

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of:  
  
Broadcast Localism

MB Docket No. 04-233

**COMMENTS OF BELO CORP.**

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## SUMMARY

Belo Corp. (“Belo”), owner and operator of nineteen television stations in fifteen markets reaching nearly 14% of U.S. television households, submits these comments in response to the *Broadcast Localism Notice of Inquiry*. Belo stations have always served their local audiences through a commitment to high-quality local news, a variety of public interest programming, and a tradition of community service. Belo believes that market forces, journalistic principles, and existing regulations provide more than ample motivation for broadcasters to continue to advance the Commission’s localism objectives. Additional regulation, such as quantitative content requirements, formal ascertainment procedures, or standardized reporting and recordkeeping directives, would be counterproductive and unnecessary. Such regulations would serve only to stifle broadcasters’ creativity and flexibility in responding to the needs of their communities.

In an increasingly competitive media marketplace, local news remains the hallmark of television broadcasting. Local news provides broadcasters with a distinctive brand, a way to distinguish themselves from national networks and cable and satellite providers. Further, the marketplace provides strong incentives for broadcasters to air local newscasts, which represent premium programming for local stations because of their revenue potential and relative immunity to “time-shifting.” At the same time, local news fosters direct and continuing interaction between broadcasters and their communities. As a result, television broadcasters emphasize local news now more than ever before, airing twice as much local news per channel per day as they did twenty years ago. According to an internal study, Belo stations affiliated with major networks air, on average, over sixty-five hours per week of non-entertainment programming. News and news-related material alone constitute over one-third of the total programming at these stations, and much of that programming is local. The core answer, then, to

the Commission's primary question in the *Notice of Inquiry*—how broadcasters serve their communities—is through their commitment to high-quality local news.

To leave the answer at that, though, would ignore the depth and variety of local programming and other activities that broadcasters like Belo offer their communities. In addition to local news, Belo stations air extensive locally produced and locally oriented political programming, including an innovative series offering free airtime for local candidates as well as debates between candidates for local and regional offices. Furthermore, documentaries and specials on family- and health-related issues, such as childhood obesity, addiction, and drunk driving are recurring programs on Belo stations. These stations also reach out to their communities through public service announcements and projects such as WFAA-TV's "Family First," a combination of news, documentaries, specials, and community expos that help families grow stronger. Belo stations also provide round-the-clock coverage of severe storms and other emergency situations and operate websites full of local content. In addition, Belo stations are deeply involved in a wide range of fundraising and other community service activities to benefit local charities, schools, and other non-profit institutions. Through all these initiatives, plus their longstanding emphasis on local news, broadcasters like Belo identify and respond to the needs and interests of their local audiences.

Belo's experience, and the lasting tradition of local service by broadcasters, confirm that market forces, and not government micromanagement, function best to ensure that the needs of local audiences are met. When the Commission significantly deregulated television twenty years ago—eliminating formal ascertainment procedures and quantitative content requirements and reducing standardized reporting—it gave broadcasters some of the flexibility necessary to engage their audiences more effectively and compete with an ever-increasing array of new

content providers in the information marketplace. Returning to the burdensome regulatory scheme of past decades would not advance the goals of localism. Rather, it would saddle broadcasters with additional compliance costs and divert resources away from community-responsive programming and other public service activities.

Broadcasters already are expected to carry significant public interest responsibilities not shared by their principal competitors in the rapidly evolving multichannel digital universe. In this new environment, however, television stations will be increasingly dependent on those competitors—cable systems, DBS operators, and soon telephone and Internet service providers—for access to the homes of viewers even in the stations' local markets. In these circumstances, it will be extremely difficult for over-the-air broadcasters to develop business plans or devote the necessary resources to provide additional locally-oriented programming services until their cable and DBS carriage rights are established. Conversely, the imposition of additional programming-related requirements now would only hinder broadcasters in their role as the primary source of local programming, frustrating—not furthering—localism, and handicapping broadcasters as they continue the digital transition process.

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**COMMENTS OF BELO CORP.**

Belo Corp. (“Belo”) hereby submits its comments in response to the Commission’s Notice of Inquiry in the matter of *Broadcast Localism* (the “*Localism NOI*” or “*Localism Notice*”).<sup>1</sup> In the *Localism NOI*, the Commission sought comments on “how broadcasters are serving the interests and needs of their communities” and “whether market forces will provide enough incentive for a broadcast station to satisfy a particular policy goal, or whether regulation is needed.”<sup>2</sup> Belo submits that the great majority of television broadcasters are serving their communities well, through a wide variety of programming and other initiatives, and that government micromanagement is not needed to further the Commission’s localism goals.

Belo, like most broadcasters, has long been dedicated to serving the needs and interests of the communities in which its television stations are licensed and has every incentive to continue to do so. Powerful market forces, longstanding journalistic principles, and existing regulations are more than adequate to ensure that Belo and other broadcasters respond to their communities’ concerns and provide extensive, high-quality local news, informational, and other programming to meet local needs and interests. Belo’s experience, which is consistent with the FCC’s

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<sup>1</sup> *In the Matter of Broadcast Localism*, Notice of Inquiry, 19 FCC Rcd 12425 (2004) (“*Localism NOI*”).

<sup>2</sup> *Localism NOI*, at 12427-28.

conclusions in numerous prior proceedings, demonstrates that additional regulation is unnecessary to motivate broadcasters to achieve the objectives of localism and may in fact be counterproductive, stifling broadcaster creativity and flexibility.

Belo has been in the media business for 162 years. The Company began publishing its first newspaper in 1842, entered the radio business in 1922, and received its first television license in 1950 to operate WFAA-TV in Dallas-Fort Worth. Today, Belo owns and operates a diversified group of television broadcasting, newspaper publishing, cable news, and interactive media assets in seventeen markets throughout the nation. In addition to WFAA-TV, Belo owns eighteen other television stations across the country,<sup>3</sup> reaching nearly 14% of U.S. television households. Belo also publishes respected daily newspapers in three major markets, including *The Dallas Morning News*, *The Providence Journal*, and the Riverside (CA) *The Press-Enterprise*.

Belo has regularly participated in FCC and other proceedings relating to the television industry and the critical role played by broadcasters in the burgeoning media marketplace. Robert W. Decherd, Belo's Chairman, President and Chief Executive Officer, served as a member of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters and co-authored a separate statement submitted with the Committee's Report. Recently, two Belo station managers testified at FCC field hearings on issues affecting broadcasting: Robert G. McGann, President and General Manager of Belo's KENS-TV, San Antonio, Texas, testified at the San Antonio localism hearing, and David Lougee, President and

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<sup>3</sup> Belo, through its wholly-owned subsidiaries, is the licensee of television stations WFAA-TV, Dallas-Fort Worth, TX; KHOU-TV, Houston, TX; KING-TV in Seattle-Tacoma, WA; KONG-TV, Everett-Seattle, WA; KMOV-TV, St. Louis, MO; WCNC-TV, Charlotte, NC; KGW(TV), Portland, OR; WWL-TV, New Orleans, LA; WVEC-TV, Hampton-Norfolk, VA; KVUE-TV, Austin, TX; KENS-TV, San Antonio, TX; KMSB-TV, Tucson, AZ; KTTU-TV, Tucson, AZ; WHAS-TV, Louisville, KY; KTVK(TV), Phoenix, AZ; KASW-TV, Phoenix, AZ; KREM-TV, Spokane, WA; KSKN-TV, Spokane, WA; and KTVB(TV), Boise, ID.

General Manager of KING-TV, KONG-TV, and NorthWest Cable News, testified at the Seattle hearing on media ownership.<sup>4</sup> In addition, Belo has filed comments with the Commission in numerous related proceedings concerning the television industry, the transition to digital television service, and the public interest obligations of television broadcasters.<sup>5</sup>

**I. BELO AND OTHER BROADCASTERS ACHIEVE THE GOALS OF LOCALISM THROUGH A LONGSTANDING COMMITMENT TO LOCAL NEWS AND PUBLIC INTEREST PROGRAMMING.**

The Commission has stated that it measures “localism in broadcasting markets” through two factors: 1) “local news quantity and quality” and 2) “the selection of programming responsive to local needs and interests.”<sup>6</sup> Belo accomplishes both objectives through a strong, company-wide concentration on local news and voluntary initiatives to air responsive programming—without needing detailed governmental requirements. Local news and other programming specifically and distinctly targeted to the needs and interests of a station’s home community are what set over-the-air broadcasters apart from their numerous and ever-increasing competitors in the information/entertainment marketplace, and a continued focus on these key

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<sup>4</sup> See Statement of Robert G. McGann, President and General Manager of KENS-TV, FCC Localism Hearing (Jan. 28, 2004), available at [http://www.fcc.gov/localism/012804\\_docs/mcgann\\_statement.pdf](http://www.fcc.gov/localism/012804_docs/mcgann_statement.pdf) (Exhibit 1 hereto); see Testimony of David Lougee, President and General Manager of KING-TV, KONG-TV, NorthWest Cable News, FCC Seattle Field Hearing on Media Ownership (Mar. 7, 2003) (Exhibit 2 hereto).

<sup>5</sup> See, e.g., *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Comments of Belo to Notice of Proposed Rulemaking, MM Docket No. 00-168 (Dec. 18, 2000 and Apr. 21, 2003); *Public Interest Obligations of TV Broadcast Licensees*, Comments of Belo to Notice of Proposed Rulemaking, MM Docket No. 99-360 (Mar. 27, 2000 and Apr. 21, 2003); *Second Periodic Review of the Commission’s Rules and Policies Affecting the Transition to Digital Television*, Comments of Belo to Notice of Proposed Rulemaking, MB Docket No. 03-15 (filed Apr. 21, 2003); *2002 Biennial Regulatory Review—Review of the 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 Newspapers; Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets; Definition of Radio Markets; Definition of Radio Markets*, Comments of Belo to Notice of Proposed Rulemaking, MB Docket No. 02-277, MM Docket Nos. 01-235, 01-317, 00-244 (Jan. 2, 2003).

<sup>6</sup> *In the Matter of 2002 Biennial Regulatory Review – Review of the 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 Newspapers; Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets; Definition of Radio Markets; Definition of Radio Markets for Areas Not Located in an Arbitron Survey Area*, 18 FCC Red 13620, 13644 (2003) (“Ownership R&O”).

programming elements will be critical if television broadcasting is to continue to thrive in the multi-channel, multimedia digital age.

**A. Local News Is a Core Element of Belo's Business Model.**

Throughout its history, Belo's hallmark has been its commitment to quality journalism and local community service. The Company consistently has invested the resources necessary to provide extensive local news, public affairs, and community-oriented coverage and to develop its stations into durable news and information franchises. A detailed Non-Entertainment Programming Study undertaken by Belo late last year confirms this strong commitment to public interest programming. The study, which sought to analyze the quantity of non-entertainment programming (*i.e.*, newscasts, news/information programs, public affairs shows, instructional programs, children's/educational programming, and religious programs) across a variety of market sizes, reviewed fifteen markets in which Belo owns television stations during a representative week in November 2003. The analysis revealed that almost half of Belo's major-network-affiliated stations broadcast at least 70 hours of non-entertainment programming each week; on average, Belo stations affiliated with major networks aired over 65 hours per week of such programming. This 65-hour average figure represents almost 40% of the Belo stations' total broadcast week; the 70 hours achieved by nearly half of Belo's stations represents 42% of their total broadcast week. These percentages constitute substantial commitments of broadcast time by the Belo stations to serve the needs and interests of their local communities. The study further showed that Belo is not alone in its commitment to local news and informational programming: in each of the television markets surveyed, the major network affiliates dedicated in the aggregate approximately 41% or more of their total broadcast hours to non-entertainment programming.

Broken down by program category, "newscasts and news-related programming"

comprised more than one-third of the total programming by Belo stations.<sup>7</sup> “Newscasts” programming alone constituted, on average, 23% of total programming by these stations. “News/Information” programming, including news magazines and morning and evening news and informational programs, added another 11.5%. In fact, in the fifteen markets in which Belo operates, non-entertainment programming as a whole averaged more than 40% of total weekly programming at major network affiliates. Moreover, and most importantly, a very significant portion of that programming—including in particular the local newscasts carried on the great majority of Belo’s stations—is locally produced and locally oriented.

Indeed, local newscasts have been so fundamental to Belo’s business that its stations have added news programming wherever the opportunity exists in their markets. For example, in the past five years, Belo has started local newscasts at three stations—KONG-TV in Seattle/Tacoma, Washington; KSKN-TV in Spokane, Washington; and KMSB-TV in Tucson, Arizona. Where news operations already exist, Belo has expanded news programming to respond to a growing demand in the market. For example, Belo’s WWL-TV’s “Eyewitness Morning News” in New Orleans is the highest rated local morning news block of all fifty-five Nielsen metered markets, drawing 12.7 and 13.5 household ratings in its two time slots. As a result—and indicative of Belo’s commitment to local news—WWL-TV is adding a third hour to “Eyewitness Morning News,” which, when combined with the top-rated “Early Edition,” gives WWL-TV four consecutive hours of local news programming from 5 a.m. to 9 a.m. on weekday mornings.

As further evidence of Belo’s emphasis on local news, Belo stations have consistently produced award-winning newscasts and news specials, such as documentaries and investigative reports. Last year, WFAA-TV (Dallas) and KING-TV (Seattle) each won the USC Annenberg

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<sup>7</sup> Includes only Belo stations affiliated with major networks.

Walter Cronkite Award for Excellence in Television Political Journalism. In the last four years, Belo stations have won five George Foster Peabody Awards—more than double the number that any other commercial station group in the country has won in that period. Last year, WFAA-TV won a Peabody Award for its production of “Fake Drugs, Real Lives,” a series of reports that revealed Dallas police planting fake drugs as evidence to convict poor and immigrant defendants on charges of cocaine and amphetamine possession.

In other cities, Belo local news operations have been equally strong and well recognized. For instance, WCNC-TV, Charlotte, North Carolina, investigated a local resident’s complaint about a Medicaid dentist, spending six months talking to local parents, poring over dental records, and tracking tens of millions of dollars in Medicaid payments. Ultimately, WCNC-TV exposed how one local group of dentists took advantage of the system, how clinics paid monthly bonuses based on how much dentists billed Medicaid, and how local clinics profited from Medicaid patients. The report led to an FBI investigation and calls from a state senator for investigation by the state dental board, and the station won a Peabody Award for its efforts. In Houston, KHOU-TV investigated the local police department’s crime lab, reviewing a number of criminal cases from the lab. The investigation revealed erroneous DNA evidence that had led to the conviction of a prisoner. As a result, the prisoner won his freedom and the station a Peabody Award.

Belo’s television stations employ large, locally-based news staffs. Even though Belo is a large corporation serving a number of different markets, local news officials independently manage and exercise editorial control over local news operations.<sup>8</sup> For example, because of Belo’s emphasis on local production, two stations were able to customize their coverage of the

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<sup>8</sup> See McGann, *supra* note 4; Lougee, *supra* note 4.

Iraq War to their respective communities. WFAA-TV produced a documentary called "War Stories," which featured personal perspectives and commentary from WFAA-TV and *The Dallas Morning News* journalists who were in Iraq covering the war. Meanwhile, KGW(TV) covered war protests in Portland and produced "Stories from the Front," a one-hour special about soldiers from Oregon and Washington who died while fighting in Iraq. Both stations received Edward R. Murrow Awards from the Radio-Television News Directors Association for their work. As these specials show, Belo's decentralized system allows each station to tailor its news to the needs and interests of its community, thereby furthering the Commission's localism objectives.

**B. In Framing Its Inquiry the Commission Should Define "Local Programming" Broadly and Take Into Account a Broad Range of Non-Programming Community Activities.**

In the *Localism Notice*, the Commission questioned whether "local" programming is the best way to serve the needs of communities, and, if so, how to define "local programming." Belo submits that local programming, as it has traditionally been defined to include primarily local news and public affairs, unquestionably is an effective means of serving the public interest, but not always the best and certainly not the only way to do so. Rather, Belo believes that a combination of traditional local programming with other non-entertainment programming of local interest or relevance, together with non-programming initiatives that bind the station and its representatives to the community, is optimal to meet the needs of its audience members.

Accordingly, in this inquiry, the FCC should define "local programming" broadly. For instance, the Commission should recognize that "local" includes any programming of relevance or interest to the local community, regardless of the source or target audience. To illustrate, KHOU-TV in Houston, Texas recently produced "Eyes on the Gulf," a 30-minute special featuring local meteorologists, examining past hurricanes that have hit the area, and giving tips on how to safeguard people and property in the event of a hurricane. While this show was

produced in Houston, it is clearly relevant to numerous communities along the Gulf Coast, and would appropriately be considered as “local” programming in each of these locations.

Similarly, local “programming” should include not only traditional news and public affairs shows but also other informational and entertainment programming, such as coverage of local sporting events, and programming in which local residents participate. Such a definition would include content like WHAS-TV’s “Thunder 2004,” more than thirteen hours of live coverage surrounding this year’s Kentucky Derby, a local event and Louisville tradition. A broad definition of “local programming” also would include KHOU-TV’s “The Quarterbacks,” a half-hour sports show hosted by KHOU-TV’s sports director, a former quarterback with the hometown professional football team. Although neither show is “traditional” news or public affairs, both are locally filmed and produced, starring local personalities and covering local events.

Given the variety of programming available in the current media marketplace, broadcasters need flexibility to appeal as broadly as possible to their local audiences. The Commission should recognize that when broadcasters expand public interest programming to include news magazines, consumer segments in newscasts, and other non-traditional formats, they are more likely to engage their audiences and provoke interest in and discussion of important local events and issues. A broad definition of “local programming” not only reflects the diverse interests of audience members but also gives broadcasters the flexibility necessary to reach their audiences in the most effective manner. Importantly, too, it avoids any implication that the Commission has made value judgments about what the public should watch.

**C. Belo Serves the Needs of Its Communities Through Public Interest Programs and a Wide Variety of Forums and Outlets.**

The vast majority of American broadcasters are well aware of and extremely responsive to the needs and interests of their local communities. One way that Belo meets the needs of its communities is by providing free airtime to local political candidates and sponsoring candidate debates. In 1996, Belo initiated a program called "It's Your Time," which offers free time to candidates to tell the audience why they should be elected and answer questions relevant to the specific race. Belo stations offer this program to their local public television station. In 2002, 104 candidates for federal and state offices participated in "It's Your Time;" this year the program grew to 159 candidates. Leading up to the 2002 election, Belo also sponsored 30 congressional and gubernatorial debates. This year, television stations in Belo markets will broadcast at least an hour of issue- or candidate-centered election coverage per week for the six weeks prior to the general election, including candidate interviews, live debates, issue-watch programs, and ad-watch programs. Belo's news-producing stations sponsored debates for both primary and general elections of gubernatorial and Congressional candidates.

KGW(TV) in Portland, Oregon exemplifies Belo's commitment to coverage of local political campaigns. Two years ago, KGW produced three half-hour specials profiling the three Republicans and three Democrats running for governor. Later that year, KGW produced three hour-long, commercial free debates featuring the gubernatorial candidates and another debate featuring the candidates for U.S. Senate. In April 2004, KGW sponsored and aired a live debate between four candidates in Portland's mayoral primaries, during which viewers could send questions to the candidates via electronic mail on KGW's website. Continuing its coverage in October, KGW moderated and aired another live, commercial-free debate between the final two mayoral candidates.

Other stations similarly demonstrate the depth of coverage Belo stations give to local and regional politics. Sister stations KREM-TV and KSKN-TV in Spokane, Washington aired debates between local candidates for the U.S. House of Representatives and U.S. Senate. KSKN-TV also carried programming explaining to local voters how the political process in the state of Washington works. Following one of this year's presidential debates, KING-TV in Seattle aired a live debate between Washington's gubernatorial candidates. On another occasion this year, KING-TV showed a debate between regional school district superintendent candidates. Meanwhile, KING-TV and its sister station KONG-TV have announced comprehensive coverage of this year's local and national election results. Starting at 3:30 p.m., KING-TV will televise NBC's live coverage of the national elections with periodic local updates, while KONG-TV will focus on local races as soon as the polls close.

Belo stations also find ways to make the community aware of ongoing issues through public service announcements (PSAs) and local public interest programs. For example, as part of a show called "Primetime Wise," KTVB airs several fifteen-second PSAs every day between 3 p.m. and 7 p.m. listing the lineup and ratings information for that night's primetime viewing. The PSAs advise parents about tools that are available for screening program content for their children. The PSAs also refer to KTVB's website, which links to the website of the Parents Television Council for more information on ratings and programming. KMOV-TV in St. Louis won a Promax Award for a PSA that employed local high school students to communicate the message of the Diversity Awareness Partnership, "Make a Difference by Accepting Everyone Else's." Finally, sister stations KMSB-TV and KTTU-TV in Tucson, AZ aired numerous anti-drunk driving PSAs that helped reduce arrests by 20% during the 2003 holiday season. They also aired twenty-nine PSA spots on behalf of the Marine Corps Toys for Tots Drive.

Other public interest programming on Belo's stations tackles community issues through feature-length shows and brief profiles of community leaders. Two Belo stations aired specials on childhood obesity earlier this year, focusing on the struggles of residents in the state of Washington. KREM-TV and KING-TV (in Spokane and Seattle, respectively) explored how Washington school districts drew national attention for changing the way children think about food and exercise, talked to a local teenage girl who explained the effects of obesity and weight loss on her life and family, and examined what local schoolchildren were eating for lunch. WWL-TV (in New Orleans), meanwhile, aired public interest programs as part of the 18th annual Twelve For the Road, a project designed to fight drunk driving through public awareness. KMSB-TV in Tucson, Arizona, airs "Nogales Profiles," a series of brief reports featuring community leaders from the town of Nogales and Santa Cruz County, identified through the station's informal ascertainment procedures.

Since the early 1990s, WFAA-TV has operated "Family First," a station-driven community outreach effort that combines news and information about family-related issues with workshops, job fairs, and expos on education and family issues that are free and open to the public. Family First programming includes news stories and yearly prime time specials on issues such as parenting, education, finances, caring for elderly parents, drug and alcohol abuse, sports and activities, family life, welfare, and health. In September 2004, WFAA-TV in Dallas aired "Addiction," a Family First program about local residents and the problems that addictions have caused for individuals, families, and communities. Family First events often include Town Meetings, which are forums for discussion of specific local issues, in communities throughout North Texas. In January 2004, for example, WFAA-TV hosted a housing and home improvement expo for residents of The Colony, Texas, and aired a Town Meeting from the site

of the expo. Family First, which has won a number of prestigious awards,<sup>9</sup> exemplifies how Belo stations connect with their local communities through a mixture of responsive programming and other initiatives.

Beyond its political, public affairs, and other locally-oriented programming, Belo advances the goals of localism through a wide range of other initiatives, including hosting local websites and covering emergency situations. To supplement its television broadcasts, Belo operates community websites in all fifteen of its television markets. These sites offer personalized news and entertainment, community-generated content, and local advertising. Many of these sites contain areas dedicated to programs such as WFAA-TV's Family First. One website, KGW.com, had six million page views in a week—an all time record—when the worst winter storm in a decade hit the Portland area. The site included a live stream of KGW's television news, expanding the range of outlets for local news. For this effort and much more, KGW.com won its second straight Murrow Award for best website.

In addition to its website, KGW-TV aired extensive coverage of regional emergency events, such as Northwest wildfires in 2002 and 2003 and volcanic activity at Mt. St. Helens in 2004. Likewise, when Hurricane Ivan struck the Gulf Coast, WWL-TV in New Orleans preempted its normal programming for "wall-to-wall coverage" of the event, running from 5 a.m. to 7 p.m. with an additional newscast at 10 p.m. When evacuation orders began, WWL-TV provided traffic reports for evacuation routes, estimating wait times and advising viewers of alternative routes. The next day, after the storm had hit, WWL-TV was the first station to show

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<sup>9</sup> Family First has won the 2003 RC Buckner Founder's Award for Outstanding Media Contributions to Family Values; 2001 Media Award from the Dallas Ass'n for the Education of Young Children; 2000 Shining Light Award presented by Dallas Child magazine; 1997 The Vivian Castleberry Award for Television presented by the Association of Women Journalists; 1997 Headliners Award for "After Amber," presented to WFAA in the category of television News Documentary or Public Affairs; 1996 Advocate Extraordinaire presented by the Advocates for Infants and Children; and 1995 Headliners Award for "In the Best Interest of Our Children," presented to WFAA in the category of television News Documentary or Public Affairs.

aerial images of the devastation, with numerous follow-up stories on relief efforts continuing for weeks after the hurricane departed.

**D. Belo Stations Sponsor a Broad Range of Non-Programming Activities That Serve the Needs of Local Communities.**

In addition to public interest programming and local news, Belo stations serve their communities through extensive and diverse volunteer initiatives. Consider, for example, these initiatives within the past year:

- Sister stations KTVK and KASW-TV in Phoenix led Arizona's Family Holiday Food Drive to collect 750,000 cans of food for area food banks. Independently, the stations collected clothes, money, and 150,000 toys (valued at \$2.3 million) for 50,000 children as part of the 18th annual Salvation Army Christmas Angel Program, the largest of its kind in the nation.
- Setting a record for its 34-year old Santa Helper's Toy Drive, WFAA-TV in Dallas/Ft. Worth collected more than 82,000 toys, serving 40 non-profit agencies in North Texas.
- WHAS-TV in Louisville and corporate sponsors presented scholarships totaling \$480,400 to twelve local students during the 2004 "WHAS11 Great Kids Fulfilling the Dream" scholarship program. WHAS-TV has presented a grand total \$777,680 in scholarships to thirty-six local students over the past three years.
- KENS-TV in San Antonio collected 60,000 new toys for children and joined with a local grocery store chain to raise \$70,000 for the disadvantaged.
- KING-TV and KONG-TV in Seattle/Tacoma collected 106,000 pounds of food and raised \$92,000 to feed 2,000,000 families on behalf of the Northwest Harvest Food Bank.
- KHOU-TV in Houston raised \$112,585 for 68 area charities and provided public service time to raise awareness for local food banks. KHOU-TV also participated in The Spirit of Texas Toy Drive to collect, with The Salvation Army, 5,000 toys and gifts for underprivileged children, teenagers, and elderly.
- KMOV-TV in St. Louis collected 64,817 new toys and 213,445 items of food through area schools and businesses for local homeless and impoverished children on behalf of the Homeless Resource Bank.
- KGW-TV in Portland collected 61,000 new toys as part of the 22nd annual Great Toy Drive, an all time record for the event.
- WCNC-TV in Charlotte joined with The Salvation Army to provide toys and partnered with the YMCA to raise money for children in at-risk neighborhoods.
- WVEC-TV in Hampton/Norfolk, VA joined with The Salvation Army to provide

gifts of new clothes (valued at \$315,000) for 21,000 underprivileged children as part of the 19th annual WVEC/Salvation Army Angel Tree campaign. WVEC also collected 604 pints of blood as part of the 35th annual Jingle Bell Blood Drive and \$51,700 to benefit a local children's hospital. Finally, WVEC raised \$41,000 to benefit disabled American veterans of wars.

- WWL-TV in New Orleans collected 17,000 pounds of food, which provided 13,000 meals for food banks in the New Orleans area as part of the 16th annual Second Harvesters Citywide Grocers Food Drive.
- KVUE-TV in Austin, TX collected 33,600 coats in the 17th annual Coats for Kids drive, raised an estimated \$15,000 for the Any Baby Can Be A Star campaign to help at-risk children get a better start in life, and raised \$20,000 to provide prompt and compassionate care to victims of sexual assault.
- Sister stations KMSB-TV and KTTU-TV in Tucson, AZ raised \$175,000 to provide holiday gifts for needy families.
- Sister stations KREM-TV and KSKN in Spokane, WA collected 4,917 turkeys, 100,000 pounds of non-perishable food and raised \$27,000 to benefit the Second Harvest Food Bank, which provides Thanksgiving meals to 21 emergency food pantries in the Spokane area. The stations also filled 8,300 gift requests and provided 500 holiday meals for the needy as part of the 20th annual Tree of Sharing event, which helps more than 50 community service agencies in Spokane.
- KTVB in Boise, ID collected 20,000 new books to promote literacy among low-income and homeless children as part of the 10th annual Operation Wish Book and joined with the Salvation Army and local retailers to collect 15,000 toys in the Great Idaho Toy Drive, serving 5,500 children.

As these efforts show, Belo, like many other broadcasters, fulfills its public interest obligations and serves its communities of license through a broad array of civic initiatives, furthering the goals of localism in a variety of ways—without the need for government regulations specifically directing them to do so.<sup>10</sup>

## **II. MARKET FORCES AND EXISTING REGULATIONS DRIVE BROADCASTERS' COMMITMENT TO LOCALISM.**

The television broadcasting system in the United States is unique in that it is both free and universally available. Moreover, over-the-air broadcasting is a service infused with public

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<sup>10</sup> According to the National Association of Broadcasters, the average television station ran 143 PSAs per week in 2003, valued at roughly \$1.5 million in airtime per television station per year, or \$1.7 billion for the television industry. National Association of Broadcasters, *National Report on Local Broadcasters' Community Service*, at 7 (June 2004), available at <http://www.broadcastpublicservice.org/Reports/2004Report.pdf>.

interest responsibilities and a commitment to local service not borne by the other media with which broadcasters must compete. Television broadcasters have long been, and continue to be, the nation's primary video providers of local news and informational programming.

Historically, the industry has provided a high level of service to local communities on a voluntary basis, with minimal governmental intervention. While the perceived scarcity of available channels has, at least in past judicial decisions, been used to justify a greater degree of regulation than would be permissible in dealing with the print media, it nevertheless has been recognized that broadcasters are entitled to a substantial degree of First Amendment protection. Accordingly, even prior to the emergence of the modern multichannel television marketplace, government oversight in this area reflected considerable sensitivity to First Amendment values.

Thus, with respect to content-based regulation of broadcasters, the FCC generally has restricted itself to the adoption of broad public interest guidelines and relied on private journalism and private editorial decision-making for the specific amplification of its policies. Moreover, to a very substantial degree, the Commission has placed reliance on (1) the voluntary commitment to community service that has long been a tradition within the broadcast industry, and (2) the strong commercial incentives in the marketplace itself that reward those stations that most effectively respond to the needs and interests of their viewers in the provision of local news and public affairs programming.

Twenty years ago, when the FCC eliminated its former quantitative processing guidelines and formal ascertainment procedures, the Commission recognized that market forces—not government regulation—caused broadcasters to achieve the goals of localism.

[E]xisting marketplace forces, not our guidelines, are the primary determinants of the levels of informational, local and overall non-entertainment programming provided on commercial television. It appears, moreover, that these forces have consistently elicited a

level of such programming well above the amounts arbitrarily set by our processing criteria.<sup>11</sup>

Moreover, since the Commission eliminated many of its programming-related regulatory requirements in 1984, the media market has grown tremendously, increasing the incentives for broadcasters to meet local needs. The Commission recognized the changes in the media market when it observed: “By 2000, American consumers had access to a multitude of media outlets, hundreds of channels of video programming, and enormous amounts of content not available just twenty, or even ten years earlier.”<sup>12</sup> In addition to the 1,616 broadcast television stations that now exist, 281 nationally distributed non-broadcast networks and 80 regional non-broadcast networks are now available.<sup>13</sup> Cable and satellite television are now nearly ubiquitous: of the 100.8 million homes with a television, 85% subscribe to a cable or satellite service. “The number of television outlets grew by 217% from 1960 to 2000 and the number of independent television station owners grew by 150% in that same period.”<sup>14</sup> As the Commission summarized, “[w]e are moving to a system served by literally hundreds of networks serving all conceivable interests.”<sup>15</sup> In other words, broadcasters today face unprecedented competition from additional broadcast stations, cable and satellite programming, and new information outlets such as the Internet.

Contrary to the unsubstantiated complaints of some parties, this enhanced competition has only led broadcasters to increase their commitment to local news and public interest programming. In fact, since the Commission abandoned its former content regulation regime,

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<sup>11</sup> *In the Matter of The Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, Report and Order, 98 FCC 2d 1076, 1085 (1984) (“*TV Deregulation Order*”).

<sup>12</sup> *Ownership R&O*, at 13662.

<sup>13</sup> *Id.*, at 13661-62.

<sup>14</sup> *Id.*, at 13663.

<sup>15</sup> *Id.*, at 13665.

local news and public affairs programming have “proliferated.”<sup>16</sup> In 1960 and in 1980, local news programming averaged about one or two hours per station, per day. By 2003, local news programming had *doubled*—averaging “two to four hours per station per day.”<sup>17</sup> As discussed above, network-affiliated Belo stations typically broadcast at least 65 hours per week of non-entertainment programming, which translates into almost 40% of total programming. Other networks’ affiliates, operated by Belo’s local competitors, broadcast similar quantities of non-entertainment programming. It is no coincidence, moreover, that Belo and many other broadcasters have launched 24-hour local news channels to supplement over-the-air efforts. Belo, for example, now operates six cable services that specialize in local news and weather programming;<sup>18</sup> other major television broadcasters have done the same.<sup>19</sup>

Last year, the Commission acknowledged the positive effects of an increasingly competitive market:

In short, there are far more types of media available today, far more outlets per-type of media today, and far more news and public interest programming options available to the public today than ever before. ... [T]he competitive pressure placed upon free, over-the-air media has led to better quality and in some cases, an increase in the quantity of some types of content.<sup>20</sup>

To continue to compete and thrive in today’s intensely competitive marketplace, Belo believes, broadcasters must and will focus on their principal strength—their locally oriented program services.

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<sup>16</sup> *Ownership R&O*, at 13665.

<sup>17</sup> *Id.*, at 13664.

<sup>18</sup> NWCN in the Pacific Northwest, 24/7 NewsChannel in Boise, Arizona NewsChannel in Phoenix, TXCN in Texas, Local News On Cable in Hampton/Norfolk, and Newswatch on Ch. 15 in New Orleans.

<sup>19</sup> *E.g.*, NewsChannel 8 in Washington, DC; Tribune’s ChicagoLand Television News (CLTV); Regional News Network (RNN) in New York; Florida’s News Channel (FNC) in Tallahassee, FL; and BayTV in San Francisco, CA.

<sup>20</sup> *Ownership R&O*, at 13667.

Serving local communities with quality news programming is not just a public service concept; it is also good business. Of the economic incentives that broadcasters have for airing news and other local programming, the most fundamental is that it distinguishes them from national networks and cable channels. In the increasingly competitive media marketplace, high-profile news anchors and local interest stories are the best way for an over-the-air broadcaster to build a brand. Local news, in essence, is the broadcaster's franchise. It is the unique characteristic that distinguishes television broadcasters from their competitors.<sup>21</sup> As one Belo station manager testified before the Localism Task Force:

Localism is driven in every American television market by two powerful and historically entrenched principles. First, is the principle of community service, which is a long-established hallmark of local television stations. Locals stations and their employees serve their communities because it is both personally rewarding and the right thing to do.... Second, is the principle of economics. There are strong economic incentives, in the form of advertising dollars, which reward the top-rated stations in a market, those which provide the most-watched local news. We do not need any additional incentives to continue to serve Localism. *Localism is what we are about. It is the business of television.*<sup>22</sup>

Localism is the "business of television" because broadcasters receive a large percentage of the advertising revenue from local newscasts and other programming for which they own the copyright. By contrast, when these stations air general entertainment programming, which often comes from the national networks or syndicators, the stations receive only a fraction of the advertising revenue. As an illustration, consider the value of local newscasts at Belo stations:

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<sup>21</sup> One general manager explained to Congress his rationale for airing local programming: "Pardon me, but forget the government. We have to answer to our viewers. And we have to do that every day. When they have more than a hundred channels to choose from, and we want them to choose us, we think the best way to do that is to provide the best possible service." *Localism NOI*, at 12431 (quoting testimony of Dave Davis, General Manager, WPVI-DT).

<sup>22</sup> McGann, *supra* note 4 (emphasis added).

although newscasts constitute about 23% of total programming, they yield approximately 40% of station revenue, a powerful incentive to concentrate on local news.

Next, unlike general entertainment programming, news is largely immune to “time-shifting,”<sup>23</sup> where viewers record programs and watch them later, often fast-forwarding through the commercials. Because local news is usually broadcast live, and because the news changes so rapidly, viewers rarely record the local news for later viewing. Therefore, despite the growing popularity of digital video recorders, advertisers can rely on local news viewers to watch commercials, making local news a premium product for broadcasters.

Finally, major networks encourage their affiliates to produce local news, because it increases ratings for the network news. So long as the major television networks compete for viewers, their affiliates will have an incentive to produce local news. Thus, between the opportunity to build brand identity and receive a direct revenue stream, the relative immunity to time-shifting, and the influence of network competition, market forces will continue to motivate broadcasters to select responsive programming and concentrate on local newscasts, satisfying the twin criteria of localism.

A recent broadcast confirms the alignment of market forces and localism. The October 13, 2004 presidential debate occurred at Arizona State University (ASU) in Tempe. To cover the event, Belo’s independent station KTVK in Phoenix aired nine hours of live programming surrounding the debate, more than any other station in the market. In response to the unique coverage KTVK provided—including the use of wireless camera technology and live coverage from “Spin Alley” and the ASU campus—KTVK drew the highest Nielsen ratings in all but one hour of its coverage. In other words, without any regulation by the government, a Belo station

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<sup>23</sup> Louis Chunovic, *Deep in the Heart of Texas, Local Roots Rule*, BROADCASTING & CABLE, Mar. 29, 2004, at 21.

responded to a major event in the community, and the market rewarded it for its quality coverage.

Looking forward, the advent of digital television will only enhance broadcasters' ability to increase local programming and improve political discourse. One Belo station has already taken advantage of its second digital channel to launch a service that provides 24-hour coverage of local news and weather. KTVB, Boise, Idaho, recently launched 24/7 Local NewsChannel, a "round-the-clock local news and weather channel available over the air on KTVB's digital channel."<sup>24</sup> The new service provides more in-depth programming, including coverage of the state legislature, court cases of local interest, in-depth full-length stories, and local high school sports. Furthering what KTVB President and General Manager Doug Armstrong calls "hyperlocalism," 24/7 NewsChannel also includes a local home improvement show and other locally produced programming in sports, public affairs, and political debates and interviews. For services like this, "comprehensive coverage of events and meetings, like the state legislature, is 24/7's bread and butter."<sup>25</sup> Similarly, four other Belo stations—ABC affiliates WFAA-TV in Dallas/Fort Worth, KVUE-TV in Austin, WVEC-TV in Hampton/Norfolk, and WHAS-TV in Louisville—are using their digital channels to broadcast 24-hour-a-day newscasts, including coverage of live breaking events, local stories, and "gavel-to-gavel coverage" of both national political conventions. Finally, KENS-TV in San Antonio used its digital broadcasting signal to televise the FCC's four-hour Localism Task Force Public Hearing in San Antonio earlier this year. These stations exemplify how DTV multicasting promises to increase the amount and variety of programming, inherently serving the needs and interests of local communities.

As the Commission concluded in 1984, when it eliminated a number of outdated

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<sup>24</sup> NAB, *KTVB Goes 'Hyperlocal' with Digital '24/7 NewsChannel'*, Destination Digital TV, June/July 2004, at 1.

<sup>25</sup> *Id.*

regulations relating to the television industry:

In short, present market forces provide adequate incentives for licensees to remain familiar with their communities. Moreover, future market forces, resulting from increased competition, will continue to require licensees to be aware of the needs of their communities. Given this commercial reality, we believe that the need for our ascertainment regulation has declined and will continue to decline, and that the Commission should eliminate it.<sup>26</sup>

Similarly, as noted above, the agency found in the same proceeding in 1984 that marketplace forces are the “primary determinants” of the levels of local programming and informational programming on commercial television, and that those forces have produced such programming at levels well above those specified in the abandoned processing guidelines.<sup>27</sup>

Since the Commission made those observations twenty years ago, market forces have continued to provide, and in fact have strengthened, the incentives that the agency envisaged: news coverage and public affairs programming have doubled and broadcasters are launching additional channels and other programming initiatives dedicated to local news coverage. In today’s competitive media market, local news and public affairs programming offer broadcasters brand identity, direct revenue, and comparative immunity to time-shifting, meaning that—just as the FCC understood in 1984—market forces will continue to advance the goals of localism.

### **III. ADDITIONAL REGULATION IS BURDENSOME AND UNNECESSARY TO ACHIEVE THE GOALS OF LOCALISM.**

Over-the-air television broadcasters are already subject to significant public interest obligations, ownership restrictions, and technological limitations generally not shared by cable, DBS, or other video competitors. For example, stations must provide “reasonable access”<sup>28</sup> and

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<sup>26</sup> *TV Deregulation Order*, at 1098-99.

<sup>27</sup> *Id.*, at 1085.

<sup>28</sup> 47 CFR § 73.1944 (2003).

equal time<sup>29</sup> to political candidates, but can only charge candidates the “lowest unit charge” for broadcasting time preceding an election.<sup>30</sup> All stations must keep a file for public inspection listing all candidate requests for broadcasting time and the station’s disposition of those requests.<sup>31</sup> Over-the-air broadcasters, unlike cable and DBS operators, are also subject to children’s programming requirements: broadcasters must air at least three hours of “core” educational and informational television programming per week for children sixteen and younger<sup>32</sup> and limit commercial time on programs for children twelve or younger.<sup>33</sup> Furthermore, the Commission recently tightened its requirements for children’s television shows, increasing broadcasters’ obligations and restricting preemption of children’s programming for live sports programs.<sup>34</sup>

In addition to imposing political and children’s television requirements, the Commission has restricted ownership of multiple television and radio stations in the same markets as well as cross-ownership of newspapers and broadcast stations, impairing efficiencies that come with economies of scale. As a result, over-the-air broadcasters—particularly television licensees—often remain limited to a single revenue stream, while cable and satellite providers receive revenue from both subscriptions and advertising. Going forward, television broadcasters face the costs and uncertainties of the transition to digital broadcasting. Given these current restrictions and risks, over-the-air broadcasters are in no position to shoulder additional regulatory burdens. Belo believes strongly that the imposition of greater public interest obligations on licensees in

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<sup>29</sup> 47 CFR § 73.1941 (2003).

<sup>30</sup> 47 CFR § 73.1942 (2003).

<sup>31</sup> 47 CFR § 73.1943 (2003).

<sup>32</sup> 47 CFR § 73.673 (2003)

<sup>33</sup> 47 CFR § 73.670 (2003).

<sup>34</sup> *FCC Adopts Children’s Programming Obligations for Digital Television Broadcasters*, Public Notice, FCC 04-221, Sept. 9, 2004.

the digital era would only stifle experimentation and slow the transition to digital service.

Broadcasters have voluntarily provided outstanding local public interest programming in the past and will have even greater incentives to do so in the future.

Belo does not believe that the award of new digital channels can properly be viewed as a windfall that somehow justifies the extraction of additional “public interest” undertakings as a quid pro quo. The new channels are being provided in ultimate exchange for existing analog channels. Moreover, in order to complete the shift to digital transmission, broadcasters will have to invest billions of dollars. Belo alone will have committed a grand total of nearly \$90 million in DTV expenditures. Yet, it is entirely speculative whether stations will be able to recover these costs and maintain even their present levels of profitability, much less whether they will be able to achieve enhanced profit levels. While the shift to digital transmission will increase a television station’s operating expenses, it is very unlikely to increase the station’s advertising revenues. Moreover, to the extent that a station seeks to expand its revenues by providing supplementary or subscription-based services, the existing statutory scheme already contemplates that it will pay sizable fees to the government. The industry should not be required to “pay” again through the imposition of additional public interest obligations.

The shift to a digital format in itself will provide very substantial benefits to the public in the form of improved program resolution and expanded programming choices. We are confident that the level of non-entertainment programming—including substantial locally oriented programming—that will emerge in a DTV environment, as a result of the economics of the competitive marketplace and voluntary initiatives within the television industry, will be more than ample to serve the needs and interest of American viewers. Moreover, broadcasters will need maximum flexibility to experiment and develop suitable programming and other digital

services. Thus, there is no legitimate reason for the dawn of the digital age to be accompanied by a return to government micromanagement of programming services.

Regulation imposing rigid requirements concerning ascertainment of community needs and interests, which many stations voluntarily perform on an informal basis, would be costly and inefficient. In addition to its regular interaction with the community in news reporting, through civic organizations, and otherwise, Belo has voluntarily implemented its own informal ascertainment process. To impose formal ascertainment requirements on broadcasters, however, would be unnecessary and counterproductive. As the Commission recognized when it deregulated television, “[t]he costs of ascertainment are numerous.”<sup>35</sup>

In 1984, the FCC estimated that elimination of ascertainment requirements saved the industry almost 67,000 work hours and saved the Commission 760 work hours.<sup>36</sup> Furthermore, the “mechanistic aspects of the process” directed “substantial resources” to “litigation over trivia” and the avoidance of formal challenges.<sup>37</sup> The agency stated:

[T]o the extent that the licensee is compelled to follow specific procedures, resources are diverted and the opportunity for licensee discretion is foreclosed. The resources which the licensee is forced to expend to satisfy procedural requirements are lost from other potentially beneficial activities, such as program production in response to determined needs.<sup>38</sup>

In eliminating ascertainment requirements, the Commission concluded: “While ascertainment does provide the licensee with knowledge of community, it is clearly not the exclusive means of acquiring knowledge, and is certainly not the most efficient.”<sup>39</sup> Because this inefficient process

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<sup>35</sup> *TV Deregulation Order*, at 1099-1100.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 1099.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 1099-1100.

would divert resources from other station activities that could serve the community, reinstatement of formal ascertainment procedures would be unnecessarily burdensome and counterproductive.

Similarly, reviving specific quantitative guidelines or other content requirements or imposing standardized reporting requirements would serve primarily to discourage broadcaster creativity. Such requirements unavoidably would require the Commission to define programming categories, forcing broadcasters to air programming that may not appeal to audiences and hampering their responsiveness to shifts in audience demand. The FCC observed in 1984:

We believe that licensees should be given [the] flexibility to respond to the realities of the marketplace by allowing them to alter the mix of their programming consistent with market demand. Such an approach not only permits more efficient competition among stations, but poses no real risk to the availability of these types of programming on a market basis.<sup>40</sup>

Standardized reporting or recordkeeping forms and specific content requirements also implicitly suggest that the Commission favors certain types of programming categories. As Chairman Powell has expressed in related proceedings, “[s]electing one program category over another and then requiring broadcasters to list the programming aired in that particular category involves the Commission in content-based regulation. It would require this Agency to make value judgments as to what programming we deem to be in the “public interest.”<sup>41</sup> As shown in Section I.B above, however, the public interest is best served by affording broadcasters the

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<sup>40</sup> *Id.* at 1087-88.

<sup>41</sup> *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Notice of Proposed Rulemaking, 15 FCC Rcd 19816, 19842 (Statement of Comm’r Michael K. Powell) (2000); *see also id.*, at 19839-40 (Statement of Comm’r Furchtgott-Roth) (“Having the government pick one kind of program substance over another, and then ask broadcasters to list what they have done in that particular area at the time of license renewal, necessarily involves the Commission in direct content regulation ... [and] implies that the Commission (1) favors the sort of programming that it has chosen for categorization and (2) cares whether broadcasters air it or not. These proposed rule changes thus would create governmental pressure on broadcasters to air FCC-favored content, thereby creating a soft quota on that content.”)

discretion and flexibility to craft an appropriate mixture of programming, complemented by other local initiatives, to engage the interest of their audiences and stimulate effective discourse on local concerns.

The FCC has adopted specific regulations in this area in the past, but correctly abandoned those rules two decades ago because they were restrictive, unnecessary, burdensome, costly, and misrepresentative. In 1984, the FCC stated that the pre-deregulation “guidelines, while failing to have a significant impact on overall station performance, tend to restrict the freedom of individual licensees by requiring them to present programming in all categories. Such a requirement is unnecessary and burdensome in light of market performance.”<sup>42</sup>

Likewise, quantitative requirements for non-entertainment programming do not measure the responsiveness of a licensee’s programming. Rather, they serve to minimize the editorial discretion of broadcasters.

The Commission’s traditional policy objectives with respect to programming have never been fulfilled by the presentation of mere quantities of specific programming. On the contrary, the Commission has consistently sought to avoid this type of regulatory approach.... Thus, the existing quantitative structure misrepresents the nature of a broadcaster’s underlying programming obligation by incorrectly suggesting that the broadcasting of specified quantities of programming is enough to fulfill their traditional programming responsibilities.<sup>43</sup>

Furthermore, Belo submits, additional renewal procedures and midterm reviews are unnecessary regulatory burdens that divert broadcaster time and resources from serving viewers.<sup>44</sup>

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<sup>42</sup> *TV Deregulation Order*, at 1087-88.

<sup>43</sup> *Id.* at 1090.

<sup>44</sup> Quantitative requirements for non-entertainment programming and other increased regulatory burdens would be particularly onerous for smaller stations, many of which operate in markets that cannot support additional local news operations.

#### IV. CONCLUSION

A generation ago, the FCC recognized that market forces provide the best, most efficient way to ensure that broadcasters identify and meet the needs of their communities. While the marketplace has grown exponentially since that time, Belo and other broadcasters have remained committed to presenting community-responsive programming and providing extensive, high-quality local news coverage. Indeed, the marketplace offers clearcut and compelling incentives for broadcasters to produce local news and other informational and public service programming. The transition to the digital era will only increase these incentives, and broadcasters will need maximum flexibility to experiment and develop suitable programming and other digital services. The digital age should not be burdened by a return to unnecessary and counterproductive government regulation.

While the government should avoid burdening television broadcasters with federally-dictated public interest programming or other obligations that will slow the transition to DTV, the FCC must continue to take the steps necessary to ensure that television stations will be able to bring the benefits of new technology to the local audiences that depend on them for news and informational programming. In the complex and diverse new multi-channel digital environment, television stations will be increasingly dependent on their principal competitors in the video programming distribution market—cable systems, DBS operators, and soon telephone and Internet service providers—for access to the homes of viewers even in the stations' local markets. Indeed, an estimated 85 % of the nation's households already receive television signals from cable system operators, satellite providers, and other multichannel video programming distributors. Unfortunately, there has been continuing uncertainty concerning some essential elements of a successful digital conversion.

In this environment, it will be extremely difficult for over-the-air broadcasters to develop

business plans or devote the necessary resources to provide additional locally-oriented programming services until their cable and DBS carriage rights are determined. Further delay by the Commission in implementing reasonable and concrete carriage requirements for the digital era thus will frustrate the efforts of broadcasters to maintain their role as the nation's primary source of local programming. Conversely, adoption by the FCC of additional programming requirements during the digital transition would only impose upon TV stations a range of new and unnecessary obligations in return for the dubious privilege of spending billions of dollars to bring DTV to the public. This notion would handicap broadcasters and potentially cripple the digital conversion process, and is wholly inconsistent with the historic compact between broadcasters and the federal government.

For the reasons articulated herein, and for the reasons the Commission abandoned its formalistic and counterproductive regulatory regime in 1984, Belo opposes additional ascertainment requirements and quantitative or other content-directed regulation for television

broadcasters in the name of localism. In the last twenty years, market forces have successfully led to more local news and more responsive local programming. With this history, and the opportunities for enhanced local service that the digital transition promises, market forces and existing regulations are, and will continue to be, more than sufficient to achieve the goals of localism.

Respectfully submitted,

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November 1, 2004

# BELO EXHIBIT 1

STATEMENT OF ROBERT G. MCGANN, PRESIDENT AND GENERAL MANAGER,  
KENS-TV, AT FCC LOCALISM HEARING, SAN ANTONIO, TEXAS – JANUARY 28, 2004

Good evening, Chairman Powell, Commissioners Abernathy, Copps and Adelstein, Mayor Garza and other local officials. My name is Bob McGann and I thank you for the opportunity to be a panelist this evening. I am President and General Manager of local station KENS-TV and am here representing the station and its owner Belo Corp. KENS-TV has been operating in San Antonio as a CBS-affiliated station since 1950. Belo purchased the station in 1997 and I became the general manager of the station in 1998.

Belo has been in the television business in Texas since 1950, and has operated as a media company in Texas since 1842, making it the oldest continuously operated business in the state. Today, Belo owns 19 local television stations (four in Texas), 10 local or regional cable news channels (three in Texas), four daily newspapers and other media assets.

This is a hearing on Localism and I want to share with you my views on Localism, bringing to bear my 30 years as a local television broadcaster.

Let us start with the basic concept of Localism: The day of television stations being both locally owned and operated has long since passed in most television markets. My station's owner, Belo, is headquartered in Dallas and the majority of the other stations in this market are also not locally owned. However, KENS, like the other stations in this market, is locally operated. I live here in the San Antonio area, as do all of my senior managers. All of the day-to-day decisions on programming and management of KENS are made by me and my staff. In the important area of news programming, for example, our parent company does not dictate the content. Those decisions are made by the News Director at KENS under my supervision. Belo's role from its

Dallas headquarters is limited to assuring itself that KENS is being operated in accordance with Belo's values and operating principles. Those principles require that quality news and information, based on Belo's values of balance and fairness, are delivered to KENS' viewers, and that KENS and all of its employees are active corporate and individual citizens in San Antonio. That, to me, is the essence of Localism today: local operators managing their stations and serving their communities with responsive programming and active community participation.

Now let me be more specific about Localism in actual practice. We believe at KENS that a local television station must allocate a significant portion of its broadcast week to non-entertainment programming, providing a host of informative, educational, responsive programming to San Antonio viewers. This is a critical aspect of Localism, which is functioning well in San Antonio. By way of illustration, KENS recently prepared a study, using one week as the benchmark, of the total news, public affairs, and all other non-entertainment programming, *excluding commercial time*, broadcast by the market's top four network-affiliated stations. During this week, KENS broadcast 39 hours of non-entertainment programming, amounting to 23.2% of its total weekly broadcast program hours. In total, the top four stations in the market, including KENS, broadcast non-entertainment programming amounting to an aggregate average of 20.6% of their combined broadcast week. This represents a substantial amount of non-entertainment programming from the top four stations in this market.

At KENS, we ensure that our local programming is responsive to our viewers by means of both formal and informal ascertainment in our community. Throughout the year, I and other KENS management call on community leaders, such as Albert Ortiz, San Antonio Chief of Police, Dr. Ricardo Romo, President UTSA and Susan Reed, Criminal District Attorney, in an effort to find

out, from their vantage point as leaders in the community, what the problems and needs are that KENS should address in its programming. In addition, we conduct annual market surveys asking citizens for the local issues of importance to them. That information, in turn, is compiled and serves as the focal point in planning our non-entertainment programming. We also obtain input informally through personal involvement with a variety of community organizations such as the San Antonio Chamber of Commerce (of which I serve as a director).

In my view, some combination of formal and informal ascertainment, at the station's option, is the most effective way to perform this indispensable task.

Today's media marketplace demands not only responsive programming but also multiple outlets for citizens to access that programming. Like other broadcasters, KENS has creatively expanded the ways it serves local audiences. KENS has partnered with the area's major cable system, Time Warner Cable, to create NEWS 9, a 24-hour local cable news channel serving San Antonio. KENS has also partnered with the area's major daily newspaper—the *San Antonio Express News*—to create MySanAntonio.com, a local news and information website virtually combining television and newspaper resources to deliver up to the minute coverage to local citizens wherever they may access the Internet. These new offerings are driven by Localism and the marketplace—not by federal mandate.

Finally, I would like to address another key component of Localism: access to the station's airwaves. KENS supplies this vital access in a variety of ways. In the local programming area, KENS produces a weekday morning program, called Great Day San Antonio, which provides access to local artists, musicians, community leaders and community organizations. In addition, KENS airs the City of San Antonio's New Year's Eve event and is the Official Station of Fiesta,

airing three major local parades. KENS has also created the Excel Awards, which honors our area's best teachers during each school year. Through public service announcements and other activities, KENS supports numerous community organizations, such as the San Antonio Food Bank and the Salvation Army, helping raise over \$175,000 annually for these two groups alone.

To sum up, Mr. Chairman and Commissioners, Localism is driven in every American television market by two powerful and historically entrenched principles. First, is the principle of community service, which is a long-established hallmark of local television stations. Local stations and their employees serve their communities because it is both personally rewarding and the right thing to do. It is also reinforced by the FCC license renewal process, which focuses on a station's performance in its community and for its viewers. Second, is the principle of economics. There are strong economic incentives, in the form of advertising dollars, which reward the top-rated stations in a market, those which provide the most-watched local news. We do not need any additional incentives to continue to serve Localism. Localism is what we are about. It is the business of local television.

Thank you.

# BELO EXHIBIT 2

FCC  
Seattle Field Hearing on Media Ownership  
Testimony of Dave Lougee  
President and General Manager  
KING-TV, KONG-TV, NorthWest Cable News  
March 7, 2003

Good morning. I want to thank Commissioners Copps and Adelstein and the other organizers of today's forum for the opportunity to appear before you. My name is Dave Lougee. I am President and General Manager of KING-TV, KONG-TV and Northwest Cable News. KING, KONG and NorthWest Cable News are all Seattle-based media companies owned by our parent Belo Corp. Belo is a publicly traded company owning television, newspaper, cable news and interactive businesses in the Pacific Northwest and elsewhere in the U.S.

As you are aware, Belo has filed extensive comments in the ongoing media ownership rulemaking. Those comments reflect our Company's belief that the evidence now before the Commission is incontrovertible that both the newspaper/broadcast cross ownership rule and the existing restrictions on television duopolies fail to advance the agency's traditional diversity and competition objectives and cannot be justified in the contemporary marketplace.

I think it is appropriate you are holding this event in Seattle -- one of America's most educated communities and a community on the cutting edge of new technology. This is a good place to discuss the future of information delivery and challenge some outdated assumptions.

My purpose here today is to provide you with real world, local examples of how the public benefits from enhanced news and public affairs programming when companies like Belo are allowed to own multiple outlets in a single local market.

I am a former news director, most recently here at KING, and before that at WRC, the NBC owned station in Washington D.C. It's significant that Belo chose a journalist to lead these three Seattle outlets. Belo's expectation of us is that our newscasts reflect the company's values of fairness, excellence and inclusiveness, presenting all sides of controversial issues. That's the extent of their involvement in news content. Neither I nor any other member of KING's management team have ever been pressured or influenced by the Company on any news content decision. Not once, not ever. Nor was I influenced or pressured at NBC. And we don't do editorials. The viewers demand we give them the facts, context and all viewpoints -- but not our viewpoint. Our large loyal

viewership level is absolute proof of their trust in us, and that trust is the currency of successful local TV stations.

Our main station, KING, provides more news and local programming than any other TV station in the Northwest by a good margin. In just a few weeks, KING's daily local program, Evening Magazine, will become, to our knowledge, the first local daily program in America produced and broadcast in high definition television. Every one of our newscasts is the highest rated in its time period, and our journalists and managers are deeply connected and involved in this community. As Congressman Inslee can attest, our coverage of politics and public policy in Western Washington is the most extensive of Washington broadcasters. For that commitment, we recently received a Walter Cronkite Award from the Annenberg School of Journalism.

Now let me tell you how being able to own and operate a second station, KONG, has allowed us to expand our local commitment on both stations, even in the midst of a terrible advertising recession in the Northwest. By being able to own and operate both KING and KONG, we are able to consolidate expenses and use those efficiencies to put more resources into news and local programming.

KONG is an independent UHF station with no network programming. It is hard to conceive of any model where a stand-alone station like that would be providing any local news in any market. So four years ago, after a stand-alone station in the market dropped its 10 p.m. newscast for economic reasons, leaving viewers with only one news option at 10 p.m., we added a 10 p.m. newscast on KONG. It airs there seven days a week, something we couldn't do on KING because NBC network programming is on until 11 p.m.

Last year, in the worst advertising year ever in Seattle, we added a prominent local public affairs show. The cost consolidation and programming flexibility provided by a duopoly allowed us to provide something no other Seattle broadcaster provides. Called "Up Front" it doesn't just air, it airs in prime time at 10:30 p.m. on KONG, and at 4:30 p.m. on KING. It's worth noting that at the same time Seattle's only locally owned network affiliate cancelled their public affairs show.

Until this year we couldn't carry NBC's Meet the Press in a prominent time period on KING because the network was often airing basketball games at 9 a.m. on the West Coast. So instead, we carried it twice --once on KING earlier in the morning, but again on KONG at 10 a.m. We made sure viewers knew of the option, and as a result Meet the Press's combined viewership here is among the highest in the nation.

On September 11<sup>th</sup> KING, of course, carried NBC's coverage from New York, uninterrupted. But on KONG, we carried non-stop local coverage -- the only station in a position to do so. We gave local viewers a chance to talk and grieve together as a community, and that night on KONG we aired a live service from a local cathedral.

In this very room, shortly after September 11<sup>th</sup>, a KING 5 journalist moderated Seattle's portion of a five-city town hall meeting set up by the United Nations and sponsored by the Better World Campaign. KONG carried the event from start to finish -- the only broadcaster to do so.

On Election Day 2000, this nation was choosing a new leader; and our state was electing a governor, a U.S. Senator and all of our seats in the House. On KONG we carried uninterrupted coverage of the local election. On KING we carried NBC national election coverage uninterrupted. Without the second station, we would have had to compromise with our viewers on both counts.

On multiple occasions, when no network affiliate was carrying live coverage of a local news event, KONG has been the only station to do so.

Our situation here is not unique. Belo has duopolies in four markets. In each of those markets, the acquired station provided no local news. Now, three of those four stations provide news and the fourth is preparing to do so. One of those duopoly markets is here in Spokane. Although a smaller market, again our ability to consolidate has allowed us to offer that market an additional daily newscast at 10 p.m. on our second station.

Thanks for the opportunity to appear before you, and I look forward to answering your questions.