

FEDERAL COMMUNICATIONS COMMISSION

CG-121

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PUBLIC HEARING ON MEDIA OWNERSHIP

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TUESDAY, OCTOBER 3, 2006

The above-entitled matter convened at 6:30 p.m. at the El Segundo High School, 640 Main Street, El Segundo, California, Chairman Kevin J. Martin, presiding.

MEMBERS OF THE COMMISSION PRESENT:

COMMISSIONER MICHAEL J. COPPS
COMMISSIONER JONATHAN S. ADELSTEIN
COMMISSIONER DEBORAH TAYLOR TATE
COMMISSIONER ROBERT M. McDOWELL

FILED/ACCEPTED

OCT 25 2006

Federal Communications Commission
Office of the Secretary

MODERATOR:

HENRY RIVERA, Partner Wiley, Rein & Fielding, and
former FCC Commissioner

ALSO PRESENT:

THE HONORABLE DIANE E. WATSON,
California's 33rd Congressional District

MAYOR KELLY McDOWELL

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A-G-E-N-D-A

Opening Remarks and Comments by FCC Commissioners	5
Panel: Market Overview/LA Case Study	15
Henry Rivera, Moderator	
Dr. Frank Wright	16
Dr. Bruce Owen	21
Vincent Malcolm	25
Paula Madison	31
Sydney Levy	34
Ted Lempert	38
James C. Joyce	43
Julian Do	47
Jorge Delgado	52
Dr. Mark Cooper	56
Moctesuma Esparza	61
Dr. S. Huw Anwyl	105
The Honorable Diane Watson	83
May Kelly McDowell	103
Public Comments	
Lily Firefly	67
J. Kenneth Campbell	69
Jesse Marquas, Executive Director	70
Coalition for a Safe Environment	
Jerilyn Stapleton, NOW	72
Emily Rush, CALPIRG	74
Faramarz Nabavi	76
Apolo Trujillo, Teacher	78
La Academia Semillas del Pueblo	
Paul Schlichting	79
Christina Huskisk speaking for Beverly Pancake, La Academia Semillas del Pueblo	81
Henry Caroselli, author <i>Cult of the Mouse</i>	84
Todd Urick, engineer, UC Davis Radio Station KDVS	85
Jim Burns	87
Bruce Fife	89
American Federation of Musicians	
Jane Dommeyer	91
Martha Madison	92
Lee Baily	94
Danny Murphy	96
Susan Joyce	98
American Federation of Television and Radio Artists	

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Public Comments (cont.)

Mansoon Sabbagh	100
Global Voices for Justice	
India Weeks	108
Benjamin Park, Middle East Peace Program	109
Mr. Oland	111
Manuel Alderete	113
Wendel Cobalt, Rain Forest Action Network	114
Jesse Riveria, Mechika Movement	114
Frank Beale	117
Professor Steve Anderson	119
Enrique Conzalez	121
Johnny Radio	122
Beth Muer,	
Environmental Priorities Network	124
Paul Russell Leverack	127
Reverend Paul Sawyer,	
Media Democracy Legal Project	128
Rachel Stilwell, Attorney Berger Kahn	130
Christer Loffenius	132
Laurin Macalvoy-Herrera	134
John D. Herrera	136
Irma Cohen	137
Raul Garcia	138
Michelle Murphy	140
Antonie Chung	141
Jonathan Peterson	143
Leory Jackson, President	
NABET CWA Local 53	146
Leslie Gersicott	147
Mike Sakellarides, KOST Radio	149
George Ramos	150
John Harlan	152
Karla	154
Tom Newman	156
Jack Kenton	157
Mary Anne McCarthy	159
Barbara Levin	160
Melissa McKie	163
Shelby Flint	164
Rosa Maria Santana,	
National Association of Hispanic	
Journalists	166
Carleen Brown	168
John Blantice	169
Dan Hernandez	170
Sharon Hall	173
Broad Water speaking for Lori Lynn	175

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Public Comments (cont.)

Kaye Shepherd	176
Erman Verdeckie, Screen Actors Guild . . .	178
Julio Ceasar	180
John Wanger	182
Bella DeSoto	184
Douglas Barnett	186
Marla Bernstein	187
Roger Hall	190
Dr. Ruth Strauss	192
Steve Levinson	193
Eric Vulmer speaking for Pamela de Liz .	196
Linda Bassist	197
Jim Burns	199
Isreal Foyer	200
Charles Frederick	202
Ben Mendelson, President, Interactive Television Alliance . . .	204
Closing Remarks	207

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P-R-O-C-E-E-D-I-N-G

6:34 p.m.

CHAIRMAN MARTIN: Good evening, everyone.

And welcome to the Federal Communications Commission Hearing on Media Ownership.

We had the opportunity to hear from of the folks over at USC earlier today. And we also had the opportunity to hear from a panelist there. And we're very pleased tonight that you all have agreed to participate on this hearing as well and spend some time with us tonight and give us some insights into the Los Angeles media market in particular and into some thoughts on how that might impact our concerns on media ownership in general. This is certainly an important issue to a lot of folks. And we're anxious also to hear from the public as well.

And so I do want to thank all the panelists and also Henry Rivera who is a former FCC Commissioner who has agreed to help moderate tonight and keep us all on schedule.

So that, Mr. Copps, you want to do any opening remarks?

COMMISSIONER COPPS: Thank you. And thank you all for coming to this second segment of the FCC's Los Angeles hearings. And special thanks to any hardy

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1 souls among you who attended our hearing this
2 afternoon down at USC and then made the trek out here
3 tonight.

4 I'll keep this short because the idea
5 tonight is for us to listen and learn.

6 But let me just take a minute to emphasize
7 what's at stake here. Because our media is precious.
8 It's how outside of our strictly personal spheres we
9 talk to each other and inform each other, and learn
10 from each other and entertain each other and how we
11 learn about decisions we as citizens have to make.
12 Media is, I believe, the most powerful enterprise, the
13 most powerful business in the United States of
14 America. And if we're smart about it, we'll make sure
15 that our media using your airwaves, and they are your
16 airwaves, reflect the genius and creativity and all
17 the wonderful diversity of this great country.

18 Three years ago we had a near disaster at
19 the FCC. The previous FCC gutted the rules meant to
20 check media consolidation, and it did so through an
21 almost totally nontransparent process. It did so over
22 the strong objections of Commissioner Adelstein and
23 me. Maybe they thought it wouldn't be a public issue,
24 but it became a public issue even though big media
25 didn't want to talk very much about or tell the

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1 American people very much about it. Nevertheless,
2 nearly 3 million Americans found out, rose up and told
3 the FCC they didn't like it one bit. I didn't know 3
4 million people even knew that was an FCC when I went
5 there.

6 Congress got mad, too. And then a federal
7 court sent those rules back to us as procedurally and
8 substantively flawed.

9 So it was a big citizen victory to check
10 those rules. That's the good news. But the reality
11 check is now we're back at square one and everything
12 is up for grabs. So, again, it depends on you the
13 people.

14 I can't imagine a city with more at stake
15 then this great metropolitan area, perhaps the most
16 diverse city in the United States.

17 Today people of color comprise more than
18 30 percent of our country's population, yet only 3.26
19 percent of all TV stations are minority owned. I've
20 seen other figures that say people of color own maybe
21 1 percent of the broadcast assets of the United States
22 of America. So is it any wonder that our media
23 provides such a distorted picture of minorities. How
24 much better it would be if our diversity was reflected
25 by our media and nourished by media.

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1 There are some people who seem to think
2 that diversity is a problem in the United States to
3 overcome. I see diversity as an opportunity to be
4 harnessed. But first we need a medial capable of
5 serving everyone, not just some advertiser's idea of
6 a mainstream demographic.

7 We're also here to learn about localism;
8 locally owned newspapers, TV news and radio used to be
9 the rule and not the exception. And then some
10 companies got the idea of building great empires from
11 sea to sea, and they had the political muscle to get
12 it done. Sometimes these companies put their business
13 plans ahead of the public interest. The latest twist
14 now is that a few of them are starting to doubt
15 whether those business plans made sense in the first
16 place, and yet they continue to beat the drums for
17 more consolidation. And it might be amusing if it
18 weren't so sad because the consequences are no joke.
19 Local newsrooms and stations devastated by job cuts,
20 local citizens despairing about the state of the news
21 and minorities shutout of America's most powerful
22 industry.

23 So we need your help in answering these
24 and other questions. And for my part as we begin, I
25 pledge to you not to rest until we get a media

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1 environment that works for every person in this hall
2 tonight.

3 Thank you.

4 (Applause).

5 CHAIRMAN MARTIN: Thank you. Thank you,
6 Commissioner Copps.

7 Mr. Adelstein?

8 COMMISSIONER ADELSTEIN: Well, thank you,
9 Mr. Chairman. And let me begin by also thanking the
10 community of El Segundo for their hospitality. This
11 is one of the most gorgeous high schools I've ever
12 seen. And it's also a wonderful auditorium. And as
13 a musician I think it's got great acoustics, too,
14 which we got to get a band up here at some point.

15 We just came from a wonderful hearing at
16 USC this morning where I noticed that about out of a
17 100 people we must have listened to, 99 thought that
18 media consolidation was a bad idea and one thought it
19 was a good idea, which is pretty much representative
20 of what the public at large thinks wherever we go.

21 We have a fantastic panel here today. I
22 want to thank all them for coming. A good balanced
23 panel.

24 And, of course, I want to thank all my
25 colleagues for coming out. It's really wonderful to

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1 have the full Commission here really listening and
2 participating and thinking about what the right
3 decision is for the public.

4 And I want to thank Henry Rivera for his
5 fine job moderating. He's going to keep it rolling
6 tonight.

7 The reason I think it's so important that
8 we come out here and talk to people is that our charge
9 in the law is really simple. It says we're supposed to
10 pursue the public interest, not the interests of the
11 media giants who seek a profit by using the public
12 airwaves. The public I think knows best what's in
13 their own interests. I mean, the best jury in the
14 world is the public because you watch a lot of
15 television, you listen to a lot of radio as all
16 Americans do and you think about it a lot. People
17 whenever we go across the country have incredible
18 bits of wisdom that they manage to squeeze into these
19 little two minute segments that we allow and clear
20 patterns emerge.

21 I think that it's much better than
22 thinking that those of us inside the beltway know
23 better what the public interest is than the public
24 themselves. So it's critical that we come out and
25 hear from you about what you think we should be doing

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1 to pursue our legal obligation to promote the public
2 interest. I think this open public process is the
3 best way to do it.

4 I want to thank the Chairman for
5 organizing these hearings today and for really opening
6 it up to a transparent process, as he said.

7 The message this morning I've got the
8 creative community was that the quality of news and
9 entertainment in this country is degraded by media
10 consolidation. That was a consistent message. It was
11 one which they gave examples of how when some of the
12 creative folks wanted to try something independent and
13 strong willed that they pushed back from these giant
14 media companies, but in the old days they had the
15 capacity to take their ideas to another network. But
16 now the networks have subsumed it onto themselves and
17 that competition for their ideas is gone and
18 essentially middle level management in these large
19 media conglomerates can make decisions that bump the
20 independent creative thought of these producers. And
21 the result is that we're all poorer for it. The
22 quality of news and entertainment goes down, there's
23 less freedom and independence, less trade of thought
24 and less dynamic programming.

25 So we are charged by law with pursuing the

1 public interest. We've always defined that as
2 localism, competition and diversity. And I fail to
3 see how additional media consolidation promotes any of
4 those goals.

5 I think that one witness put it best this
6 morning when he said that homogenization may be good
7 for milk but it's not good for media.

8 So I'm just here to listen. We have an
9 excellent panel. And I appreciate all of you taking
10 the time to be here and to share with us your thoughts
11 and views because we gain an enormous amount of wisdom
12 from you, and you are the people we are here to serve.
13 So thank you for coming out this evening.

14 (Applause).

15 CHAIRMAN MARTIN: Thank you, Commissioner
16 Adelstein.

17 Commissioner Tate.

18 COMMISSIONER TATE: Thank you, Mr.
19 Chairman.

20 As many of you all know, this is the first
21 opportunity that I'll have to review this proceeding
22 in our rules with a fresh new look. And how
23 appropriate it is that we began at a university, USC,
24 and are now at a high school, El Segundo. Because as
25 we hold the first of these hearings around the country

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1 this process will help us what the media marketplace
2 of the future will be like. The marketplace of
3 greatest import to today's students because they are
4 tomorrow's leaders.

5 My full statement is posted on our
6 website, so I'll just say thank you for being here for
7 participating tonight as the panel. And I'll look
8 forward to hearing from all of you.

9 Thank you.

10 (Applause).

11 CHAIRMAN MARTIN: Okay. Thank you,
12 Commissioner Tate, and Commissioner McDowell. Before
13 you begin, I do want to have the whole Commission
14 thank you for helping organize here in El Segundo and
15 thank your brother as well for being such a generous
16 host. So we appreciate that on behalf of the whole
17 Commission and we do want to make sure and thank you
18 for it. Thanks.

19 COMMISSIONER McDOWELL: Thank you. And I
20 understand the Mayor is actually in a City Council
21 meeting. He'll be stopping by here in a couple of
22 hours.

23 But I just wanted to thank everyone for
24 coming out tonight. I'm not going to say much. I want
25 to hear from you and I want to hear from you and

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1 everyone else.

2 I'm looking at this issue with fresh eyes,
3 having just joined the Commission on June the 1st.
4 And I'll also be looking at it through the eyes of my
5 children, my 7 year old and my 5 year old as to what
6 the future holds for them.

7 So let's get on with the show.

8 (Applause).

9 CHAIRMAN MARTIN: Great. Thank you.

10 Henry, if you wanted to introduce the
11 panelists and we'll get started with the panel right
12 away.

13 MODERATOR RIVERA: All right. We're moving
14 on to the panel segment of our evening. And we've got
15 a very distinguished and knowledgeable panel with us.

16 Panelists, as I told you earlier, you each
17 will have 5 minutes and I will strictly enforce that.
18 We have a lot of folks to hear from tonight. And so
19 if you would keep your remarks to 5 minutes, I would
20 greatly appreciate it.

21 We have with us Dr. Frank Wright,
22 President and CEO of the National Religious
23 Broadcasters.

24 We've got Bruce Owen, Stanford University,
25 on behalf of CBS, FOX and NBC networks.

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1 We have Vincent Malcolm, Vice President
2 and General Manger, KTLA, Tribune Broadcasting.

3 We've got Paula Madison, President and
4 General Manager of KNBC, Executive Vice President of
5 Diversity, NBC Universal.

6 We have Sydney Levy who is Program
7 Director of the Media Alliance.

8 We have Ted Lempert who is President of
9 Children Now.

10 We have Jim Joyce who is the Sector Vice
11 President for NABET and CWA.

12 We have Julian Do who is the Co-Director
13 of New America Media.

14 We have Jorge Delgado who is President and
15 General Manager of KMEX-TV and KFTR-TV (Univision).

16 And last but not least we have Dr. Mark
17 Cooper who is the Director of Research for the
18 Consumer Federation of America.

19 So welcome all panelists.

20 And with that, I'd ask Dr. Wright to go
21 ahead and get started.

22 DR. WRIGHT: Well thank you, Mr. Chairman
23 and members of the Commission. I'm delighted to be
24 here. Thank you for this opportunity.

25 The National Religious Broadcasters is an

1 international association of Christian communicators
2 involved in radio, television, internet and to a small
3 extent film. Published research shows that over 141
4 million Americans listen or watch some form of
5 Christian broadcasting at least once a month and many
6 of our members have a stake in this issue today.

7 You know, in America we subscribe to a
8 unique idea, and that is that the system of government
9 that governs best is one where the government is
10 closest to the people. This public hearing is a
11 robust expression of that principle. And the members
12 of the NRB commend the Commission for holding it.

13 It is, of course, difficult and perhaps
14 even impossible to know what the optimal levels of
15 media concentration or consolidation in industry
16 should be. But having carefully reviewed the almost
17 breathtaking degree of consolidation we've witnessed
18 in the last ten years, the NRB believes we may have
19 reached and perhaps even exceeded that limit in our
20 day.

21 We believe that responsibly limiting media
22 ownership is the best public policy stance for three
23 reasons: First, it ensures access to the media,
24 secondly, it positively impacts programming content,
25 and and thirdly, it preserves local control.

1 Our dramatic increase in media
2 consolidation has brought with it largely, no doubt,
3 some unintended consequences. One significant
4 consequence for those who are program producers has
5 been a reduction in access to electronic media that
6 ultimately stifles both diversity and competition in
7 the television marketplace. This flows from a very
8 simple and a very logical principle, and that is when
9 there are fewer potential outlets for programming and
10 more programming content made by fewer and fewer
11 people, there's less opportunity for access. This
12 reduced access invariably leads to less competition
13 and far less diversity in the programming that we'd
14 like to see.

15 On the subject of content, it's no secret
16 that the content of television programs today are
17 deteriorating rapidly. Our culture seems to be
18 decaying from the bottom up. Children around the
19 nation are exposed to a litany of influences that at
20 best competes for their time and attention and at
21 worst corrodes their minds, even hardens their souls.
22 And television, of course, is the chief culprit.

23 Statistics revealing the vast amount of
24 time that children spend watching television are
25 widely known. These high levels of media consumption

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1 make children vulnerable to programming that is
2 violent, profane and often morally questionable.

3 Sadly, some of our largest media entities
4 seem committed to pushing the envelop of common sense
5 with themes of degradation, explicit and excessive
6 violence, graphic sexual content and abundant
7 profanity as though that were normal programming fare.
8 If those media entities continue to grow and gain even
9 larger media platforms, we can be sure that
10 programming content will continue to do what Mr. Copps
11 has sometimes called "having a race to the bottom."

12 Furthermore, one of the saddest aspects of
13 media consolidation has been the discovery that the
14 media entities that are the most consistent violators
15 of federal and decency standards are those with the
16 largest media platforms. Thus, media concentration is
17 inevitably linked to adverse effects on programming
18 content.

19 And thirdly content, of course, is closely
20 linked to local control, the principle of local
21 control. When a local broadcaster sees a program they
22 don't like from the network parent, they often times
23 will preempt that program because it's unsuitable for
24 the community in which they serve. To date there are
25 still some very courageous local broadcasters who

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1 preempt programs that have a high degree of what we
2 might call a vulgarity quotient. However, if the
3 media ownership path continues to rise an important
4 measure of local community protection will be lost as
5 these local affiliates will certainly be gobbled up by
6 their network parents.

7 In conclusion, while recognizing the
8 difficulty the Commission faces in determining the
9 appropriate level of media concentration and certainly
10 recognizing that that involves a balancing of
11 interests, the NRB strongly encourages the Commission
12 to limit media ownership to the levels approved in the
13 legislation signed by the President January 23, 2004.

14 And lastly, in the few seconds that I have
15 left, I would like to make a recommendation to the
16 Commission. And that is that the FCC consider
17 additional regulations that will render those media
18 entities that are consistent violators of federal
19 indecency standards to be ineligible to further expand
20 their media ownership limits beyond the current
21 levels. This step would send a clear and much needed
22 message to programmers and broadcasters who seem to
23 consider their public interest obligation as a mere
24 inconvenience rather than a public duty.

25 Thank you very much.

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1 MODERATOR RIVERA: Thank you, Dr. Wright.

2 (Applause).

3 MODERATOR RIVERA: Mr. Owen?

4 DR. OWEN: My name is Bruce Owen. And I
5 teach economics at Stanford University, where I'm also
6 Director of the Public Policy Program. I'm here
7 today, however, at the request of the three broadcast
8 networks, CBS, NBC and FOX to offer an analytical
9 perspective on some of the program ownership and
10 localism issues that have been aired at these
11 hearings.

12 Dante imagines that over the entrance to
13 the path to hell appeared the warning words "All hope
14 abandoned ye who enter here."

15 When we entered into discussions of
16 program ownership, it seems that there should be
17 additional warnings: All logic abandoned ye who enter
18 here. If this discussion were about public policy
19 towards ownership of, say, bakeries the debate would
20 be much more reasoned. Our society has widely
21 accepted policy tools both analytical and legal to
22 deal with problems of economic concentration. Those
23 tools work equally well for bakeries and for TV
24 networks.

25 In a nutshell, we ask whether consumers

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1 have sufficient alternatives so that sellers cannot
2 behalf anti-competitively. This is a fact issue, it's
3 not a matter of emotion or doctrine. And the fact is
4 that maybe a competition today is far more intense
5 than at anytime in history.

6 Neither commercial broadcasters nor
7 content suppliers are charitable organizations. To
8 survive in the competitive market mass media, just
9 like bakers, have to offer content that consumers want
10 or else they will go out of business. One necessary
11 element for success is finding the best ingredients at
12 affordable prices or, if necessary, supplying one's
13 own ingredients.

14 Making rather than buying inputs is what
15 economists call vertical integration. Nothing could be
16 more common place than to observe manufacturers buying
17 some inputs from suppliers while producing other
18 inputs for themselves. Such decisions are based on
19 economic trade-offs, what business people call make or
20 buy decisions.

21 Ultimately these decisions are driven by
22 competitive market pressures to minimize the cost of
23 producing a given amount and quality of output.

24 Broadcast networks and cable networks and
25 newspapers and other media produce some of their own

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1 content and buy other content from suppliers. When
2 they buy from suppliers they negotiate supply
3 contracts that specify terms and conditions. If the
4 supplier demands too high a price, the buyer can,
5 indeed must, turn to other sources or to its own
6 internal production facilities.

7 I've never been able to understand while
8 lies this prosaic fact of commercial life generates
9 such hysteria among suppliers of network video
10 content. But whatever the reason, there is no rational
11 basis for regulatory intervention.

12 More than a decade ago the FCC abolished
13 many of the regulations that are now being considered
14 again. At the time the rules were abolished there
15 were merely dozens rather than today's hundreds of
16 video channels available to the public. The rules
17 were abolished when broadband to the home hardly
18 existed. Internet penetration was in the single
19 digits. It was long before YouTube and Google video
20 were dreamt of. Video iPods did not even exist as
21 recently as the time when these rules were being
22 considered just two years ago.

23 How could such rules make sense today when
24 there are so many more competitors for consumer
25 attention and video content to fill their need for

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1 video feed? As the Federal Elections Commission
2 recently put it, the internet's near infinite
3 capacity, diversity and low cost of publication and
4 access has democratized the mass distribution of
5 information, especially in the political context. The
6 result is the most accessible marketplace of ideas in
7 history.

8 The second issue I was going to address in
9 the time available was a recent FCC study on localism
10 in TV news. I'll pass over it in quick summary by
11 saying the study is deeply flawed and unreliable as a
12 basis for policy.

13 MODERATOR RIVERA: Thank you Dr. Owen.

14 (Applause).

15 MODERATOR RIVERA: I'd like to remind the
16 audience that this is not a football game and that we
17 all have to be ladies and gentlemen and let the people
18 please speak. All points of views must be heard
19 tonight and you will have an opportunity to be heard
20 as well.

21 Thank you.

22 Our next speaker is Mr. Malcolm.

23 MR. MALCOLM: Good evening. I am Vinnie
24 Malcolm, Vice President and General Manager of KTLA,
25 Channel 5, owned by Tribune Company. Tribune also

1 owns the *Los Angeles Times*. Although I understand
2 that the Federal Communications Commission is
3 reviewing several broadcast ownership rules, the only
4 one of concern to us is the newspaper/broadcast cross
5 ownership ban, particularly as it applies to large
6 markets.

7 I've been in the broadcasting advertising
8 business for over 25 years, over 19 in Los Angeles and
9 the last 13 at KLTA. I've worked in both radio and TV
10 for companies such as Disney, GNET, NBC as well as a
11 minority owned radio group in New York City. Los
12 Angeles is the most competitive marketplace in the
13 world.

14 I hope that my everyday experience
15 managing KTLA helps you gain appreciation of the
16 competitive pressures we face in our ongoing attempt
17 to keep this free to the public broadcast station
18 competitive against pay TV services, namely cable,
19 satellite as well as new competition from the internet
20 and other electronic information and entertainment
21 sources.

22 I understand that media ownership
23 concentration is of great concern to many here. Yet,
24 concentration in broadcasting pales in comparison to
25 concentration in pay television, including both cable

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1 and satellite system operators and their programming
2 networks.

3 Witness how ownership of both Adelphia and
4 Comcast cable systems in Los Angeles were recently
5 acquire by Time Warner giving Time Warner control of
6 70 percent of the market's cable subscribers. That
7 economic domination paired with the inherent ability
8 to pass costs through directly to subscribers had led
9 to the migration of sports, including Monday Night
10 Football from free TV.

11 In your deliberations perhaps you should
12 factor in how the exponential growth of Pay TV has
13 triggered the loss of programming from free TV and
14 that a periodic loosening of broadcast ownership
15 restrictions will increase the ability of the only
16 free to the public TV service to remain free. Just a
17 thought.

18 KTLA is the market's very first television
19 station west of the Mississippi River. That means
20 that we have lived through and competed with every
21 change, innovation and fad, style, you name it. We
22 pioneered local independent television, meaning in Los
23 Angeles our principal competitors is our network owned
24 stations owned by the likes of GE, CBS, Disney and
25 News Corp. Formidable competition, indeed.

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