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GEORGETOWN LAW
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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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Re: Notice of ex parte communication, MB Docket No. 18-202

Dear Ms. Dortch

On Friday, June 14, I spoke by telephone with Michael Scurato, legal assistant to Commissioner Starks, and an intern in that office, concerning proposed changes to the children's television rules.

I expressed the view that my clients, Center for Digital Democracy, Campaign for a Commercial Free Childhood, Color of Change and the Benton Foundation, strongly oppose allowing stations to count E/I programming aired as early as 5 am toward the 3-hour per week guideline. Were the Commission to adopt this proposal, a station could meet the guideline by airing E/I programming only on Saturdays and Sundays from 5:00 am to 6:30 am. Very few children watch programming this early on weekend mornings. This is especially true of teens, who are the target audience for much of the current programming claimed to be E/I.

I also expressed concern about proposals to further relax the Commission's already-generous policy on pre-emptions to eliminate the requirement that pre-empted programming be aired in a "second home." There is no data in the record to demonstrate that further relaxation would be beneficial to children.

Adopting either or both of these changes would not meet the educational and informational needs of children. If children are asleep, or if they do not know when a program airs, they cannot watch. Moreover, with such a tiny audience, stations will earn less advertising revenue, which in turn, will cause them to air even cheaper (and lower-quality) programs. Degrading the already minimal amount and quality of children's E/I programming would undermine the clear Congressional mandate that the Commission renew the license of a

television station only if it "has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs." 47 USC §303b(a)(2).

My clients also oppose adoption of any proposal that would let broadcasters meet their statutory obligations to children without airing E/I programming. The law is clear that only two types of nonbroadcast efforts may be taken into account – 1) actions that enhance the educational and informational value of programming aired, or 2) producing or supporting E/I programming shown by another station in the same market. Moreover, these factors may only be considered "[i]n addition to consideration of the licenses programming" required under §303b(a)(2). 47 USC §303b(b).

Finally, broadcasters have already had multiple opportunities to propose how any supplementary non-broadcast efforts should be analyzed by the FCC at renewal, including in this NPRM at ¶¶ 44-48. Yet, commenters have failed to produce any reasonable proposals. It would be a waste of the FCC's limited resources to seek any further comment on this issue. In the absence of clear, quantitative guidance, we oppose delegating the task of determining "how much is enough" to the Media Bureau. The Bureau has no experience in this area. Moreover, the Bureau has a history in other areas of favoring licensees over the viewing public.

Respectfully Submitted,
/s/ Angela J. Campbell
Angela J. Campbell

cc:
Michael Scurato
Kate Black
Joel Miller