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June 8, 2006

VIA ELECTRONIC SUBMISSION

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Rm. TW-A325
Washington, D.C. 20554

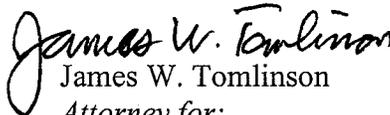
**Re: GN Docket No. 98-120
In the Matter of Carriage of Digital Television Broadcast Signals:
Amendments to Part 76 of the Commission's Rules**

Dear Ms. Dortch:

Today, TV One, The Inspiration Network, Inspirational Life Television, La Familia Network, Altitude Sports & Entertainment and The Filipino Channel (collectively, "the Networks")¹ submitted the attached *Ex Parte* Written Presentation to Commissioner Robert M. McDowell and Christina Chou Pauzé, Acting Media Advisor.

Pursuant to 47 C.F.R. § 1.1206, this notice is being filed electronically with the Commission. Please contact the undersigned with any questions you may have.

Very truly yours,


James W. Tomlinson
Attorney for:

**TV ONE, LLC
THE INSPIRATIONAL NETWORKS, INC.
ABS-CBN INTERNATIONAL, INC.
KSE MEDIA VENTURES, LLC**

cc: Commissioner McDowell
Christina Chou Pauzé

¹ The corporate entities of the Networks include: TV One, LLC; The Inspirational Network, Inc. d/b/a The Inspiration Networks (INSP, iLifetv and La Familia); KSE Media Ventures, LLC, d/b/a Altitude Sports & Entertainment; and ABS-CBN International, d/b/a The Filipino Channel.

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June 8, 2006

VIA HAND DELIVERY

Commissioner Robert M. McDowell
Ms. Christina Chou Pauzé, Acting Media Advisor
Federal Communications Commission, Room 8-C302
445 12th Street, S.W.
Washington, D.C. 20554

**Re: GN Docket No. 98-120
In the Matter of Carriage of Digital Television Broadcast Signals:
Amendments to Part 76 of the Commission's Rules**

Dear Commissioner McDowell and Ms. Pauzé:

On behalf of TV One, The Inspiration Network, Inspirational Life Television, La Familia Network, Altitude Sports & Entertainment and The Filipino Channel (collectively, "the Networks"),¹ we would like to thank you for taking the time to meet with us on Monday to discuss the issue of multicast must-carry, an issue of vital importance to the Networks and other multichannel networks. We also would like to provide you with additional information regarding several of the issues we discussed with you during the meeting.

First, a multicast must-carry requirement unquestionably would result in a severe reduction in the cable channel capacity available to multichannel networks for distribution of their programming to American television viewers. Today, there is virtually no capacity available on cable systems for expanded linear carriage of multichannel networks. Cable operators have reserved most of the additional capacity added to their systems through recent plant upgrades for non-linear video services, such as pay-per-view, and enhanced services such as VOD, VOIP and high-speed data. Likewise, cable operators have planned to utilize for enhanced services much of the reclaimed capacity that they expected to reap from the conversion of analog signals (including single analog must-carry broadcast television signals) to digital. Indeed, as reported by the trade press, some cable operators have even dropped multichannel

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networks that they have carried for years, choosing instead to use such bandwidth for non-linear video and enhanced services that they view as more important in terms of revenue generation and response to competition by DBS operators such as DirecTV and EchoStar, and telephone giants such as Verizon and AT&T. If, under such circumstances, cable operators were now to be governmentally required to carry three, four, six or an even greater number of streams of content for every broadcast station in a market, when previously they were required to carry only one, they inevitably would be forced to accommodate such greatly expanded carriage of broadcast channels by dropping many multichannel networks that currently are carried on their systems, and by foregoing carriage of additional multichannel networks that they otherwise would have added to their systems. Thus, multicast must-carry would result in a real, not just theoretical, loss to multichannel networks of a very substantial amount of cable system distribution that they otherwise would receive. Multicast must-carry is anything but the “no harm, no foul” proposition for multichannel networks that broadcasters would have you believe it to be.

Further, multicast must-carry would unfairly and discriminatorily deny multichannel networks from the opportunity to compete in the marketplace, on a level playing field, against broadcasters for carriage on the capacity that cable operators will gain back by virtue of the technological advances that make possible the transition from analog to digital. Nothing in Section 614 of the Act suggests, let alone commands, that broadcasters be given a monopoly on the use of such capacity. For example, had technological advances allowed cable operators in the 1990s to carry must-carry broadcast signals in 3 MHz rather than 6 MHz of bandwidth, would broadcasters have been entitled under Section 614 to force cable operators to carry a second stream of analog programming rather than their one, primary video signal? Absolutely not, and the Commission’s two prior orders interpreting the meaning of “primary video” compel that conclusion. Likewise, had technological developments in 2000 suddenly required 9 MHz of capacity for carriage of an analog broadcast signal on a cable system, would broadcasters have agreed that their must-carry rights were limited to only 6 MHz, and that cable operators could degrade the broadcaster’s signal because they were obligated to devote only 6 MHz? We think not. The point is that the focus of Section 614 is on carriage of the carriage of a broadcaster’s primary video stream, which the Commission has twice concluded means one channel of programming, not on giving broadcasters a lock on a certain amount of capacity, whether it is measured in MHz or Mbps. Broadcasters simply are not entitled under Section 614 to force cable operators to carry three, four, six or more streams of programming in the future simply because technology now permits digital transmission of their primary video stream using less capacity than in analog mode.

Thus, the broadcast industry’s claim that digital multicasts of multiple channels will occupy the same amount of bandwidth on a cable system as do the analog single-stream broadcasts currently transmitted over cable systems (6 MHz) is totally beside the point and provides no justification for adoption of a multicast must-carry requirement. Moreover, real-world application of the broadcasters’ theory demonstrate the absurdity of its logic and the breathtaking expansion of broadcasters’ consumption of cable operators’ channel capacity – the



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very channel capacity to which multichannel services such as the Networks must have access to in order to become and remain commercially viable – that enlarged must-carry rights would accomplish. For example, in a market such as New York City or San Francisco, where there are approximately 20 broadcasters entitled to must-carry, broadcasters' collective entitlement to carriage on cable systems in those markets would explode from 20 must-carry channels on each cable system to at least **120 channels** out of the each cable operator's pool of potential slots, and possibly more depending on the type of compression used. The Networks – indeed, all multichannel networks – would be deprived of the opportunity to compete for carriage of their content on any of those 120 slots. This exclusionary effect would be played out in a similar manner on every cable system in the United States, resulting in a massive nationwide disqualification of multichannel networks (who, unlike broadcasters, have no ability to reach viewers over governmentally-gifted over-the-air spectrum) from the opportunity to compete for distribution of their existing channels, or of additional channels that they might like to launch, to cable subscribers across the country. Correlatively, cable television subscribers would be deprived of their opportunity to view content that they would prefer to watch and that cable operators would prefer to distribute, but for the broadcasters' proposed geometric expansion of their must-carry rights. Thus, multicast must-carry necessarily would result in the **massive displacement** of multichannel networks. While a very few networks such as ESPN, CNN or USA Network arguably might, under such a regime, still have sufficient marketplace leverage both to avoid being dropped by cable operators and to obtain expanded distribution and carriage of newly launched progeny networks, the overwhelming majority of multichannel networks, which are less well-established and serve niche audiences, will suffer substantial losses of distribution that will endanger their future viability.

Finally, the "whitepaper" submitted by the National Association of Broadcasters to the Commission last week, at the eleventh hour, shockingly fails to address at all the dramatic exclusionary impact that multicast must-carry would have on **multichannel networks** such as the Networks. In asserting that multicast must-carry would not impact cable operators or the "cable industry," NAB's deafening silence on this score is significant in many respects. First, nationwide exclusion of multichannel networks from so great a portion of cable operators' channels would devastate their existing carriage and all but preclude any further growth. Second, the government's favoritism would foreclose multichannel networks from getting their "message" to millions of viewers, an unthinkable curtailment of multichannel networks' First Amendment rights. Third, multicast must-carry would deny cable subscribers the opportunity or ability to access the content of these networks, which have no other means of reaching such viewers. And fourth, multicast must-carry would disserve the important statutory goal of promoting source diversity, by placing in the control of a single broadcaster multiple channels that otherwise would be programmed by diverse, independent multichannel networks. The complete failure of the NAB whitepaper to address these certain consequences of their latest must-carry theory, which stand in counterpoint to NAB's total speculation as to what broadcasters would do with this windfall of capacity – demonstrates that the Commission cannot



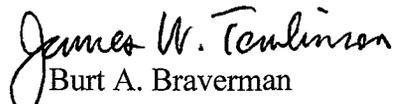
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and should not predicate reconsideration of its prior rejection of multicast must-carry on so infirm a rationale.²

As Ms. Wishart and Mr. Ardizzone stated at our meeting with you, the Networks seek only the opportunity to compete with broadcasters in the marketplace, on a level playing field, for access to channel capacity on cable systems. Multichannel networks have made massive investments to launch, develop, program and operate their networks, with no government assistance or guarantee of carriage on any cable system. In contrast, broadcasters consistently have stated that they are unwilling to make any such investments in programming and infrastructure until they are given another government-mandated guarantee of cable distribution, on top of the billions of dollars in spectrum they have received from the federal government absolutely free. Under these circumstances, which set of television programmers can really be expected to deliver diverse, high-quality programming to the viewing public over scarce cable system channel capacity?

We urge you to vote against any multicast must-carry requirement, or at a minimum to delay any such vote until the public and the Commission have an adequate opportunity to scrutinize and respond to NAB's latest theory.

Very truly yours,


Burt A. Braverman
James W. Tomlinson
Attorneys for:

TV ONE, LLC
THE INSPIRATIONAL NETWORKS, INC.
ABS-CBN INTERNATIONAL, INC.
KSE MEDIA VENTURES, LLC

Cc: Commissioner Deborah Taylor Tate
John Grant

² At a very minimum, given the eleventh hour nature of NAB's submission of its whitepaper, it would be wholly inappropriate for the Commission to act on this matter without giving the public ample opportunity to comment and respond to NAB's conjectural assertions.

