	3.1	6.8	+1.9
10. Public Relations	194	2	1	1.0	0.52	1.5	140	3	2	2.1	1.4	3.6	+2.1
11. Data Processing	324	32	16	9.9	4.9	14.8	325	37	16	11.4	4.9	16.3	+1.5
12. Secretaries	3,526	129	66	3.7	1.9	5.6	3,694	182	68	4.9	1.8	6.8	+1.2
13. Accounting, etc.	1,572	124	45	7.9	2.9	10.7	1,407	142	58	10.1	4.1	14.2	+3.5
14. Traffic	664	16	9	2.4	1.4	3.8	640	28	10	4.4	1.6	5.9	+2.1
15. All Others	1,565	182	68	11.6	4.3	16.0	1,206	224	63	18.6	5.2	23.8	+7.8
TOTAL	17,008	609	265	3.6	1.5	5.1	16,062	829	287	5.2	1.8	6.9	+1.8

Categories 1 - 10	9,357	125	61	1.3	0.6	2.0
Categories 11 - 15	7,651	483	204	6.3	2.7	9.0

8,790	216	72	2.4	0.8	3.3	+1.3
7,272	613	215	8.4	2.9	11.4	+2.4

APPENDIX A (continued)

*DEFINITION OF JOB AREAS

- 1) Administration and General Management: Overall running of the agency, including top management.
- 2) Account Handling - Client Service: Account group supervisors, account executives and Assistant Account Executives, Chief production personnel. High-status, high-pay category.
- 3) Marketing and Merchandising: Sales promotion, new product planning, point of sales promotion, packaging, distribution, pricing, allowances, wholesaler contact and field work.
- 4) Research: Marketing analysis, media research, TV and radio research.
- 5) Copy: The writers of advertising material.
- 6) Visualization: All phases of art work from rough layout to finished presentation.
- 7) Radio and TV Production: Production of broadcasts, both programs and commercials. Does no media buying.
- 8) Media: Estimating, schedule-making, insertion ordering, time-buying, space-buying.
- 9) Print Production: Production of plates and type-sets.
- 10) Publicity: Service for clients only.
- 11) Data Processing: Programmers, systems analysts, computer operators.
- 12) Secretaries: Category includes typists, phone operators and receptionists.
- 13) Accounting: Complete record-keeping, billing, checking.
- 14) Traffic: Production coordinators, responsible for end-product from inception. Work with all departments.
- 15) All Others: Lowest category, unskilled or semi-skilled workers.

APPENDIX B

1977

<u>HIRES</u>				<u>WORKFORCE</u>		
<u>TOTAL</u>	<u>MINORITY</u>	<u>%</u>		<u>TOTAL</u>	<u>MINORITY</u>	<u>%</u>
1,670	213	12.8	Seven Large Agencies	5,907	704	11.9
315	59	18.7	Two Compliance Agencies	1,339	183	13.7

1976

<u>HIRES</u>				<u>WORKFORCE</u>		
<u>TOTAL</u>	<u>MINORITY</u>	<u>%</u>		<u>TOTAL</u>	<u>MINORITY</u>	<u>%</u>
1,247	191	15.3	Seven Large Agencies	5,535	697	12.6
46*	5	10.9	Two Compliance Agencies	1,261	152	12.1

*Only 3 months' reporting

1975

<u>HIRES</u>				<u>WORKFORCE</u>		
<u>TOTAL</u>	<u>MINORITY</u>	<u>%</u>		<u>TOTAL</u>	<u>MINORITY</u>	<u>%</u>
1,337	228	17.1	Seven Large Agencies	5,738	739	12.9
			Two Compliance Agencies*	1,334	115	8.6

*Prior to signing Agreements