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May 12, 2003

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

RE: Ex Parte Filing  
MB Docket No. 02-277

Dear Ms. Dortch:

Enclosed for inclusion in the record of the above-captioned proceeding, and on behalf of Fox Entertainment Group, Inc. and Fox Television Stations, Inc., National Broadcasting Company, Inc. and Telemundo Communications Group, Inc., and Viacom (the "Joint Commenters"), please find a copy of a document entitled "'Red Herring' Arguments R.I.P. – the End of the Line for NASA/NAB's Unsupported, Ill-Considered and Irrelevant Arguments for Retention of the National TV Ownership Cap." Also enclosed is a supporting analysis prepared by Economists Incorporated entitled "The Effect of Controlling for Frequency Band (UHF/VHF) When Comparing the Quantity of Local News and Public Affairs Programming on Television Broadcast Network Owned and Operated Stations Relative to Network Affiliate Stations."

These two documents are submitted to refute claims made by NASA and NAB in recent *ex parte* filings. In particular:

- The News Quantity Red Herring: NASA/NAB assert that the differential between O&O and affiliate levels of news quantity is attributable to the higher percentage of VHF stations owned by the networks (particularly FOX).

The Reality: As shown in the attached economic analysis, the Joint Commenters' economic consultants have **proven conclusively that, even after accounting for a station's VHF/UHF status, O&Os still produce an average of nearly 30 percent more local news each week than affiliates.** No matter which way NASA/NAB try to manipulate the data, *O&Os indisputably carry more local news than affiliates.*

- The Network Profitability Red Herring: NASA claims that the negative impact of the Cap on network investment incentives and efficiencies can be ignored because some of the networks are still profitable.

The Reality: **Regulations that artificially distort investment incentives threaten the viability of free, over-the-air broadcasting.** As the former chief economist of the FCC has explained, the Cap reduces the economic opportunities and returns that networks can achieve from broadcasting, and therefore distorts investment decisions and drives broadcasters to direct more of their resources away from over-the-air broadcasting and toward cable and other distribution outlets.

If you have any questions concerning this submission, please contact the undersigned.

Respectfully submitted,

/s/ John C. Quale

John C. Quale

Enclosures

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