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May 30, 2003

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

Re: Ex Parte Submission
MB Docket No. 02-277, MM Docket Nos. 01-235, 01-317, 00-244

Dear Ms. Dortch:

On behalf of Fox Entertainment Group and Fox Television Stations, Inc., National Broadcasting Company, Inc. and Telemundo Communications Group, Inc., Viacom, and the Walt Disney Company and ABC Television Network ("Joint Commenters"), this ex parte communication is submitted for inclusion in the above-referenced dockets.

As the Commission reaches the final stage of its deliberations about broadcast ownership rules, it is vital to separate the information submitted in this docket from the disinformation. This is particularly true in evaluating the demands by some commenters to re-enact a form of financial interest and syndication ("finsyn") rules.

One good way to test the information submitted to the Commission is to compare it against other public statements made by the respective advocates. For example, Tom Fontana is a Council Member of the Writers Guild of America, East and is a representative of the Caucus for Television Producers, Writers and Directors. He has testified in favor of new finsyn rules, before both the Commission and Congress, and has asserted that creativity in television is being stifled by a lack of regulation. Yet, at the same time, when he is not lobbying for protectionist regulation, Mr. Fontana publicly states that creativity and excellence on television are alive and well.

Mr. Fontana renewed his call for regulation most recently in testimony before the Senate Committee on Commerce, Science, and Transportation on May 22, 2003. However, in an interview broadcast *the same day* on the public radio series *Fresh Air*, he appeared to take a position quite different from his prepared testimony. A transcript of the *Fresh Air* broadcast is



attached to this letter. However, for ease of comparison, some highlights from his divergent positions are reproduced here:

Senate testimony, May 23, 2003:

“Without Fin-Syn, many other fundamental practices in our industry have corroded over time. So, rather than eliminate the rules we have, I encourage you to establish a Program Source Diversity Rule, which would require that broadcast networks and cable or satellite programming services purchase a specific percentage of their prime time programming from independent producers. . . . Without such a rule, competition and diversity will become a fiction.”

“People will say there’s diversity simply by the sheer number of networks currently available, both broadcast and cable. But those channels are owned and controlled by a smaller and smaller number of companies.”

Fresh Air Interview, May 23, 2003:

“Well, the first thing, I think it’s potentially the most exciting time to be a young writer, young director, young actor in television, maybe even a young producer because there are so many outlets for – to try things where, you know, back in the day, there were three networks. And if you couldn’t get on one of those three networks, you were out of the game. Now there’s so many places to go and try things and, you know, cable and all the variations and all the kind of specific kind of channels that exist, so I think it’s a very exciting time.”

“The reality television thing I’m not so afraid of because . . . I think it’s going to burn itself out. . . . People who write dramas and comedies do something different and serve a different need than reality television shows. So I say, you know, bring it all on. We – you know, drama has survived the game shows and westerns and, you know, the rise of the comedy series after Bill Cosby, news magazines. There was a time when news magazine – you couldn’t get away from a news magazine. Now they’ve kind of petered out.”

The Commission should be wary of demands to create a guaranteed market for favored participants. As the Joint Commenters noted in *ex parte* comments filed on April 29, “[C]onsidering the significant expansion of media choices in the years since finsyn rules were interred, the current proposals to restrict programming production are patently absurd. They are based on a profound lack of historical perspective, failing even to address the Commission’s reasoning in its various decisions to eliminate the previous rules. Worse still, those who advocate adoption of specific quotas regulating prime time programming on the top-four television broadcast networks distort the evidence regarding the current state of the television marketplace and the amount of ‘independent’ versus ‘network’ production. In so doing, they

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also ignore that their demand for government intervention in network programming decisions cannot help but limit competition – a result obviously contrary to the best interests of consumers.”

The contradictory public positions taken by finsyn advocates only serve to underscore the wisdom of the Commission’s previous decisions to eliminate the finsyn rules.

Sincerely,

Robert Corn-Revere

cc: Chairman Michael K. Powell
Commissioner Kathleen Q. Abernathy
Commissioner Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Kenneth Ferree

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SHOW: Fresh Air

DATE: May 22, 2003

DAVID BIANCULLI, host:

I'm David Bianculli, in for Terry Gross.

For 20 years now, writer-producer Tom Fontana has made some of the best television series on television. He got his start on "St. Elsewhere" working under the late Bruce Paltrow. He worked with Barry Levinson on "Homicide: Life on the Street," then went from NBC to HBO to create "Oz," a series about life in prison that ended earlier this year. "Oz" was the first Fontana series to be released on DVD. Next week "Homicide," 10 years after its debut, also gets the home video treatment with a four-disc set from A&E Home Video covering the show's first two seasons.

"Homicide's" very talented cast includes Andre Braugher, Ned Beatty, Richard Belzer, Kyle Secor and Yaphet Kotto. They play Baltimore detectives whose successes and failures are written up in plain view on the precinct's big board--solved cases in black ink, unsolved cases in red. The unsolved cases for these persistent characters are hard to let go of, even very old cases. Here's Clark Johnson as Meldrick talking to his partner, Crosetti, played by Jon Polito. They're sitting in a hospital room killing time while waiting for a patient who's also a suspect to wake up.

(Soundbite of "Homicide: Life on the Street")

Mr. CLARK JOHNSON: (As Meldrick) You look pitiful, man. Are you all right?

Mr. JON POLITO (As Crosetti): I couldn't sleep last night. My mind was racing, all night long, even when I was sleeping, I was dreaming about it.

Mr. JOHNSON: (As Meldrick) What?

Mr. POLITO: (As Crosetti) There were two people in the box with Lincoln the

night he was shot. There was John Wilkes Booth and then there was a major, Major Henry Rathbone. Now how come we don't hear about this Henry Rathbone?

Mr. JOHNSON: (As Meldrick) So you think Major Henry Rathbone was the guy that capped Lincoln, huh?

Mr. POLITO: (As Crosetti) I don't know. It just doesn't hang together.

Mr. JOHNSON: (As Meldrick) Hey, man, Booth jumped down on the stage, broke his leg trying to get away. We're talk...

Mr. POLITO: (As Crosetti) Well, the president was shot. What the hell would you do?

Mr. JOHNSON: (As Meldrick) This is what kept you up all night?

Mr. POLITO: (As Crosetti) Who was the doctor who set John Wilkes Booth's leg? It was Dr. Samuel Mudd, OK? A hundred years later, who gets passed over for anchorman? Roger Mudd. It's his great great-grandson. What does that tell you about the power structure of this country?

Mr. JOHNSON: (As Meldrick) Excuse me. I didn't notice. Was Abraham Lincoln on the board this morning?

Mr. POLITO: (As Crosetti) No, 'Drick, all of our lives, since we're kids we're taught in the history book that John Wilkes Booth shot Lincoln. Now if that's not true, maybe nothing's true.

BIANCULLI: Tom Fontana, welcome to FRESH AIR.

Mr. TOM FONTANA: Thanks. Good to be back.

BIANCULLI: What's fun for you about "Homicide," in particular, in terms of the DVD. I know that even the packaging, you know, trumpets the fact that--'See them in the actual order in which the producers intended for the first time.'

Mr. FONTANA: Yes. Well, that...

BIANCULLI: Which has got to be a dig at NBC.

Mr. FONTANA: Yeah, I tell you. When I saw that, I loved that, because we were always, always fighting with NBC because we would--you know, we would plot these episodes very carefully, A leading to B, leading to C, leading to D, and they would see an episode and they'd go 'Oh, we're going to put this one in sweeps,' and you go 'Oh, well, if you put that one in sweeps'--I mean, the classic example is the death of Crosetti...

BIANCULLI: Crosetti.

Mr. FONTANA: ...because he had been dead two weeks before the episode where he died aired. So people were like 'What are they talking about? Crosetti's dead?' Like, 'Have I missed something?' It was just--it was incredibly frustrating for us. You know? And it's not like--what was great about "Homicide" was it wasn't like if they showed one over the other suddenly our numbers would spike. You know what I mean? The people were going to watch the show or the people were going to watch the show. It wasn't like suddenly they're going to go 'Ooh'--you know, some guy who would rather be watching "Nash Bridges" is not suddenly going to go 'Hey, whoa, I saw that one where the guy dies. We got to go and--we got to watch that show this week.' You know? So I never understood the network's penchant for flipping our episodes around.

BIANCULLI: Now...

Mr. FONTANA: And you'd think we would have learned over the course of the seasons to stop doing it the way we were doing it so we wouldn't get screwed, but we didn't.

BIANCULLI: I'd like to ask you some questions--after 20 years of doing television, after "St. Elsewhere," after "Oz," after "Homicide," what you've learned that you're passing on to younger writers, or what you think is just the state of television right now. I mean, what do you think of reality shows, what do you think of cable vs. network, that sort of stuff.

Mr. FONTANA: Well, the first thing, I think it's potentially the most exciting time to be a young writer, young director, young actor in television, maybe even a young producer because there are so many outlets for--to try things where, you know, back in the day, there were three networks. And if you couldn't get on one of those three networks, you were out of the game. Now there's so many places to go and try things and, you know, cable, and all the variations and all the kind of--specific kind of channels that exist, so I think it's a very exciting time.

The reality television thing I'm not so afraid of because--not because 'Oh, I think it's going to burn itself out,' I think it will, but because I keep coming down to the side that you don't cry at the end of a reality television show. You will cry at the end of an episode of "NYPD Blue." And so it's--we do something. People who write dramas and comedies do something different and serve a different need than reality television shows. So I say, you know, bring it all on. We--you know, drama has survived the game shows and westerns and, you know, the rise of the comedy series after Bill Cosby, news magazines. There was a time when news magazine--you couldn't get away from a news magazine. Now they've kind of petered out.

BIANCULLI: Not too long ago, yeah.

Mr. FONTANA: Yeah. So I'm a big believer in the survival of drama. I don't think we're going anywhere, and I think, you know, shows like "Boomtown," "Kingpin," you know, "The Wire," you know, all those shows that are--that came up last year, just another example of how strong the next generation of television writers are.

BIANCULLI: In the first batch of "Homicide" episodes, it led up to an episode that you wrote called "Three Men and Adena" which I still think is one of the best things I've ever seen on television.

Mr. FONTANA: Thank you.

BIANCULLI: And it is basically Kyle Secor and Andre Braugher and guest star Moses Gunn, who is the suspect in the murder of a young girl, in an interrogation room for an hour. And the rhythms of these actors is so amazing through this hour, and I'd like to play a piece of it. It comes out halfway through. They have to interrogate this guy and get a confession out of him within 12 hours or they have to cut him loose. And this is well into the night and it is a sequence in which they are just speeding up their pace of everything, trying to shake this guy.

(Soundbite of "Homicide: Life on the Street")

Mr. KYLE SECOR: You know what the polygraph test says? Hmm? You're lying. You're a liar. You even tried to hold your breath to cover up. You know what blew it off the charts? Hmm? Off the screen? Look here. Your heart. Your heart just blew those needles right off the screen, man. A man can get whiplash looking at your test. And this guy says it's the highest he's ever seen. And this guy is an expert.

Mr. ANDRE BRAUGHER: Your heart. Your heart of all things. That's perfect for you, Risley(ph). You see? Your heart. Because your heart doesn't want to lie.

Mr. MOSES GUNN: Let me see that.

Mr. SECOR: No, no, no, no. This is police property. This is evidence for your trial.

Mr. GUNN: I know enough about the law to know that you can't use that in court.

Mr. SECOR: Listen to Mr. Legal Beagle here. He knows all about the law.

Mr. BRAUGHER: Is that because you watch the court channel?

Mr. GUNN: I didn't lie.

Mr. BRAUGHER: No? Then how come you failed the test?

Mr. GUNN: I don't know.

Mr. BRAUGHER: I don't know. That's your answer for everything.

Mr. SECOR: Well, it's not going to work now.

Mr. BRAUGHER: If you weren't lying, why'd you fail your test?

Mr. GUNN: Because I was nervous.

Mr. BRAUGHER: Why were you nervous?

Mr. GUNN: I feel guilty.

Mr. BRAUGHER: You feel guilty 'cause you did it.

Mr. GUNN: No. Because you made me feel guilty.

Mr. BRAUGHER: No, you failed this test because you are guilty.

Mr. GUNN: If I was guilty and knew it, then why would I take the test?

Mr. BRAUGHER: You tell us.

Mr. SECOR: No, I know why. I'll tell you why.

Mr. BRAUGHER: Because you know we got you. You know it's over, Risley.

Mr. SECOR: You're going to jail.

Mr. BRAUGHER: You're going to do time.

Mr. SECOR: That's right.

Mr. BRAUGHER: Damn, look at his eyes.

Mr. GUNN: What's wrong with my eyes?

Mr. SECOR: Tears coming out of your eyes.

Mr. GUNN: Ain't no tears coming from my eyes.

Mr. BRAUGHER: His eyes are brimming with tears.

Mr. SECOR: Ready to burst.

Mr. BRAUGHER: It's going to get a lot worse.

Mr. SECOR: A lot worse.

Mr. BRAUGHER: It never gets any better.

Mr. SECOR: Probably go back to drinking.

Mr. BRAUGHER: Back to being a drunk.

Mr. GUNN: No, I ain't never going to do that.

Mr. BRAUGHER: And you'll wind up killing yourself.

Mr. SECOR: If you're lucky.

Mr. GUNN: I didn't kill her.

Mr. BRAUGHER: Why you putting your head down?

Mr. GUNN: 'Cause I'm tired of saying it.

Mr. BRAUGHER: You're tired of saying it 'cause it's not true.

Mr. SECOR: Be a man for once. Own up to it.

Mr. BRAUGHER: I would.

Mr. SECOR: I would.

Mr. BRAUGHER: Anybody else would, too.

Mr. SECOR: Be a man for once.

Mr. BRAUGHER: Why don't you want to tell me, Risley?

Mr. SECOR: Huh?

Mr. BRAUGHER: Why don't you want to tell me?

Mr. SECOR: Huh?

Mr. BRAUGHER: Why?

Mr. SECOR: Why?

Mr. BRAUGHER: Why? All right, don't say it. Don't say it, Risley.

Mr. SECOR: All right.

BIANCULLI: All right, that was a scene from "Three Men and Adena" from "Homicide" with Kyle Secor, Andre Braugher and Moses Gunn.

How much of that was on set with the actors and the director, and how much of that was on the page in terms of the speed?

Mr. FONTANA: Well, from a dialogue point of view, everything was in the script. From a rhythm point of view, that was something that was developed by the actors and the director, Martin Campbell, in a very, very, very short amount of rehearsal time, though the thing you have to remember is, is that I only had the courage to write that episode based on the fact that I had seen what these two guys could do, the two actors could do, in the pilot episode, in the very first episode. So it wasn't like--because I'm a kind of writer that once I get an actor's voice in my head, it's much easier to write for them.

And I have to say, you know, Martin Campbell, when he was directing it, he spent about three days before we started shooting that episode in the box living in that room and looking at it from every single angle. And what he did as a director, which is extraordinary, is after a certain sequence of like, let's say, five or 10 pages, he never shot from that angle again. So the entire hour keeps changing the point of view of the camera, so that you never get tired of being in that room. So it was really a--I mean, that episode, you know, obviously I'm very proud of because the people who worked on it really gave it everything they had and were incredibly inventive with something that could have been a pretty dull hour of television if they hadn't cared so much.

BIANCULLI: Tom Fontana, creator of "Oz" and writer/producer of "St. Elsewhere" and "Homicide: Life on the Street." The first two seasons of "Homicide" will be released next week on DVD. Back in a moment. This is FRESH AIR.

(Soundbite of music)

BIANCULLI: I'm talking to Tom Fontana about the release of "Homicide: Life on the Street" and other things that he's done on DVD.

I don't know if you've thought this far ahead with DVD problems, but what

happens when you get to a "Homicide" season where a story began on "Homicide" and ended on "Law & Order"?

Mr. FONTANA: Well, actually, it went the opposite way. The crossover shows that we did all started on Wednesdays and ended on Fridays because I kept saying to Dick, 'Well, I need the big number. You already get the big number, so you have to give me the concluding episode.' But having said that, what we did very carefully was to make--he made his episode self-contained, and we made our episode self-contained, so that you could enjoy our episode if you didn't see the "Law & Order" and vice versa. So I don't think anybody seeing those episodes on DVD are going to suddenly go, 'What was that about?' because we really laid down the information for the audience.

BIANCULLI: You know, I must say those crossovers always struck me as so strange. They were entertaining, but it's like Dick Wolf's whole idea with "Law & Order" is, 'You don't want to know these guys outside of work.' And on "Homicide," it's like, 'You don't even really want to know the work.'

Mr. FONTANA: That's all they...

BIANCULLI: 'That's all you want to know, is the guys outside.'

Mr. FONTANA: That's right, that's right. That's true.

BIANCULLI: So how...

Mr. FONTANA: No, it's funny. Jerry Orbach, God love Jerry, he comes to Baltimore when we had that scene in the first crossover where he and Belzer are talking in the bar, and they're talking about how Belzer realizes that Orbach's character has slept with his ex-wife. And the scene, when the director called, 'Cut,' Orbach comes over and he goes, 'Wow! I actually had sex. My character had sex.' He was like, 'You know, the most exciting thing I get to say on "Law & Order" is, "What color was the car, ma'am?"' You know, he said, 'Now I'm actually talking about my sex life.' And we had him playing pool, which, of course, knowing Jerry a long time, I knew he was a brilliant pool player, so that we didn't even have to do the fake, you know, 'OK, now let's cut away to the cue...'

BIANCULLI: Right.

Mr. FONTANA: '...and, you know, get the expert in to make the actual shot.' Jerry knows all that stuff. He's a fabulous pool player. And it was so much fun having them come down, Ben Bratt and all of them. And, oh, I don't know if you know this story, but Jill Hennessy--it was worse for the "Law & Order" people than it was for us because we had so many characters. We could write somebody low in an episode and send them up to New York to be on "Law & Order."

With them, because they basically have, you know, three people in one section, three people in the other section, it was harder for them to send them down to Baltimore for us.

And Jill Hennessy was needed--we needed her down in Baltimore to shoot a substantial scene. They needed her in New York to sit in the courtroom while Sam Waterston made one of his summations. So we were all like, 'Well, what are we going to do?' And, you know, they really needed her there because the character had been involved in the story, and it would have seemed weird if she suddenly wasn't there. And it turns out Jill has a twin. So...

BIANCULLI: Oh, no kidding.

Mr. FONTANA: I swear to God. So the only time in the history of "Law & Order," Jill Hennessy's sister played her character. She had no dialogue. She just sat in the chair. And, meantime, Jill was down in Baltimore working with us. So...

BIANCULLI: OK. I have to admit, I still think about some of your characters, and I always wanted Bayliss from "Homicide" to be, like, thrown into prison in "Oz" just to keep that going, even though I know it couldn't work. Do you ever not let go of your characters or think about them from time to time and think about where you might have taken them next or where they might be?

Mr. FONTANA: Well, I will say this, that I think about them for many, many years after I stop writing the show. But then it becomes almost like a death in the sense of that you then put that character in a place where you think of it fondly, but it's not haunting you the way it once did. But to this day, I'll be, you know, reading the paper, and I'll see something about medicine and I'll go, 'Wow, this'll make a great episode of "St. Elsewhere."' And then I have to go, 'Oh, no, wait. We don't do that anymore,' you know. And being somebody who doesn't want to repeat myself and doesn't want to do, you know, "Homicide: The Next Generation" or "Son of Oz" or any of that stuff, it's harder because those muscles get so primed, and then I'm consciously letting those muscles get soft to try to build up other writing muscles. So it's a little bit frustrating. But, you know, when a great actor really fills a character out, they don't go away that easy.

BIANCULLI: When you got pulled into television, you were writing for the stage. And at that time, I presume that you wanted to have a career as a playwright.

Mr. FONTANA: Yes.

BIANCULLI: Do you still? Do you think about going back and writing something for the stage now?

Mr. FONTANA: Well, it seems that over the course of time--first of all, I was not a very good playwright, and I was not a very successfully produced playwright. But over the course of time, the theater has discovered that I write something much better than a play, and that's a check. So the theater seems to be very happy that I'm not writing plays and that I am writing checks. Having said that, you know, what's interesting, too, for me about where my head has gone as a writer is I thought of myself as a playwright, and over the last 20 years I've started to think of myself as just a writer and--not just as a writer. But you know what I mean? As a writer in the broader sense of the term.

I would like to write another play. I don't know. I don't want to clutter the theater up with another bad play. So unless I come up with a really good and compelling play to write, I don't think I will. But if I could, I'd like to write a book, I'd like to write an epic poem. You know, I would like to keep challenging myself as a writer, not just in the television stuff that I do but in all the writing that I do.

BIANCULLI: I have a couple questions about your method of writing. I know that you write in the morning just about every morning. Do you play music when you write?

Mr. FONTANA: No. No. Actually, I get up at 5:30 every single morning, and it's usually dark. And I like to say that that's when New York takes its little breath, when one of the few times that New York takes a breath, at 5:30 in the morning. And in that breath is when I try to really kind of focus in on the work. So it's very solitary; there's no distractions. I go from my bed to my desk, and I start writing. I have very little ritual connected to it, other than the stumbling in the dark to try to find the light. There's not much--because I think the more awake you are at the beginning, the harder it is to start. To me, it has to be seamless coming out of sleep and going right into the unconsciousness of writing.

BIANCULLI: Do you dream about what you're going to be writing the next day or plan to write the next day?

Mr. FONTANA: I do. I'll give you the short version of my, quote, unquote, "process," which is that before I go to bed, I review the first thing I'm going to write in the morning, the first scene and what the point is and what the purpose of and who the characters are. And I don't do a lot of time; I just think about it for a little bit. And then I go to sleep, and as I'm coming out of sleep, I am--actually, the last dream I have in the morning is that first scene that I'm going to be writing. Now it doesn't happen a hundred percent of the time, but it happens the majority of the time. And what it is does is it just makes going from sleep to writing almost seamless, if you will, because my mind is already--there are times when I literally sit up in bed because I have

to get out of bed to write because of what I've just had in my head in the dream.

BIANCULLI: Did you ever have a dream and you woke up and you thought, 'This is going to be the best hour of television ever?' And by the time you wake up or have a cup of coffee and start actually putting it down, you realize it's like one of those awful, dumb dreams that don't make any sense at all?

Mr. FONTANA: Well, yeah. I mean, I used to keep a pad by my bed thinking that, 'Oh, this'll be great. I'll write it down if, in the middle of the night, I get an idea.' And one night I woke up, and I had this dream where I had everything worked out, and it was amazing. And I wrote down, scribbled down, scribbled down, went back to sleep, got up the next morning excited, and all it said was, 'Boy meets girl.'

(Soundbite of laughter)

Mr. FONTANA: So I thought I had gotten every nuance, every scene down. I mean, I thought I'd been writing for like an hour. I wrote three words.

BIANCULLI: Well, I wouldn't throw away our dream because in those three big series of yours, I don't think you've done 'boy meets girl' yet.

(Soundbite of laughter)

BIANCULLI: Thanks a lot, Tom.

Mr. FONTANA: Oh, thank you.

BIANCULLI: Tom Fontana, whose "Homicide: Life on the Street" is about to be released on DVD. Fontana is also creator of "Oz" and a writer-producer on "St. Elsewhere."

I'm David Bianculli, and this is FRESH AIR.

(Soundbite of "Homicide: Life on the Street")

Unidentified Man #1: It's really getting to me. I wake up in the morning, I'm lying in bed, and I'm checking on my own body to see if there's a chalk outline.

Unidentified Man #2: Hey, you should see what we went through at the cemetery today.

Unidentified Man #1: You know, I could retire with half pension and go into the drywall business with my brother.

Unidentified Man #2: Ah, come on. You retire? That's like saying you're going to be a ballerina. It ain't possible.

Unidentified Man #1: Last year we had 325 cases, and we solved three-quarters. This year we'll have 350, solve another three-quarters. It's like mowing the lawn; you mow the lawn, the next week you gotta mow it again.

Unidentified Man #2: It's homicide, the one thing this country's still good at.

(Announcements)

BIANCULLI: Coming up, when you're smiling, are you faking it or did you really think your boss' joke was funny? Paul Ekman has spent his life studying facial expressions. He'll tell us what our faces reveal and how to read people when they're not telling the truth.

(Soundbite of music)

DAVID BIANCULLI, host:

This is FRESH AIR. I'm David Bianculli, in for Terry Gross.

Paul Ekman is a psychologist who specializes in reading, but not in reading books or journals or case studies. He reads people's faces and has devoted his life to understanding and analyzing why people react in certain ways when they're not telling the truth. Oliver Sacks calls Ekman 'the most astute analyst of emotion since Darwin.' And in these days of high-security checkpoints and concerns about terrorism, Ekman's theories and observations are in strong demand. He's worked as consultant on emotional expression for the FBI and the CIA, and for Pixar and Industrial Light & Magic, where he's advised animators on how to create more lifelike expressions for their characters. Ekman is author of an earlier book, "Telling Lies." His new book is called "Emotions Revealed: Recognizing Faces and Feelings to Improve Communication and Emotional Life." Terry spoke with Ekman earlier this week.

TERRY GROSS, host:

What types of facial expressions do you think are shared among all humans, we're all wired to use this facial expression to express certain emotions?

Professor PAUL EKMAN (Author; University of California Medical School): There are seven that there are really very good evidence for: fear, anger, sadness and anguish, which is sort of the other side of sadness, disgust, contempt,

which is a word that we have a hard time hearing in English because it sounds like 'content,' but I mean the feeling of being morally superior to another person, surprise and then there is a particular signal for enjoyment, for actual real enjoyment rather than the social smiles and all of that. So I think I've given you seven. And they appear to be the same, no matter what your age, culture, race or sex is anywhere in the world.

GROSS: Why do you care if facial expressions are universal or if they're unique to cultures?

Prof. EKMAN: Well, there are practical and theoretical reasons. A practical reason is you would need to know whether you need a Berlitz book when you go traveling abroad to read the expressions of other people. I mean, it was Charles Darwin who really made this discovery. I just got some of the more solid evidence for it. But when Darwin went on his voyage of the Beagle, and he traveled for five years all over the world to really obscure places, he couldn't understand the languages of the people, but he could understand their emotions, and so the lightbulb clicked. That's where it fit with his developing theory of evolution and the continuity of the species. So if they're universal, practically that means this is something that we can understand in other people without needing a translation.

Theoretically, it means that this must be the product of our evolution, and there must be a strong biological component through the phenomena of emotion. It also means that there may well be a link to other animals, as Darwin claimed, and we might even want to entertain the notion that other animals have emotions, not just humans, and maybe that would have an impact on how we treat other animals. So there's lots of different reasons.

GROSS: In order to confirm that facial expressions were universal and not just inherent to specific cultures, you had to go to isolated cultures, cultures that hadn't been exposed to mass media, cultures in which there weren't tourists coming in from other countries, just to see what are the facial expressions of these isolated people. So what cultures did you choose to study that?

Prof. EKMAN: I found a culture in the New Guinea Highlands called the South Fore, and it was being studied by a pediatric neurologist named Carlton Gajdusek, and he was there because 50 percent of these people were dying of an unknown disease, and he was trying to track it. And fortunately enough, Gajdusek had taken movie film, over a hundred thousand feet of film, of these people who had never seen an outsider, and he was willing to lend it to me before I went. And when I watched these films--and it took almost a year to watch them--I was then convinced--up until then, I was not certain whether Darwin was right or Margaret Mead was right, really, the two opposing positions about facial expressions. But if Mead was right, then I should have seen

expressions I had never seen before, which was not the case, or they should have occurred in very different social contexts, which was not the case.

So then I set out to go there and do experiments in this Stone Age culture that could actually document the fact that these were universal to our species, and I knew there wasn't much time left. And in point of fact, within two years, Western culture had invaded these isolated villages that I worked in.

GROSS: Give us an example of one of the experiments that you came up with.

Prof. EKMAN: Well, one of the virtues, these people, of course, didn't know what a camera was. They had never seen a photograph. They'd never seen their own face. They'd never seen a mirror. There was no still water that they could look at themselves. So I would set up my camera, and I would go from English to pidgin, and I'd say, 'Tell me what your face would look like if you learned that your child had died.' Another one, 'Friends have come up that you like and you haven't seen for a while,' or 'You're angry, about to fight.' And each time, I mean, if I showed you these pictures--they're in my book--if you saw them, you'd have no problem understanding them. If you heard their language, you wouldn't know what in the world--or if you saw their gestures, you wouldn't know what they were talking about. But the facial expressions of emotion are universal.

GROSS: Now we can all recognize what anger looks like, but you've actually mapped out the muscles of the face that are used when somebody is displaying anger on their face. What does anger look like from your point of view, having actually codified it?

Prof. EKMAN: Well, you know, I developed something that's sort of the equivalent of musical notation for the face, and so it allows us to describe in quantitative terms--because I don't want to use the Latin names, they're too cumbersome--so the prototypic anger expression involves the lowering of the eyebrows and pulling them together, and that's action unit four. The raising of the upper eyelid, that's action unit five. The tightening of the lower eyelid, that's action unit seven. So we now have a four, five, seven. That's quite sufficient for a very loud anger signal. But you can add to it the narrowing of the red margins of the lip. That's number 23. And then you can either--if you're speaking, your lips will become square, and that's number 22. Or if you're trying to control yourself from speaking or if you're about to hit somebody, you'll do the same thing. You'll press your lips together firmly, and that's number 24. So in my terminology, it's a four, five, seven, 23, I'd say 24.

GROSS: Now you said it's the lowering of the lower lids and the raising of the upper brows or something?

Prof. EKMAN: I went too fast. In terms of the eyes...

GROSS: Yeah.

Prof. EKMAN: ...the upper eyelid is raised, and the lower eyelid is tense simultaneously. That causes the eyes to glare. And if you pull down the brow at the same time, Terry, then you have a very strong...

GROSS: I'm telling you I can't do it. It's too hard.

Prof. EKMAN: Well, not everybody can do it voluntarily. If you were able to do it and if I coached you and could show it to you--actually, this is when I'm quite confident, that with two minutes of coaching--because I've done research this way--you'd be able to do this one, and when you did, your heart rate would start to increase, your blood would go to your hands. Your hands would get hot. You'd be prepared to hit somebody. Your blood pressure would increase. You would begin to sweat slightly; all the physiological changes that have been adaptive in our ancestral past when we're angry. That doesn't mean that you have to hit anybody. You might make a joke, depends on what you've learned about how to deal with anger. But evolution's preparing you for what's been most useful in the history of our species.

GROSS: The other thing is that you're suggesting if you make a certain expression that signifies an emotion, you will respond as if you were having that emotion...

Prof. EKMAN: Right.

GROSS: ...even though you're just faking the expression.

Prof. EKMAN: That's right. Stanislavski said, 'Make the movement and the feeling will follow.' And there are many different ways to access an emotion or trigger an emotion. This is one of the most unexpected ones. That by simply making the muscular movements of one of the universal expressions, if you're able to do all of the movements that are required, then without choice, many of the physiological changes in your brain and in your body that are unique to that emotion will begin to occur.

BIANCULLI: Paul Ekman talking with Terry Gross. His book is called "Emotions Revealed." We'll hear more of their conversation in a moment. This is FRESH AIR

(Soundbite of music)

BIANCULLI: Let's get back to our interview with Paul Ekman, author of "Emotions Revealed."

GROSS: Let's look at the smile. You've learned to distinguish between the faked or half-hearted smile and the real smile, and it's not based on how far your lips are spread. It's based on the eyes. What have you noticed?

Prof. EKMAN: Well, actually, it is not my discovery. I'm just the one who did the research to show that it's correct. I extended it a bit. And so I call the true smile of enjoyment the Duchenne smile in honor of Duchenne, Dr. Duchenne, a neurologist who published in 1862, and although Darwin paid attention to him, almost every scientist up until me ignored it, as if the work was never done. And what Duchenne said that it is the muscle that orbits the eye that does not obey the will and its absence--I'm giving you the English translation--unmasks the false friend. And he was able to show that by photographing the same person when he told them a joke and when he just simply stimulated the muscle that pulls the lip corners, and it's only in the joke that you--if you like the joke--that you get the muscle that orbits the eyes.

But it's a very subtle sign. It's not easy to spot. And where you have to look is in what's technically called the eye cover fold, the skin in between the eyebrows and the upper eyelid and the inner parts of the eyebrow. And in true enjoyment, they'll move down very slightly.

GROSS: Now we all know that, to some extent, we could read people from the expression in their eyes, but you've codified that, too.

Prof. EKMAN: This is a very subtle sign, which means it hasn't evolved to the point of being easy to recognize. You need to be taught it and then you have to work hard to see it, which means that probably for most of the time human beings have been on this planet, it was enough to just know that enjoyment was being shown, and there was no particular advantage to know whether it was true enjoyment or not.

GROSS: Do you think that lying registers on somebody's face?

Prof. EKMAN: Well, I define lies in a way that not everyone does. I think a lie is a deliberate attempt to mislead another person without any notification. So you can deceive people in poker, but you can't really lie, because everybody knows when you play poker, you're going to bluff. Now the only lies that you can really read from the face itself--I mean, in my work on deception, we deal with the body and the voice, the speech as well, but the face will tell us about concealed emotions. So if I said to you, 'Terry, I'm just having a great time talking to you,' but actually, I'm really quite worried about how I'm getting across, but I don't want you to see that fear, there might be a micro-expression of fear, and that's a concealed emotion. If you like, I am lying about how I feel.

When Marcia Clark, the prosecutor in the O.J. Simpson case was badgering Kato Kaelin about whether he had a book contract, which he did but he was denying, he was lying, there's a beautiful micro-expression, just two video fields, a fifteenth of a second, of an enormous snarl that when you show that videotape to people who haven't been trained to spot these, they think he's just feeling fine. They don't see it. But we have the apparatus to be able to see these micro-expressions. So it's only concealment of emotion that the face can tell us about, not concealment of plans, values, thoughts, opinions.

GROSS: You have consulted to the CIA and to the FBI. You've done some work on terrorism. We're in a situation now as a country where we're trying to find terrorists before they can make their next action. What kind of suggestions have you made about how terrorists can be spotted?

Prof. EKMAN: Well, this is a hard topic to talk about, for a couple of reasons. First, most of the teaching I've done up until 9/11 has been to law enforcement, which is a much easier situation, and most of what I teach law enforcement is how to spot the signs when you're not getting a full account and, in particular, how to identify the truthful person who's under suspicion. Because spotting in a law enforcement situation, spotting the liar is not very hard. The problem is that there are truthful people who, because they're under suspicion, look like they're lying and can get misjudged and can end up in prison because of that misjudgment, not just by the police but then by the jury.

GROSS: What are some of the things that you can look for there?

Prof. EKMAN: Well, let me give you a very concrete example. Your spouse has been murdered. You're going to be the first person interrogated, unless you're out of the country, because just on actuarial basis, most--unfortunately, a high percentage of murders are committed by the spouse. But let's suppose you're truly innocent, you didn't do it. Now, my God, you're in a state of mourning and you want your spouse's murderer to be found, and here they are, wasting their time and casting aspersions on you, interrogating you, so you're getting very angry. You're also getting a bit afraid, 'God, are they going to misjudge me?'

Now it's likely--at least there are many cases where you're going to conceal those emotions, because you think if you just start attacking these guys, you're going to make things even worse. Now the untrained law enforcement person would see--you would get some kind of intuitive hunch something's wrong. He wouldn't know what's being concealed is anger or fear, because he hasn't been trained to be able to spot that specifically or to be alerted to the fact that innocent people often are angry and afraid about being interrogated. So the untrained policeman might mistakenly think, 'Aha, this guy isn't giving me the truth about the crime.' It's not about the crime he isn't giving you the

truth. He's not giving you the truth about how you feel.

If they went through the training specifically on facial expression, they'd be able to see this person's angry and afraid, and they might well then say, 'Listen, am I getting under your skin? Are you getting really angry that I'm asking you these questions?' They'd be able to clear this up.

GROSS: If you're just joining us, my guest is Paul Ekman. He's a professor of psychology at the University of California Medical School in San Francisco, and he's the author of the new book "Emotions Revealed," which is based on his extensive research into facial expressions.

Do you see something in your face when you look in the mirror that you never saw until you started this research?

Prof. EKMAN: No. I don't see anything new in my fa--I mean, of course, what I see that's new in my face are wrinkles as I get older, but I don't really see more than I ever saw before. And, of course, I don't get to see my face when it's lively. Other people see it. We don't know what's on our face. The feedback for touch or pain or heat is exquisite on our face, but the feedback is to be aware of what expression's beginning to emerge or is actually on your face, it's very badly represented in conscious awareness. That's why people often say to you, 'What's upsetting you? Why are you looking so downcast?' and that's the first time you realized you were downcast. You sure didn't know it was on your face. Others see us. We don't see ourselves.

GROSS: Do you ever get accused of invading people's privacy because you can, or at least they're afraid that you can know what they're really thinking by reading these micro-expressions?

Prof. EKMAN: Well, it certainly is a danger that I'm very aware of, and I've written very explicitly about once you are able to get information that people aren't really wanting to give to you, they're not volunteering it, you're picking up these very subtle or very brief expressions, in a sense, you're stealing information. Now what you do with that to be constructive rather than destructive? And I've discussed that in how you use that in a business setting, how you use that in a family life and how you use that with friendship, and my main point is you have to really consider what am I entitled to? If I say to my daughter, 'How was your day today?' and I see a look of sadness on her face, that's very different from--so what I'm going to do, given my relationship with my daughter, which is a very frank one, than from what I would do if I saw that same expression on someone who was just an acquaintance or who was an employee.

So I think we need to be very judicious, once we learn how to do this, as to how we use it in a constructive--I think it can be used in a destructive

fashion. It's a two-edged sword. By and large, though, my working assumption, which might be wrong, is that we and the world are better off if we understand the emotions we're each feeling at the moment we're feeling them.

BIANCULLI: Paul Ekman talking with Terry Gross. His book is called "Emotions Revealed." We'll hear more of their conversation in a moment. This is FRESH AIR.

(Soundbite of music)

BIANCULLI: Let's get back to our interview with Paul Ekman, author of "Emotions Revealed."

GROSS: Do you think that good politicians, press spokespeople, news anchors, people who are in public positions delivering information--do you think that some of them are particularly kind of gifted at knowing how to use facial expressions or intuitively using them?

Prof. EKMAN: Yes. I used to call them natural liars, but I changed it because I was too pejorative and I call them natural performers, and most of them are people who can become the role they're playing as they play it. And if you believe what you're saying, then, of course, you're not lying, and you can be very effective, and, I mean, any actor does that, but any good public performer has to be able to do that. So these days, I mean, when--I don't think was, of course, so a hundred years ago, but these days, you're not going to get into any of the positions that you mentioned unless you are such a performer.

GROSS: Well, while we're on the subject of politicians, you have as one of your illustrations in your book, you have a photograph of President Reagan embracing one of the leaders of the NAACP, and this is a woman who had just given a speech very critical of President Reagan, and he's smiling and embracing her, and you say about the smile that it's a real grin and bear it kind of smile. What are you seeing on Reagan's face that led you to that conclusion?

Prof. EKMAN: Yes. It's one of my favorite smiles. It's the smile that any of us give to the dentist when he says that you have to have a root canal and it's going to cost a lot of money, and it's going to hurt, and you give them this grin and bear it or miserable smile. And nobody thinks that you're enjoying it, but it's saying, 'I'm going to go along with this.' And this in this situation, it's a good sport smile, so he's got a very broad smile, but the crucial thing is that he's pressing his lips together tightly and pushing up his lower lips. This is a smile that former President Clinton used again and again. It almost was a mannerism for President Clinton. He would add one more thing. He would pull his lip corners down.

So that when President Clinton first appeared in the primaries--I guess that

was '92--with all the other candidates, I was watching keenly, and he was giving a variation on this that I thought was the expression of 'I've got my hand in the cookie jar and you've caught me.' And I said to my wife, 'This is text bad boy, this is a guy who wants to get caught and have us love him as a rascal.' And she said, 'Come on,' she said. 'You don't know what you're talking about.' And, of course, it did turn out that I was right. That was his Achilles' heel.

GROSS: Do you ever play poker?

Prof. EKMAN: I'm not a poker player. The new book about poker I read a review of made me think, 'Well, do I want to read that? No, if I read that, I might think about playing poker.' I did study two of the winners of the International Poker Tournament in Las Vegas. They sought me out because they were hoping I could teach them new tricks. And what they both independently said to me was the reason why they win at poker is because they can spot bluffs better than other people can. But in poker, the repertoire is very limited. There's no words spoken, and it's just moving chips and picking up cards. And they've developed extraordinary knowledge about what you can read from people and how that's done. But in terms of looking at general aspects of demeanor that I look at during conversation, they were no better than anyone else, but that's not what they're specialized in.

GROSS: Would you consider it unethical to help poker players read other people's faces so that they could win?

Prof. EKMAN: I never thought about that. I don't know whether that's unethical or not. I would imagine. But, you know, here's another thing I found out. These guys are so low output, they don't make facial expressions. You know, people who are professional poker players are totally unexpressives. So there wasn't anything I could teach them that would be of help them because of the people they play with and because of the kinds of clues that they're looking for, which is not things that anyone else ordinarily ever does.

GROSS: Well, I want to thank you so much for talking with us.

Prof. EKMAN: It's been a lot of fun.

BIANCULLI: Paul Ekman talking with Terry Gross. His new book is called "Emotions Revealed: Recognizing Faces and Feelings to Improve Communication and Emotional Life." It's published by Times Books.

(Soundbite of music)

Unidentified Woman: (Singing) I've grown accustomed to his face.

Unidentified Man: (Singing) She almost makes the day begin.

Unidentified Woman: (Singing) I've grown accustomed to the tune.

Unidentified Man: (Singing) Oh, she whistles night and noon.

Unidentified Woman: (Singing) His smiles, his frowns.

Unidentified Man: (Singing) Her ups, her downs are second nature to me now.

Unidentified Woman: (Singing) Like breathing out and breathing in. I was serenely independent and content before we met.

Unidentified Man: (Singing) Surely, I could always be that way again, and yet...

Unidentified Woman: (Singing) I've grown accustomed to his looks.

Unidentified Man: (Singing) I've grown accustomed to her voice.

Unidentified Woman: (Singing) Ooh, accustomed to his face.

(Credits)

BIANCULLI: For Terry Gross, I'm David Bianculli.

Unidentified Woman: (Singing) I've grown accustomed to his face. It almost makes the day begin. His joys, his woes, his highs, his lows are second nature to me now like breathing out and breathing in.