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Before the
Federal Communications Commission
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules) MB Docket No. 02-277))
Cross-Ownership of Broadcast Stations and Newspapers) MM Docket No.01-235)
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets) MM Docket No. 01-317))
Definition of Radio Markets) MM Docket No. 00-244

To: **The Secretary**
Federal Communications Commission

ERRATUM

By the Coalition for Program Diversity

This Erratum pertains to the Reply Comments of the Coalition for Program Diversity filed at the Commission on February 3, 2003 and substitutes:

- (1) The attached page 4 for page 4.
- (2) The attached page 14 for page 14.
- (3) The attached page 2 of the Appendix for page 2 of the Appendix.

Should you have any questions, please contact the undersigned.

COALITION FOR PROGRAM DIVERSITY

Michael R. Gardner

Michael R. Gardner
The Law Offices of Michael R. Gardner, P.C.
Telephone: (202) 785-2828

Kenneth Ziffren
Kenneth Ziffren

Ziffren, Brittenham, Branca, Fischer, Gilbert-Lurie & Stiffelman

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February 10, 2003

owned 46.5 hours of diverse prime time programming on the networks' weekly prime time schedule just ten years ago,' owned only 17 hours of the networks' weekly prime time schedule at the beginning of the current (2002 - 2003) broadcast season.⁵

- (3) In 1992, 66.4% of the networks' prime time schedule consisted of diverse programs -- including dramas, sitcoms, news programs, sports, action dramas, movies of the week -- produced and owned by independent producers.⁶ Today only 24% of the network's collective prime time schedule is produced by independent producers.'
- (4) Today, only six independent producers had their series programming aired in 2002 on the networks' prime time schedules.⁸ By contrast, in 1985, 26 independent producers programmed most of the networks' prime time schedules -- diverse schedules that included sitcoms, dramas and movies of the week.⁹

⁴ See Appendix at 9 (CPD Study, *1992-1993 Network Primetime Program Ownership (Excludes Theatricals/MOWs)*, Jan. 28, 2003 (information compiled from THE HOLLYWOOD REPORTER, Primetime Network Schedule 1992-1993: Guide to the 1992-1993 Television Season (Sept. 1992)).

⁵ See Appendix at 19 (CPD Study, *2002-2003 Network Primetime Program Ownership (Excludes Theatricals/MOWs)*, Jan. 28, 2003 (information compiled from THE HOLLYWOOD REPORTER, Primetime Network Schedule 2002-2003: Guide to the 2002-2003 Television Season (Oct. 2002)).

⁶ See Appendix at 9.

⁷ See Appendix at 6 (CPD Study, *2002-2003 TV Season Network Primetime Program Ownership (ABC, CBS, Fox, NBC)*, Jan. 28, 2003 (information compiled from THE HOLLYWOOD REPORTER, Primetime Network Schedule 2002-2003: Guide to the 2002-2003 Television Season (Oct. 2002)).

⁸ See Appendix at 2 (CPD Study, *Network Primetime INDEPENDENT TELEVISION PRODUCERS*, Jan. 28, 2003 (information compiled from THE HOLLYWOOD REPORTER, Primetime Network Schedule 2002-2003: Guide to the 2002-2003 Television Season (Oct. 2002); THE HOLLYWOOD REPORTER, Primetime Network Schedule 1992-1993: Guide to the 1992-1993 Television Season (Sept. 1992); THE HOLLYWOOD REPORTER, 1990-1991 TV Preview (Sept. 1990); TV Guide @ 50, 1985 Primetime Lineup available at <http://www.tvguide.com/50th/timecapsule/whatwason/1985/asp> (last visited Feb. 3, 2003)).

⁹ See *id.*

Moreover, Turner II reaffirmed the Court’s 1994 holding, explicitly stating, “We have been most explicit in holding that “protecting noncable households from loss of regular television broadcasting service due to competition from cable systems” is an important federal interest.” ... Despite the growing importance of cable television and alternative technologies, “broadcasting is demonstrably a principal source of information and entertainment for a great part of the Nation’s population.”. . . We have identified a corresponding ‘governmental purpose of the highest order’ in ensuring public access to ‘a multiplicity of information sources.’”³⁴

The Court’s ruling in United States v. O’Brien is also relevant to the sustainability of the 25% Independent Producer Rule.³⁵ As noted in Turner, the O’Brien Court explicitly sanctions the Commission’s efforts “promoting the widespread dissemination of information from a multiplicity of sources.”³⁶

The Schurz Court, the Turner Court and the O’Brien Court provide the Commission ample judicial support for the sustainability of a content-neutral independent producer carve out to promote its goal of diversity of program sources.

When considering the 25% Independent Producer Rule, the Commission should recall the insightful words of Judge Posner when he stated that, “reruns are the antithesis of diversity.”³⁷ Unfortunately, the Judge was prescient as reruns (or repurposing) of lowest budget network owned programming may become the sad hallmark of today’s unregulated network prime time television

³² Id. at 190 (citing Turner I, 512 U.S. at 663) (quoting Capital Cities Cable, Inc. v. Crisp, 467 U.S. 691, 714 (1984)).

³³ Id. (quoting Turner I, 512 U.S. at 663) (quoting United States v. Southwestern Cable Co., 392 U.S. 157, 177 (1968)).

³⁴ Id. (quoting Turner I, 512 U.S. at **663**).

³⁵ See United States v. O’Brien, 391 U.S. 367 (1968).

³⁶ See Turner II, 520 U.S. at 189-190.

³⁷ Schurz, 982 F.2d at 1055.

Network Primetime
INDEPENDENT TELEVISION
PRODUCERS

1985	1990	1992	2002
Aaron Spelling Productions	Aaron Spelling Productions	Aaron Spelling Productions	Carsey-Werner-Mandabach
Bloodworth-Thomason/Mozark Productions	Barbour/Langley Productions	Carsey-Werner	Hallmark
Carsey-Werner Co.	Carsey-Werner	Castle Rock	Sony Pictures Television
Carson Productions Group	Columbia Pictures TV	Columbia Pictures TV	Steven Bochco Productions
Columbia Pictures TV	Cosgrove-Meurer	Cosgrove-Murer	Universal
David Gerber Productions	Lorimar Television	HBO Independent	Warner Bros.
Dick Clark Productions	Lynch/Frost	Hearst	
Douglas S Cramer Company	MGM/UA	Lorimar Television	
Embassy Television	MTM Enterprises Inc	Lucasfilm	
Lorimar Television	New World	MGM/UA	
Michael Landon Productions	Orion Television	Mozark Productions	
Mort Lachman & Associates Prods	Paramount TV	New World (Four Star Holdings)	
MTM Enterprises Inc	Reeves Entertainment	Paramount TV	
Orion Television Entertainment	Rosenzweig Productions	Reeves Entertainment	
Paramount TV	Stephen J. Cannell Productions	Shukovsky/English	
Reeves Entertainment Productions	Steven Bochco Productions	Stephen J. Cannell Productions	
Ruby/Spears Productions	Touchstone Television	Steven Bochco Productions	
Stephen J. Cannell Productions	TriStar TV	Touchstone Television	
TAT Communications Company	Universal	TriStar TV	
Touchstone Television	Viacom Productions	Universal	
TriStar TV	Vin DiBona Productions	Viacom Prods.	
Universal	Warner Bros.	Warner Bros.	
Viacom Productions	Witt/Thomas/Harris Productions		
Warner Bros.			
Witt/Thomas/Harris Productions			