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November 24, 1993

The Honorable Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Via Airborne

Re: Limitations on Commercial Time on Television
Broadcast Stations, MM - Docket No. 93-254

Dear Ms. Searcy:

I am writing to oppose the suggestion in the Commission's Notice of Inquiry that time limitations be reimposed on the amount of commercial matter broadcast by television stations.

Regal Communications Corporation ("Regal"), through its wholly-owned subsidiaries, Regal Group, Inc. ("Regal Group") and Inphomation, Inc. ("Inphomation") is a leading producer of program length advertisements, commonly referred to as "Infomercials". Regal Group is the successor corporation to Synchronal Group, Inc. ("Synchronal"). Synchronal was acquired by Regal in a merger transaction which was concluded in September, 1991. Synchronal started its business operations in April of 1988. Inphomation was acquired by Regal in a merger transaction in September, 1993. Inphomation began its business operations in 1990.

Regal Group markets its own products as well as those of independent third parties who provide products and/or programs to Regal Group. Regal Group markets a variety of consumer products mainly in the areas of housewares, beauty aids, kitchen appliances, consumer electronics and self-improvement courses. Regal Group and its predecessor, Synchronal, have produced and aired hundreds of Infomercials. Regal Group markets between 20 to 30 different products at any given time.

Inphomation produces Infomercials featuring psychic counselling services and self-help, motivational and self-improvement courses.

Regal Group airs its Infomercials on cable networks and on broadcast network affiliates and independent stations. Regal Group's revenues for its most recently completed fiscal year were approximately \$120 million. Approximately 60% of Regal Group's revenues were derived from sales of products on network affiliates and independent stations and the balance from sales on cable

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networks. Inphomation's revenues for the current fiscal year are anticipated to be approximately \$100 million. A substantial part of these revenues are derived from the airing of Infomercials on network affiliates and independent stations.

Television broadcast time is typically purchased on an "as available" basis to minimize costs. The time segments for broadcast television are principally on weekends from 6:00 a.m. to 1:00 p.m. and time on weekdays is occasionally purchased during the early morning hours, from midnight to 2:00 a.m. Regal Group and Inphomation concentrate on broadcast television stations with the 100 largest television markets across the United States.

We do not believe there is any justification for reimposition of commercial time limitations. The FCC's 1984 decision was premised on the belief that there would be an expansion in the number of information sources available to viewers and that, in such a competitive marketplace, viewers would determine the appropriate amount of commercial programming by their choice of what programs to watch. Further, the FCC believed that the market would respond to the relaxation of constraints on commercial programming by developing new commercial offerings and this has happened.

The number of video channels available to consumers has already expanded significantly and continues to expand. We are just entering a new technological era that promises a great increase in the number of information and video programming sources. At this late date, the government should not attempt to turn back the clock and reimpose a scheme of commercial time limits that made no sense even at a time when few video outlets were available.

Furthermore, there has been substantial innovation in the delivery of commercial programming in response to the 1984 decision. The program-length commercial is an important example of that innovation. This format might not ever have come into existence if the FCC had continued trying to determine the appropriate amount or type of commercial programming through fixed time limits. These programs have had to compete for viewer attention, and the fact that they have developed a sizeable audience despite all the other video offerings demonstrates that there is a significant consumer need that would not be addressed if time limits were reimposed.

The Infomercial format, when it was first introduced in 1984, was limited to gadgets and what I refer to as "snake oil types of products". As is often the case with new industries, certain liberties with the format were taken by unscrupulous business people. This situation no longer exists. The industry has regulated itself. The products offered through Infomercials have

become more varied, have attracted larger viewing audiences and have attracted many large corporate advertisers. In December 1991 Regal Group entered into a long-term marketing agreement with Saatchi & Saatchi North America, Inc. ("Saatchi"), the world's largest advertising agency. This agreement provides that Saatchi will utilize Regal Group exclusively for the marketing, development and production of program-length advertisements for Saatchi clients.

As I noted in the second paragraph of this letter, by providing substantial revenues to broadcast stations, program-length advertisements help support free, over-the-air television. Due to the fact that the cost of air time on cable networks has increased significantly over the past eighteen months and appears to be increasing at an ever-accelerating rate, the availability of broadcast stations to air Infomercials will become an increasingly important aspect of our business and our dependence on broadcast outlets to air Infomercials will continue to increase.

Furthermore, Infomercials are becoming an increasingly important means of raising consumer awareness of a particular product's features in order to promote the sales of products at the retail level. That is to say, Infomercials are being used not only for direct-response advertising, but also for impress advertising.

Infomercials are a legitimate and increasingly popular form of commercial speech. Suggestions that the FCC should impose time limits that would restrict the showing of Infomercials raise sensitive First Amendment considerations. In an era where the number of video channels available to consumers is increasing rapidly, there is no reason why the FCC should impose a content-based discrimination against the broadcast of entertaining and informative commercial matter, simply because it is presented in program-length format.

For these reasons, we believe as a general matter, that the Commission should not initiate a rulemaking to consider reimposing time limits on the broadcast of commercial matter. In particular, we believe that no showing has been made of any justification for imposing any limits on the running of program-length commercials by broadcast stations.

Sincerely,



Arthur L. Toll
President and
Chairman of the Board

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