

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

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Federal Communications Commission
Office of the Secretary

In the matter of)	
)	
2002 Biennial Regulatory Review – Review of the)	MB Docket No. 02-277
Commission’s Broadcast Ownership Rules and)	
Other Rules Adopted Pursuant to Section 202 of)	
the Telecommunications Act of 1996)	
)	
Cross-Ownership of Broadcast Stations and)	MM Docket No. 01-235
Newspapers)	
)	
Rules and Policies Concerning Multiple)	MM Docket No. 01-317
Ownership of Radio Broadcast Stations)	
in Local Markets)	
)	
Definition of Radio Markets)	MM Docket No. 00-244

STATEMENT OF

JONATHAN RINTELS
Executive Director
Center for the Creative Community, Inc.

at the En Banc Hearing
on February 27, 2003
Richmond, Virginia

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Thank you for inviting me. My fellow Virginians and I are pleased you've come to hear our thoughts about media concentration.

My name is Jonathan Rintel, I am a screenwriter and the Executive Director of the Center for the Creative Community, a nonprofit that conducts research, public education, and policy development on behalf of the tens of thousands of writers, directors, producers, and performers who create America's popular and literary entertainment. Numerous winners of Oscars, Emmys, Tonys, Peabodys, and other awards for creative excellence serve on our Board of Advisors.

Today, the conventional wisdom is that a "five hundred channel universe" assures viewpoints from a diversity of sources and competition in the marketplace of ideas. But, as respected Wall Street analyst Tom Wolzien concludes in his research study dated February 7th, entered in the record this morning, the reality of today's modern media environment is quite different. Five corporations, with their broadcast and cable networks, are now on the verge of controlling the same number of television households as the big three broadcast networks did forty years ago.

In the past, when three or four broadcast networks controlled this many households, the Commission protected the public's interest in competition, the marketplace of ideas, and diversity of viewpoints by requiring independent production of programming.

But today, the American public has no protection. Data in this record prove this "programming oligopoly" - Wolzien's term, not mine - exists both in the distribution and production of programming. For example, NBC owns outright or holds a significant financial interest in one hundred percent of the new series on its schedule. The other networks are not far behind. Rather than compete fairly in the marketplace of ideas, the networks leveraged their control of the publicly-owned airwaves to take over television program production, driving small businesses and creative entrepreneurs, many of whom were women and minorities, out of business.

President Bush recently said, "small business owners represent the enterprise of the whole nation and the diverse talents of our people... America's economy can thrive only when our small businesses thrive."

Television is no different. The near extinction of creative entrepreneurs and small businesses has resulted in corporate, homogenized, bland programming. Even network executives agree. Their quotes are in this record. While there are many highly regarded shows, nearly all are independently produced, holdovers from when program source diversity was required. The networks themselves have produced little to take their place, as evidenced by NBC's decision to spend \$10 million per episode for one more season of "Friends."

Research shows many Americans receive their information regarding democracy, politics, news, values, history, and culture from television entertainment

programming. Thus, in this proceeding, the stakes for our nation are far higher than whether we will all be doomed to a future of bland television. When "promoting the widespread dissemination of information from a multiplicity of sources" is a government interest of the "highest order," Commission action is indisputably "necessary in the public interest," as the law requires.

Today's Internet does not obviate the need for the Commission to act. The same programming oligopoly controls the most visited sites on the Net. Moreover, in much of Virginia, including my own home, broadband is a distant rumor. Even among Virginia families fortunate enough to have broadband, I've yet to hear of any that microwave popcorn and gather around the computer to watch Internet. They watch television.

The reemergence of the programming oligopoly requires that the Commission create a new program source diversity rule that allows independent producers access to network schedules. And there is no question the Commission has the power to create this rule in this proceeding, as the Coalition for Program Diversity's Reply Comments demonstrate.

Such a rule will meet all the goals of the Commission in this proceeding.

It will provide citizens with viewpoints from a diversity of sources.

It will enhance the marketplace of ideas.

It will reflect the reality of the modern media environment, in which the reemerging programming oligopoly is eliminating both economic and creative competition.

It will promote participation and ownership by minorities, women, and small businesses in television.

This rule -- this win, win, win rule -- will also withstand future judicial scrutiny. This record is full of data and other evidence documenting the reemergence of the programming oligopoly and the harm it has caused. As for the Commission's legal authority to create this rule, Judge Posner wrote in Schurz Communications:

"(T)he Commission could always take the position that it should carve out a portion of the production and distribution markets and protect them against the competition of the networks, in order to foster... a diversity of programming sources and outlets.. ."

It is now "necessary in the public interest" for the Commission to take that position. Promoting "the widespread dissemination of information from a multiplicity of sources" is the government interest of the highest order in this proceeding. Increasing the profits of a handful of corporations is not.

Thank you.