Committee on Media Integrity (COMINT)

To Promote Balance in Government Funded Media

David Horowitz
Chairman

Peter Collier
Co-Chairman

Richard Perkins
Secretary

2049 Century Park East
Suite 1200
Los Angeles, CA 90067
(213) 553-2274

December 14, 1990

Re: KCET-TV, Los Angeles

But our attempts to deal with the station on that subject were met with such patronizing and dismissive responses that we were moved to inquire into the station's governance. We came to the conclusion that the station needs to be reformed so as to be more responsive to the communities it serves and more institutionally accountable. Although the station enjoys extraordinary privileges of a public franchise, tax exemption etc., and it receives tax-generated and tax-deductible funds solicited from the public, it has conducted its affairs with secrecy and obstructiveness that are out of keeping with the character of a public television station. Over a period of many years it has continued to collect many millions of dollars from the CPB although legally disqualified for violation of the Public Broadcasting Act.

The Organization of KCET

KCET is the trade name of Community Television of Southern California, a California "public benefit corporation," which is the name now given to most nonprofit California corporations. Legally, its governing body is its board of directors, which has 55 members - a number that is almost certainly a formula for uselessness, as it has been in this case.

At one time the corporation apparently had members, but by amendment to its incorporation papers it dispensed with any membership. Contributors are called "subscribers;" they have no voice or vote in the affairs of the station. The only body that has any legal status is the board of directors. Vacancies on the board are filled by the remaining board members, so that the board is a self-perpetuating body.

Directorships are in effect bargained and "sold" to persons who are expected to raise money for the station - sometimes even their own, but more often money that belongs to corporations or foundations that the directors are able to influence. Vacancies on the board are filled by uncontested election of nominees proposed by a "Nominating and Development Committee" - a title that acknowledges the committee's role in recruiting fund-raisers as members of the board of directors. The committee chairman is Andrea Van de Kamp. In conduct that would be recognized as extraordinary even in the case of a commercial corporation, she has refused repeated requests to disclose the names of the members of her committee, so that it is a matter of doubt whether there is any such committee other than the chairman. The committee, if there is one, has never held any meetings except perhaps in secret.

The members of the board, as far as we have been able to identify them, are all respectable persons - business executives, both active and retired, socialites, philanthropists, and political figures. The board holds meetings of a ceremonial nature every month, but in the past

In dealing with KCET we discovered that although the station's 55-person board had been holding some open meetings of a merely ceremonial nature, it had never held an open meeting of any of its committees, where, if ever, any significant action took place. This situation had evidently existed for years, ever since the Public Broadcasting Act was amended to include the open meetings requirement. Meanwhile,

3. Has the KCET board or anyone else in authority adopted any other broadcast standards? If so, will a copy be made available?

4. Has KCET adopted any guidelines or standards to ensure balance and diversity of programming; if so, will copies be made available?

5. Who in the KCET organization is responsible for monitoring programs for balance, diversity, and compliance with other broadcast standards, and what if any provision is made for review of his decisions by higher authority, including the KCET board or a committee of the board?

Despite repeated attempts by our committee to elicit a response from the KCET board and management, none of those questions has been answered. It is to be emphasized that KCET has even refused to state whether it had ever formally adopted for KCET the broadcast standards recommended by the PBS in its April 1987 report, although Mr. Kobin was a member of the committee that made the report, in which he joined.

3. <u>KCET's Refusal to Furnish Information Concerning Its Organization and Policies</u>: As reference to our 20 questions (Exhibit 3) will show, they are all legitimate questions that ought to be answered by any entity that claims to be a public telecommunications operator. But of the 20 questions, only Nos. 8, 10, and 20 have been answered, and even the latter two only after we complained to the CPB. Correspondence from Mr. Kobin indicates that no more of the questions will be answered.

The questions that KCET has refused to answer include, besides those relating to broadcast standards, the following: what committees the KCET board has, and what are their responsibilities; does the board have any committee charged with responsibility for programming, and will information concern its membership be made available; what if any criteria are there, including racial, religious, or political criteria, for the selection of board members; will there be any opportunity for members of the public to submit names for consideration to fill vacancies on the board, and if so, will names so submitted be given fair consideration; and will minutes of board meetings be made available for public inspection. The refusal to answer such legitimate questions is further evidence of KCET's policy of secrecy, obstruction, and contempt of the public interest.

4. The KCET Board's Refusal to Hear Suggestions and Objections Concerning Programming: We asked to have responsible representatives appear before the KCET board to make a brief presentation on the subject of program balance and diversity, but it was reported that the board's executive committee had decided in secret session (unauthorized under the Public Broadcasting Act) not to hear us. More recently, the board's chairman stated that "we" had decided not to place on the board's agenda for consideration our serious objections to some KCET programming, and when asked who were the "we" that had so decided he would not answer. This conduct is to be contrasted with the co-operation we have received from KQED, the San Francisco public television station. It accepted the offer of the chairman of our committee to appear before its board and gave him an attentive hearing. This difference may be accounted for by the fact that the San Francisco station is operated by a corporation that has members, its members elect its board, and its board acts responsibly in overseeing the operation of its station; it is not composed of mere dummies who shirk their responsibilities and who submit to domination by the staff.

5. KCET's Unrepresentative Community Advisory Board: The Public Broadcasting Act requires public telecommunications stations, as a condition of receiving public funds from the CPB, to maintain a "community advisory board". KCET has what purports to be such a board, the composition of which is mentioned above. We have had trouble finding out the membership of KCET's community advisory board. We wrote the chairman of that board July 12 and September 7, 1990, asking for a list of its members, and did not get an answer until October 9, when KCET counsel furnished us a list.

On October 16, 1990, we wrote KCET counsel pointing out that the list of members of the community advisory board he had furnished included representatives of a number of special interests, but not the interest that our committee represents, namely, a body of opinion that is concerned with KCET's broadcasts and desires more balance in public affairs programming and documentaries that are perceived to be slanted. Our letter concluded: "Will KCET include a representative of that interest in the station's community advisory board? Please let us know. We stand ready to furnish the name of a qualified representative." There has been no response, which is typical of the KCET management when asked legitimate questions.

Recommendations

We doubt that KCET will contest the substance of the foregoing allegations. If it does, we stand ready to support them by evidence, either openly at a public hearing or informally in interviews with Commission investigators.

From what has been said we submit that it is clear that as it is now constituted and operated, KCET has forfeited any claim to an unconditional renewal of its operating license. If its license is to be renewed at all, appropriate conditions should be imposed in the public interest. The following conditions are appropriate in our view.

1. KCET should adopt and announce broadcast standards and guidelines for ensuring balance, fairness, and objectivity in controversal programming.

2. KCET should establish effective institutional authority and procedures to monitor and enforce those policies.

3. KCET should be reorganized so as to provide for contributors to be members of the corporation, with power to elect the board of directors.

4. The KCET board should create the paid position of

8. The KCET board and its committees should hold closed is meetings only when closure is specifically authorized by the Public Broadcasting Act, and records of discussions held and business transacted at closed meetings should be kept and made available for inspection by Commission representatives.

9. A community advisory board maintained by KCET should be truly representative and should not exclude representatives of groups like our committee who are interested in balance and diversity of programming.

10. KCET should be required to make periodic reports to the Commission of compliance with the conditions imposed and provide access to station records and personnel by Commission representatives. Reports of compliance should promptly be made public.

11. Any renewal of KCET's operating license should be for a period of no longer than one year, subject to renewal only on an affirmative demonstration of compliance with the conditions imposed.

Respectfully submitted,

COMMITTEE ON MEDIA INTEGRITY

By David Horowitz

David Horowitz, Chairman

Richard A. Perkins

Richard A. Perkins, Secretary
and Counsel

RAP.336

RICHARD A. PERKINS
ATTORNEY AT LAW
2049 CENTURY PARK EAST
SUITE 1200
LOS ANGELES, CALIFORNIA 90067
(213) 553-2274

May 15, 1990

Mr. Donald Ledwig, President
Corporation for Public Broadcasting
901 E. St., N.W.
Washington, D.C. 20004

Re: KCET Los Angeles (Community Television of Southern California)

Dear Sir:

On behalf of citizens interested in public television I write to invite your attention to the disqualification of the above named station to receive funds from the Corporation for Public Broadcasting.

Title 47 U.S. Code sec. 396(k)(4), which is applicable, provides in pertinent part that "Funds may not be distributed pursuant to this subsection to . . . the licensee . . . of any public broadcasting station, unless the governing body of any such organization, any committee of such governing body . . . holds open meetings preceded by reasonable notice to the public. All

delegated; and a nominating committee, which submits nominees for uncontested election to the self-perpetuating board (the corporation has no stockholders or members). Both committees hold secret meetings of which no notice is given and which the public has no opportunity to attend. Our recent request to be given notice of an executive committee meeting was ignored.

In these circumstances it appears that KCET is disqualified to receive funds from CPB. The interested citizens for whom I act in this matter wish to bring KCET into compliance rather than see it deprived of funds; however, unless the station is made to realize that its continued receipt of funds from CPB is in jeopardy and that such funds may have to be returned, compliance will probably not be achieved. A warning from you will probably suffice to bring about compliance. Accordingly, we ask you to warn the station and call on it for a prompt report of what it has done to comply with the legal requirement of open committee meetings held on reasonable notice.

Will you please acknowledge receipt of this letter and let me know what you are willing to do in this matter. With thanks for your attention to this request, I am

Sincerely yours,

Richard A. Perkins

RAP.114

CORPORATION FOR PUBLIC BROADCASTING

Paul E. Symczak
Vice President,
General Counsel and Secretary

May 24, 1990

Mr. Richard A. Perkins
Attorney At Law
2049 Century Park East
Suite 1200
Los Angeles, California 90067

Re: KCET Los Angeles (Community Television of Southern California)

Dear Mr. Perkins:

Don Ledwig has asked me to respond to your letter of May 15 regarding your complaints about KCET's compliance with the "open meeting" provision of the Public Broadcasting Act. Your letter raises the allegation that the working committees of the KCET Board of Directors have been holding meetings without appropriate notice to the public which would allow the public to attend.

Because of your allegations, I contacted Mr. Glenn Schroeder, KCET's Vice President, General Counsel, to ask for an explanation. Mr. Schroeder agreed with your general characterization of the operation of the Executive Committee and Nominating Committee of the KCET Board. While KCET believes that it is operating within the statute to close certain meetings because of the topics to be discussed (as provided under 47 U.S.C. 396(k)(4), KCET has admitted that it has been deficient in the way it provided notice to the public of the meetings of these committees, including those meetings which are properly closed under the terms of 47 U.S.C. 396(k)(4). Through Mr. Schroeder, KCET has acknowledged its deficiencies and has pledged to CPB to correct them. Mr. Schroeder has confirmed, in writing to me, that KCET will henceforth regularly publish notice in the Los Angeles Times of all Board and Board Committee meetings and indicate which of those meetings may be closed as a result of the nature of the discussion to be held.

CPB agrees with your statement that it is better to bring KCET into full compliance with the Public Broadcasting Act than it would be to withhold funds from it. Therefore, we are pleased that a satisfactory conclusion has resulted from the issues that you have brought to our attention.

901 E Street NW
Washington, DC 20004-2006
(202) 879-9700
FAX: (202) 783-1019

[Exhibit 2]

Thank you for your interest in public broadcasting in the Los Angeles area.

Sincerely,

Paul E. Symczak

cc: Donald Ledwig
Glenn Schroeder

1. Has the KCET board or anyone else in authority at KCET formally adopted for KCET the recommendations made by the PBS special committee in its April 1987 report? If not, will KCET adopt those recommendations?

2. What has KCET done to carry out those recommendations?

3. Has the KCET board or anyone else in authority adopted any other broadcast standards? If so, will a copy be made available?

4. Has KCET adopted any guidelines or standards to ensure balance and diversity of programming; if so, will copies be made available?

5. Who in the KCET organization is responsible for monitoring programs for balance, diversity, and compliance with other broadcast standards, and what if any provision is made for review of his decisions by higher authority, including the KCET board or a committee of the board?

6. What standing committees does the KCET board have, and what are their responsibilities?

7. Does the KCET board have one or more committees charged with responsibility for programming; if so, will information concerning the membership of any such committee be made available?

8. Who are the members of the executive committee of the KCET board?

9. Who are the members of the nominating committee of the KCET board?

10. Do committees of the KCET board hold meetings open to the public, preceded by reasonable notice; if so, how, when, and to whom is such notice given?

11. What if any criteria are there for the selection of KCET board members?

12. Are there any racial, religious, or political criteria for the selection of KCET board members; if so, what are they?

13. Will there be any opportunity for members of the public to submit names for consideration to fill vacancies on the KCET board; if so, will names so submitted be given fair consideration?

[Exhibit 3]

14. Will minutes of KCET board meetings be made available for public inspection? If not, why not?

15. If the KCET board goes into secret session to consider "proprietary" or other matters it considers unsuitable for public discussion, will a written statement containing an explanation of the reasons for closing the meeting be made available to the public within a reasonable period of time? If not, why not?

16. How and to whom are documentaries presented to KCET for consideration for broadcasting?

17. Who decides whether to broadcast documentaries by KCET?

18. What information about documentaries proposed for broadcasting is customarily submitted to KCET or to sponsors or others solicited to contribute to broadcasts of such documentaries? In what form is such information submitted, e.g., by script, treatment, film clips, etc.?

19. Will KCET use its influence as a member of PBS to bring about more balance and diversity in the programming of documentaries?

20. Will copies of the federal Form 990 required of tax-exempt corporations be made available for public inspection as required by law, and if so, where and to whom should request be made for access to the same?

rapqustns

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing _____

_____ and know its contents.

☒ CHECK APPLICABLE PARAGRAPH

☐ I am a party to this action. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner _____ ☐ a _____ of _____

_____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing document and know its contents. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for _____

a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I have read the foregoing document and know its contents. I am informed and believe and on that ground allege that the matters stated in it are true.

Executed on _____, 19___, at _____ California.

_____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

_____
Signature

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT
(other than summons and complaint)

Received copy of document described as _____

_____

on _____ 19___.

_____
Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 2049 Century Park East, Suite 1200, Los Angeles, CA 90067

On December 14 1990 I served the foregoing document described as Informal Objections

_____ on the interested parties

~~[illegible]~~ b, placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at: Los Angeles, CA

~~[illegible]~~ addressed to each of the following:

Robert L. Thompson
PEPPER & CORAZZINI
1776 K St., N.W.
Washington, D.C. 20006

Glenn C. Schroeder
4401 Sunset Blvd.
Los Angeles, CA 90027

Theodore D. Frank, Susan A. Marshall, and Jay L. Birnbaum, ARENT, FOX, KINTNER, PLOTKIN & KAHN
1050 Connecticut Ave., N.W.
Washington, D.C. 20036-5339

☒ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

Executed on December 14, 1990 at Los Angeles, California.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Richard L. Perkins
Signature

(REVISED 7/81)

(May be used in California State or Federal Courts)