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May 29, 2003

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

Ex Parte Notice – MM Docket No. 02-277

Dear Ms. Dortch:

The Coalition for Program Diversity ("CPD"),¹ consisting of three of the four guilds representing talent in the television industry, a media buying company, two of the few remaining independent production companies of entertainment programming, among other leaders from the creative community, files this letter to reiterate the irrefutable fact that source diversity is lacking in the prime time network industry.

Based on CPD's study (attached) utilizing the transparent and objective criteria set forth in its January 2, February 3, April 3 and May 15 filings with the Commission: in the 2003/04 broadcast season, CBS will be airing only one series of the twenty-three scheduled which qualifies under the 25% Independent Producer Rule; and FBC (Fox) will carry three hours of its fifteen hours of weekly programming which qualifies under the CPD's proposed Rule, just one hour shy of qualifying. Is it coincidental that CBS and FBC are, respectively, members of

¹ The Coalition's membership includes:

- American Federation of Television and Radio Artists (AFTRA), New York, NY;
- Carsey-Werner-Mandabach, LLC, Los Angeles, CA;
- Wolf Films, Inc. (Dick Wolf), Los Angeles, CA;
- Directors Guild of America (DGA), Los Angeles, CA;
- Marian Rees Associates, Inc., Studio City, CA;
- MediaCom, New York, NY;
- Pariah Productions (Gavin Polone), Beverly Hills, CA;
- Screen Actors Guild of America (SAG), Los Angeles, CA;
- Sony Pictures Television, Culver City, CA;
- Stephen J. Cannell Productions, Los Angeles, CA.

affiliated groups each of whom own stations with carriage exceeding 40% of the country, based on current FCC standards? By contrast, both NBC and ABC would qualify under CPD's proposed Rule, in that each is scheduled to carry more than 25% of their respective slates from Independent Producers.

The CPD does not need to repeat its arguments for the Rule. Its prior filings should suffice. What is striking is the uncontroverted evidence the Commission now has before it which confirms the radical decline of source diversity in the last decade. There is no need for a new, separate proceeding to examine the facts or policies – they are abysmally present in the record today. What the Commission needs to consider is the reality that the four major networks and their affiliated production companies and owners are monopolizing the unique prime time market, foreclosing any new entrants (see P.J. Bednarik's column "Remember June 2", *Broadcasting & Cable*, May 26, 2003), and systematically eliminating the already severely diminished competition that remains in the narrow prime time television programming marketplace.

The Commission possesses the rule making authority, the facts, the precedent and the policy to enhance its diversity policies, especially source diversity, by adopting the content neutral 25% Independent Producer Rule.

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cc: Chairman Michael Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Commissioner Jonathan Adelstein
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Jordan Goldstein
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Ken Ferree
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Attachments