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Federal Communications Commission
Office of Secretary

February 26,2003

The Honorable Michael K. Powell
Federal Communications Commission
The Portals
Koom 8-B201
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Public Interest Code of Conduct**

Dear Chairman Powell:

As Chairman of Paxson Communications Corporation ("Paxson"), the owner of the largest broadcast television group in the United States and the creator of the seventh over-the-air broadcast network, (PAXTV), I, like you, have a vital interest in the current state of television programming in our country. **Let me get right to the point,** Not a day goes by without a critique of television programming noting that we have reached the point of more sex, more violence, more indecency and more ratings. Programming standards appear to be rapidly disappearing, viewer complaints are increasing and industry leaders and regulators lament this turn of events.

There is an answer -- not a complete answer, but a good start and that is the adoption by the Federal Communications Commission of a voluntary **Public Interest Code of Conduct** for television broadcasters in America. I submit that this proposal is worthy of serious and immediate consideration.

We are all aware that television licensees are required to program their stations in the public interest, convenience and necessity and that this obligation has been interpreted as requiring a "diligent, positive and continuing effort by the licensee to discover and fulfill the tastes, needs and desires of his community or service area, for broadcast service." I also fully understand that the FCC's regulatory powers are limited by the First Amendment and Section 326 of the Conimunications Act and I am not encouraging or endorsing government censorship. However, these

competing interests form the foundation of the American system of broadcasting which places programming responsibilities and discretion in the hands of individual licensees subject only to broad regulatory overview by the FCC.

Paxson believes that this provides the opportunity for a private-public partnership that bui Ids on broadcasters' current involvement with their local communities. **A** station certifying compliance with the Code of Conduct would be entitled to a presumption of renewal expectancy similar to the manner in which the Commission currently affords a renewal expectancy to a station airing a weekly average of at least three hours of "core" children's programming throughout its license term. No Commission licensee would be required to adhere to the Code. In applying for renewal of its license, a television station not adhering to the Code would still be able to demonstrate to the Commission that its operations otherwise serve the public interest, convenience and necessity and warrant renewal.

The basic ingredients of the Public Interest Code of Conduct are outlined on the attachment of' this letter and obviously could be supplemented by the Commission or modified and enhanced following public comment.

In addition, those stations adhering to the Code and multicasting their digital signals would have the tlexibility to determine whether such public interest programming would be aired on one or more of their digital program streams. Once, again, this would evidence the Commission's flexibility in permitting individual licensees to determine how best to serve their local communities.

While this is not a new issue, concem about the state of our television broadcasting industry is growing rapidly. There has been talk of the readoption of' a family-viewing hour and discussion of a Code of Conduct. Legislation has been introduced in the Senate that would create a TV safe harbor free of violent programming and language in the recently passed Appropriations Hill directs the FCC to consider the resurrection of a

broadcast industry Code of Conduct. In 1999 and 2000, the FCC initiated inquiries and rulemakings to consider the public interest obligations of digital television broadcasters and, in comments filed with the FCC on March 27, 2000, Paxson urged the FCC to adopt a Public Interest Code of Conduct.

Can it be done? The answer is yes and it would be legal. The NAB Television Code of Conduct which was adopted in 1951, until it was abolished in 1983, proved its validity over the years. Its demise, because of alleged Sherman Act violations, is no precedent for the Code of Conduct endorsed by Paxson since our proposal has nothing to do with the content or supply of commercial television time. Legal scholars tell me that the kind of voluntary Public Interest Code of Conduct that we are endorsing would withstand any court challenge.

I think this proposal is worthy of consideration and, as I have noted before, such a Code of Conduct would help preserve the system of free over-the-air broadcasting and would do so by honoring the First Amendment rights of broadcasters, fulfilling the need for public interest regulation by the Commission while at the same time addressing the public's growing concern with broadcasters use of the public airways.

Very truly yours,

Lowell W Paxson
Chairman
Paxson Communications Corporation

Enclosure

PUBLIC INTEREST CODE OF CONDUCT

- Television stations have been given the responsibility under the Communications Act to serve the public interest, convenience and necessity within their service areas and to use their good faith discretion in determining how to fulfill this obligation.

- Television stations will provide for free at least 5 minutes per night (between the hours of 5:00 pm and 11:35 pm) in the 30 days before an election for political discourse and for candidates to reach the voters. The stations will choose the candidates and races (federal, state or local), to receive such coverage and the stations will have the discretion to choose the formats for this discourse although there will be a minimum one minute duration for the candidates to appear on-screen and a minimum of 50% of the airtime.

- Television stations will provide programming that contains information explaining our citizenship, civic responsibilities and political processes. This information will be presented, designed, and structured so that it is accessible, available, understandable and free.

- Television stations will provide programming that reflects and addresses the diverse interests of local viewers and their communities' culture, heritage, individuality, and demographics. Television stations will provide programming that in the station's good faith belief addresses all local demographic groups within its coverage area.

- Television stations' service to their communities will include contributions to political discourse; public service announcements; children's, religious, educational and cultural programming; as well as involvement in local community activities such as sponsorship of charity fundraisers and on-air coverage of important events in the community.

- Television stations will endeavor to establish a daily prime time safe harbor hour free of excessive violence, explicitly sexual and indecent programming and foul language.

- Television stations choosing to multicast their DTV signals will consider the appropriate level and scheduling of such public interest programming and determine whether such programming will be aired on one or more channels.