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June 8, 2006

Via Electronic Filing

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

RE: Standardized and Enhanced Disclosure Requirements for Television Broadcast License Public Interest Obligations, MM Docket No. 00-168;
Public Interest Obligations of TV Broadcast Licensees, MM Docket No. 99-360;
Carriage of Digital Television Broadcast Signals, CS Docket No. 98-120

Dear Ms. Dortch,

Pursuant to section 1.1206(b)(2) of the Commission's rules, we hereby submit this notice regarding an *ex parte* meeting in the above-referenced proceedings.

On Tuesday, June 7, 2006, Charles Benton and Gloria Tristani of the Benton Foundation, Katherine Grincewich of the United States Conference of Catholic Bishops, and Angela Campbell of the Institute of Public Representation met with Commissioner Robert M. McDowell and his legal advisor Cristina Chou Pauzé. They presented a chronology of developments concerning DTV public interest obligations and multi-channel must carry and urged that the Commission should hold off revisiting the issue of must-carry for digital broadcasting until it first adopted disclosure requirements and public interest obligations for digital broadcasters. They pointed out that it will be difficult for a court to sustain the FCC's decision to afford broadcasters multi-channel must-carry in the absence of meaningful public interest requirement.

The following documents were provided at this meeting: Chronology-DTV Public Interest Obligations and Multi-Channel Must Carry; Comments on Petitions for Reconsideration filed by the Office of Communication of the United Church of Christ, Inc., Campaign Legal Center, and Common Cause in Docket 98-120 (May 26, 2005); Letter to Chairman Martin from the Consumer Advisory Committee (May 18, 2006); Letter to Broadcasters from the Benton Foundation, Campaign Legal Center, and Common Cause asking local broadcast stations to give high priority to covering the 2006 midterm elections (May 26, 2006); Letter to Chairman Martin

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from Benton Foundation *et al.* (June 5, 2006) urging Commission not to adopt multi-cast must carry rules without first articulated public interest obligations for DTV broadcasters; and Letter to Chairman Martin from the Department of Communications, United States Conference of Catholic Bishops (May 23, 2006), urging the Commission to take action in the public interest obligation and enhanced disclosure proceedings. To the extent that these letters have not already been place on the record, copies are attached.

In accordance with the Commission's rules, this *ex parte* notice is being filed electronically in the above-referenced dockets. If you have any questions regarding this filing, please do not hesitate to contact me at (202) 662-9541.

Respectfully submitted,
/s/
Angela Campbell

Department of Communications
3211 FOURTH STREET NE • WASHINGTON DC 20017-1194 • 202-541-3200 • FAX 202-541-3173

May 23, 2006

Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Martin:

Last November, I wrote to you, on behalf of the United Conference of Catholic Bishops, to urge the Federal Communications Commission to complete its proceedings in the matter of *Public Interest Obligations of TV Broadcasters and Licensees* (MM Docket No. 99-360) and in the matter of *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations* (MM 20 Docket No. 00-168), and issue Reports and Orders in these matters before June 1, 2006. Since then, no action has been taken in those proceedings. The date for the end of analog television and complete transition to digital television is February 17, 2009, just two years and eight months from now.

Enforceable public interest obligations are needed now, and will continue to be needed when television is completely digital. Today, even as the broadcasting industry continues to benefit from its subsidized use of the public airwaves, broadcasters' observance of meaningful public interest obligations have declined. We ask that, in exchange for the use of tens of billions of dollars worth of new spectrum rights, broadcasters be required to put forth a substantial effort to provide programming that better serves the public.

The experience of the USCCB and of Roman Catholic dioceses is that there has been a steady decline in television stations willing to broadcast noncommercial religious programming or local pubic interest programming featuring local religious leaders. The Catholic bishops of the United States are concerned that, with the imminent conversion to all-digital broadcasts, the already limited amount of religious programming will decline even further.

The USCCB is committed to maintaining a place for religion and values on the public airwaves and to programming that inspires, informs and educates. USCCB is in regular contact with nearly 200 Catholic dioceses throughout the United States. Catholic programmers produce a variety of radio programs, including talk shows featuring religious issues and family matters, to local public affairs programs, sacred music concerts, and children's programs. A significant number of dioceses that produce television programs and public service announcements have consistently informed us of the financial burden and increased difficulty involved in obtaining airtime on local broadcast stations. As a result, the bishops are concerned that local broadcasters'

programming decisions regarding religious and educational programming is more deeply rooted in their desire for commercial gain, rather than *in meeting their statutory obligations* to serve their communities' needs and interests.

We urge the FCC to adopt regulations that would provide broadcasters incentives to air programs produced by religious institutions, organizations, schools, and other community-based organizations. Such regulations could include shorter periods for license renewal review; or a provision that would ensure that local licensees will understand and meet local religious needs and interests with responsive programming.

Over the years, USCCB has advocated for legislation and regulations that would ensure broadcast licensees understand and meet local needs and interests with responsive programming by: (a) amplifying the voices and views of the public, including community organizations and noncommercial religious entities, in broadcast media; (b) increasing the amount of local news and public affairs programming (including religious programs and public service announcements); and (c) increasing the amount of programming that serves the educational needs of children, persons with disabilities, and underserved communities.

As chairman of the USCCB Committee for Communications, I respectfully urge you to reconfirm broadcasters' obligation to serve their local communities of license by issuing reports and orders in these proceedings: (1) *Public Interest Obligations of TV Broadcasters and Licensees* (MM Docket No. 99-360) and (2) *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations* (MM 20 Docket No. 00-168). Thank you for your consideration of our views.

Sincerely,

+ Gerald Kicanas

Most Reverend Gerald F. Kicanas
Bishop of Tucson
Chairman, Communications Committee

cc: Commissioner Michael J. Copps, Commissioner Jonathan S. Adelstein, Commissioner Deborah Taylor Tate

May 18, 2006

Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Martin,

On March 8, 2005, the Commission announced the appointment of thirty-five (35) members to its Consumer Advisory Committee. On May 26, 2005, you appointed twenty additional members to the Committee. On November 18, in one of our first official acts, the Committee adopted, nearly unanimously, the attached recommendation on the "Consumer Interest Obligations of Digital Television Broadcasters." The recommendation calls on the Commission to issue reports and orders in the following matters within six months of the receipt of the recommendation:

- Public Interest Obligations of TV broadcast Licensees (MM Docket No. 99–360);
- Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations (MM 20 Docket No. 00–168))

To date, the Committee has received no communication from the Commission on the status of this recommendation.

In reviewing the Committee's charter, we note we are to report to the Chairman. On February 16, 2006, the Benton Foundation, a member of the CAC, delivered the attached recommendation to your office, but has received no reply. We write today to ask you:

- What is the status of the Committee's recommendation regarding the obligations of digital television broadcasters?
- When do you foresee bringing clarity to the obligations of digital television broadcasters?
- In general, when the Committee adopts recommendations to the Commission, what is the responsibility of the Commission to report back to the Committee on those suggestions?

The mission of the Committee is to both make recommendations to the Commission and to "facilitate the participation of consumers." Unless the Commission assumes an active roll in reviewing and providing feedback on the comments and recommendations submitted by its own Committee, American consumers stand little chance in becoming active participants in Commission proceedings – and in shaping our shared communications future. We hope you deem our dedicated work important enough to review on a timely basis and then provide opportunities for open discussion with your staff.

With President Bush's signature on the Deficit Reduction Act and Digital Television Transition and Public Safety Act, we are now less than three years from digital-only television broadcasting in the US. With each passing day, more and more American consumers are adopting this new technology as their electronic window to the world. On February 17, 2009, when analog TV is finally turned off, so too will broadcasters' mandate to serve the public interest, convenience, and necessity be left behind unless the Commission acts to extend meaningful obligations to the digital world.

We look forward to your timely reply.

Sincerely,

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June 5, 2006

The Honorable Kevin Martin
Chairman, Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Martin:

It would be a grave mistake for the Commission to pass multicasting must-carry rules without first clearly articulating public interest obligations for digital broadcasters. No decision on must-carry should be made until and unless the FCC has set forth provisions which spell out meaningful and effective public interest obligations for digital television broadcasters. Broadcasters have had the obligation in law to serve the public interest convenience and necessity for more than 70 years. Since multi-cast must-carry would make broadcasters' already valuable broadcast licenses even more valuable, the least the FCC can demand of them is that they obey existing legal mandates. We would hope, however, that any gift as generous as multi-cast must-carry would confer other benefits to the public as well.

Our organizations do not support or oppose multi-cast must-carry. However, if the FCC grants this benefit to broadcasters, it is in the broadcasters' self-interest to agree to FCC public interest guidelines. Not only will clear public interest obligations ensure robust civic discourse and quality programming for viewers, but incorporating strong public interest obligations on multicasting must-carry will help multicasting policy pass constitutional muster. Based on the Supreme Court's 1997 decision in favor of this principle, local programming of news, electoral and public affairs and emergency services is an important rationale for broadcasters to demand must-carry of multiple programming streams. Strengthening the public interest obligations of digital broadcasters will be crucial in securing and sustaining multi-cast must-carry in the courts.

Most importantly, instituting a new must-carry regime without clear and strong obligations and other clear benefits to the public is certain to be a public policy disaster, giving a sweetheart deal to broadcasters and a raw deal to the viewing public. We strongly urge you not to put the cart before the horse and change the Commission's position on must-carry before defining how digital broadcasters will serve the American people.

Sincerely,

Benton Foundation
Campaign Legal Center
Common Cause
Media Access Project
New America Foundation
Office of Communication of the United Church of Christ, Inc.

cc: Commissioners Adelstein, Copps, McDowell, Tate
Senate Committee on Commerce, Science and Transportation
House Committee on Energy and Commerce

Benton Foundation • Campaign Legal Center • Common Cause

May 26, 2006

Dear Broadcaster:

As you know, local broadcast stations are the primary source of election information for voters. With the 2006 midterm elections upcoming, we are writing to strongly urge you and your station to give high priority to providing coverage of these elections and to finding innovative and significant ways to provide candidates access to the airwaves so they can speak directly to the voters. We encourage you and your station to make a public commitment to do your part to further the public discourse around these political campaigns.

Our organizations have compiled a number of resources to help broadcasters better serve the public during this election season. We encourage you to visit the links listed below for more information:

- The Campaign Legal Center's guidebook entitled *Beyond the Spin: Practical Ideas for Engaging Candidates & Viewers in Campaign 2006*, is designed to provide your producers and reporters with some ideas on the variety of ways to offer candidates airtime and help engage and educate your viewers about the upcoming elections. www.campaignlegalcenter.org/attachments/1595.pdf
- The Benton Foundation's *Citizens Guide to the Public Interest Obligations of Digital Television Broadcasters*, which provides useful information on the public interest expectations of digital broadcasters. www.benton.org/pioguide
- Common Cause works on a variety of issues relating to media reform, and is a member of the Media and Democracy Coalition. The Coalition's Bill of Media Rights has been signed by organizations representing more than 40 million Americans: www.citizensmediarights.org.
- Finally, the Legal Center's *Campaign Media Guide*, is a comprehensive primer on the legal requirements surrounding political broadcasting, helping both candidates and broadcasters navigate the election season. www.campaignlegalcenter.org/attachments/1121.pdf.

We are convinced that television journalists, if given support from management, have the ability and creativity to show your audience the truly interesting and compelling issues that are a part of our nation's elections at all levels of government. But making candidates, campaigns and elections more compelling television means avoiding the easy way out – it means going beyond coverage that focuses predominantly on the horserace aspects of elections, or on short sound bites that don't allow voters to get meaningful information about candidates' views and positions. We believe, with a strong commitment from the top, your station can move beyond some of the more ineffective national traditions of campaign coverage to create new, more dynamic and engaging programming about the 2006 elections. Without a presidential race there will be more

opportunity to focus on state and local issues, which as the local licensee, your station has a special responsibility.

The National Association of Broadcasters recently sent out a questionnaire asking about your station's planned activities for the 2006 elections (*The Election 2006 Station Debate Tracker and Log of Voter Education Activities,* available at www.nab.org/publicservice/electionslog.asp). We also encourage you to get a copy of *Election 2006*, also released by the NAB, which seeks to facilitate broadcasters' involvement in elections. If you have not already received this guidebook, you can request a free copy at www.nab.org/publicservice/Elections.asp.

We believe that broadcasters are uniquely positioned to provide outstanding service with their election coverage. We also believe it is a critical part of their licensee obligations. Our organizations would appreciate knowing about your plans for campaign coverage. We will recognize those stations that are meeting their commitment as public trustees to serve their communities by providing substantial and informative election coverage. We look forward to seeing your station on that list.

Sincerely,

Benton Foundation Campaign Legal Center Common Cause

Chronology-DTV Public Interest Obligations and Multi-channel Must Carry

Aug. 1995-FCC asks for comment on public interest obligations of digital television stations (4th NPRM, Dkt. 87-268).

Feb. 1996-Telecommunications Act passes. §336(d) makes clear that all services offered by digital broadcasters were to serve the public interest. However, Congress left it to the FCC to specify what the "public interest" required in this new digital environment.

Mar. 1997-President appoints Advisory Committee on Public Interest Obligations of DTV.

Dec. 1998-Advisory Committee releases report recommending, among other things, that broadcasters should make enhanced quarterly disclosures of their public interest programming and that the FCC should adopt a set of minimum public interest requirements for DTV broadcasters.

Dec. 1999-FCC issues NOI seeking comments on Advisory Committee proposals and public interest obligations of digital broadcasters (Dkt. 99-360).

Oct. 2000-FCC issues two NPRMS based on record in Dkt. 99-360:
- Disclosure (Dkt. 00-168) (still pending)
- Public Interest Obligations to Children (Dkt. 00-167) (Report issued Nov. 2004, petitions for reconsideration still pending)

Jan.2001-FCC interpreted the statutory term "primary video" to mean only a single programming stream so that if a digital broadcaster elects to multicast, only one stream is entitled to mandatory carriage. 1st R&O, Dkt. 98-120 (6 FCC Rcd at 2622). The broadcast industry sought reconsideration.

Apr. 2004-Public Interest Public Airwaves Coalition (PIPA) files proposed processing guideline for public interest obligations.

June 2004-PIPA Coalition files proposed public disclosure form.

Feb. 2005-FCC denies petitions for reconsideration concerning multichannel must carry and commits to complete Disclosure and DTV Public Interest proceeding by end of year. 2d R&O, Dkt. 98-120.

Apr.-May 2005-Broadcasters seek reconsideration of 2d R&O. UCC, Campaign Legal Center and Common Cause filed comments on petitions for reconsideration in Dkt. 98-120, urging FCC to adopt meaningful and measurable public interest obligations before acting on petition for reconsideration in Dkt. 98-120.

Nov. 2005-FCC's Consumer Advisory Committee recommends FCC adopt DTV public interest obligations within six months.