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Before the
Federal Communications Commission
Washington, D.C. 20554

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Federal Communications Commission
Office of the Secretary

SINCLAIR BROADCAST GROUP, INC.)	File No. EB-06-IH-3486
)	NAL/Acct. No. 200832080003
Licensee of Stations WABM(TV), Birmingham,)	Facility ID Nos. 16820,74174, 9971,
Alabama, WVTM(TV), Milwaukee, Wisconsin,)	50170, 71363,73907, 56528, 66908,
WUXP-TV, Nashville, Tennessee, KOCB(TV),)	and 33336
Oklahoma City, Oklahoma, WEAR-TV, Pensacola,)	FRN: 0004331096
Florida, WPMY(TV), Pittsburgh, Pennsylvania,)	
KABB(TV), San Antonio, Texas, WTWC-TV,)	
Tallahassee, Florida, and former licensee of)	
KSMO-TV, Kansas City, Missouri)	

To: Office of Secretary
Attn: Chief, Investigations and Hearings Division
Enforcement Bureau

**SINCLAIR BROADCAST GROUP, INC. OPPOSITION
TO NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

SINCLAIR BROADCAST GROUP, INC.

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November 19, 2007

SUMMARY

One would find it extremely difficult to find an FCC decision less justifiable than the Notice of Apparent Liability ("NAL") issued against Sinclair in this case. The Commission, ignoring the underlying facts before it and its own rules and precedent, claimed that Sinclair apparently violated the sponsorship identification rules for airing the syndicated public affairs program "America's Black Forum" ("ABF"), a program distinguishable from "Meet the Press" and "Face the Nation" only in that it is targeted to an African American audience. However, the sponsorship identification rules do not apply in this case because ABF is not a political announcement as the Commission suggests.

According to the Commission, the NAL was issued because Sinclair apparently violated the "political broadcast matter" provision of the sponsorship identification rules. It appears as if the Commission's motivation to issue the NAL was the appearance of Armstrong Williams as one of the political commentators on the program when Mr. Williams was being paid by the Department of Education to promote the "No Child Left Behind Act." What the Commission fails to point out, however, is that the "political broadcast matter" provision has *never* been used to fine a broadcaster for airing a public affairs talk show program like ABF. Moreover, despite the Commission's half-hearted effort to uncover the facts in this case and its suggestion to the contrary, Sinclair *purchased* the Emmy Award winning ABF directly from the producers of the show. Thus, the idea that Sinclair was in any way "induced" by the DOE or Mr. Williams is fanciful and the "political broadcast rule" is inapplicable here. That the Commission has nevertheless chosen to fine Sinclair for airing a public affairs program like ABF is outrageous and unjustified.

Remarkably, the Commission issued a citation against Armstrong Williams for illegally withholding information from Sinclair on the very same day it issued the NAL against Sinclair for allegedly failing to disclose the very information the Commission concedes in the citation that Sinclair never received. According to the Commission, Mr. Williams' alleged violation was withholding the information Sinclair and other broadcasters would need in order to make any sponsorship disclosure on air, although there was no charge that it was illegal for the DOE to pay Mr. Williams. Without any explanation whatsoever, the Commission jumps to the conclusion that Sinclair was "induced" to air "political broadcast matter" in a program in which Mr. Williams appeared as one of several commentators and therefore should have identified the DOE's sponsorship of Mr. Williams comments, even though the FCC admits that Sinclair did not know about the sponsorship.

Read together as they must be, the citation of Mr. Williams and the NAL against Sinclair reflect a new FCC policy to impose strict liability on broadcasters to discern hidden financial interests of political pundits, many of which have built lucrative careers espousing political views in mass media. Doing so is manifestly unworkable. Such a standard exceeds the FCC's authority under the Communications Act, and uniform enforcement of such a standard would put a quick end to more than a half century of discussion format public affairs programming.

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Attn: Chief, Investigations and Hearings Division
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**SINCLAIR BROADCAST GROUP, INC. OPPOSITION
TO NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Sinclair Broadcast Group, Inc. ("Sinclair"), the ultimate parent of television stations WABM(TV), Birmingham, Alabama, WVTM(TV), Milwaukee, Wisconsin, WUXP-TV, Nashville, Tennessee, KOCB(TV), Oklahoma City, Oklahoma, WEAR-TV, Pensacola, Florida, WPMY(TV), Pittsburgh, Pennsylvania, KABB(TV), San Antonio, Texas, WTWC-TV, Tallahassee, Florida, and former licensee of KSMO-TV, Kansas City, Missouri (collectively "the Stations"), hereby responds to the Commission's Notice of Apparent Liability for Forfeiture ("NAL") issued in the above-captioned proceeding. In the NAL, the Commission alleges that the Stations' broadcast of an episode of the program "America's Black Forum" ("ABF") violated Section 73.1212(d), 47 C.F.R. § 73.1212(d), of the Commission's sponsorship identification rules and proposes a forfeiture in the amount of \$36,000. As noted in the NAL, the person against whom a notice of apparent liability is issued must have the opportunity to show, in

writing, why no such forfeiture should be assessed.¹ In this case, Sinclair submits that the Commission's NAL contains prejudicial errors of fact and law, is inconsistent with Commission precedent, and should consequently be rescinded in its entirety.

Introduction

First and foremost, ABF is *not* a political announcement. Rather, it is a syndicated public affairs program, which differs from other programs such as "Meet the Press" and "Face the Nation" only in that ABF focuses on the impact of issues on African Americans. Second, Sinclair was not "induced" to broadcast the show: Sinclair purchased the show under a standard barter arrangement. Therefore, Section 73.1212(d) does not apply by its terms. Although it is difficult to guess what the Commission's motives were for issuing the NAL against Sinclair's stations for broadcasting a public affairs program, it appears as if the Commission's motivation was the appearance of Armstrong Williams as one of the commentators on the program. The complaint which precipitated this action and the statements by the Commission, particularly those statements made in the concurrence issued by Commissioners Adelstein and Copps, indicate that the NAL was issued because Mr. Williams discussed the "No Child Left Behind Act" on the ABF episode at a time when he was reportedly being paid by the Department of Education ("DOE") to promote the Act.

The Commission, however, apparently (and correctly) realized that the Stations could not be charged under the standard sponsorship identification rules for accepting undisclosed payments because the Stations were not compensated for airing the ABF program, but rather, Sinclair paid to obtain the rights to broadcast the ABF program in question. It appears that because the Commission so strongly wanted to fine the Stations for airing a program in which

¹ NAL, at ¶ 12.

Armstrong Williams appeared that it simply declared the public affairs show to be “political broadcast matter” under Section 73.1212(d) of the Commission’s rules. That section provides that political broadcast matter furnished as an inducement for including such matter in a broadcast a station must contain an appropriate disclosure. It does not extend to undisclosed payments made to individual guests appearing in regular public affairs programming. It appears that no television station has *ever* been fined for broadcasting a public affairs program like ABF.

Remarkably, the Commission issued a citation against Armstrong Williams for illegally withholding information from Sinclair on the very same day it issued the NAL against Sinclair for allegedly failing to disclose the very information the Commission concedes in the citation that Sinclair never received.² Without any explanation whatsoever the Commission concludes that Sinclair was “induced” to broadcast “political broadcast matter” even though Sinclair did not know about the sponsorship. Read together as they must be, the citation of Mr. Williams and the NAL against Sinclair reflect a new FCC policy to impose strict liability on broadcasters to discern hidden financial interests of political pundits, many of which have built lucrative careers espousing political views in mass media.³ Doing so is manifestly unworkable. Such a standard exceeds the FCC’s authority under the Communications Act, and uniform enforcement of such a standard would put a quick end to more than a half century of discussion format public affairs programming.

² See Letter from FCC to Graham Williams Group, 2007 WL 3047626 (F.C.C.) (Oct. 18, 2007).

³ Sinclair submits that even had the Stations been paid for airing ABF, which they were not, it would not constitute a violation of the Commission sponsorship identification rules. Unless told otherwise, according to industry norms Sinclair would have believed a payment was for clearance of the commercial advertising in the program, not for broadcasting the political viewpoint of one of several commentators appearing on the show. Sinclair did not know and could not have reasonably known that one guest on a talk show produced by a third party may have been paid by the government to promote a certain viewpoint. While the latter is a titillating revelation it is hardly a basis for imposing a new form of strict liability requiring broadcasters to finally and absolutely ascertain the motives and interests of every speaker who appears in every television program at every hour of every day. Moreover, the Communications Act does not authorize the Commission to impose strict liability on broadcasters for the failure of third parties to report payments. Consequently, no forfeiture should be assessed, and the NAL should be rescinded as it respects Sinclair.

Background

According to the NAL, this proceeding arises from a complaint filed by Free Press and other complainants in January of 2005 requesting that the FCC investigate alleged payola violations based upon assertions that Armstrong Williams, a commentator and television personality, received payments from the DOE to promote the “No Child Left Behind Act” on broadcast programming.⁴ In its November 7, 2006 Letter of Inquiry (“Letter of Inquiry”), the Enforcement Bureau requested information from Sinclair regarding whether Sinclair aired an episode of ABF that, according to the Letter of Inquiry, was “paid for by a third-party without making required disclosures.”⁵ The Enforcement Bureau’s letter made no mention of the Free Press complaint or the allegations that Mr. Williams accepted payment from the DOE. Instead, it inquired as to whether the Stations had aired a “paid for” episode of ABF entitled “2004 Election Countdown.” Sinclair responded that none of the Stations received or were offered any payment or consideration for the airing of the programming at issue and therefore, there was no basis for enforcement action.⁶

Sinclair was not asked in the Letter of Inquiry whether the program constituted political broadcast matter, or whether it had made a good faith determination as to whether the episode of ABF was subject to sponsorship identification obligations under Section 73.1212(d) of the Commission’s Rules. Nor was Sinclair asked whether it had considered the issue.⁷

⁴ NAL at ¶ 7.

⁵ Letter of Inquiry at 1, 4.

⁶ Sinclair Response at 2.

⁷ Thus, the assertions in the NAL, at fn. 45, that “Sinclair does not maintain that this material is non-political for purposes of our sponsorship identification regulations, nor does it maintain that it acted reasonably and in good faith in determining that this material is non-political. Indeed, the record does not reflect that Sinclair considered the issue” are disingenuous, to say the least. Until the NAL was issued Sinclair was never informed that this issue was under consideration or asked to provide its views on the subject.

It was to Sinclair's complete surprise, therefore, to receive an NAL that alleged, for the first time, that Sinclair violated the "political broadcast matter" provisions of Section 73.1212(d) of the Commission's rules for airing the ABF episode on September 11 or September 12, 2004. The NAL is based upon a fundamental misunderstanding of who produces ABF and what the content of the show encompassed. In addition, the Commission appears to be confused about the manner in which Sinclair stations obtained the right to air the program. These factual errors infect the NAL. Once the Commission considers the facts, rather than erroneous assumptions, it will conclude, as it must, that the Stations did not violate the sponsorship identification rules and that the NAL must be withdrawn with respect to Sinclair and its Stations.

Discussion

(a) The NAL reflects a fundamental misunderstanding of Armstrong Williams' role with respect to "America's Black Forum."

The Commission appears to be under the mistaken belief that ABF is produced by Armstrong Williams or a company that he controls. This is not the case. Sinclair has been informed that Mr. Williams was not the producer of ABF and that he neither controls nor is affiliated with the producer. Mr. Williams was simply one of the paid commentators on ABF. Sinclair has also been informed that Mr. Williams had no ownership interest in the program and did not determine the topics were discussed on ABF. The very show at issue included other commentators who opposed Mr. Williams' expressed viewpoints. Mr. Williams was simply one of several independent contractors paid by an independent producer to appear on a program that Sinclair purchased in the syndication market. The idea that Sinclair willfully succumbed to paid political "inducement" by the DOE is fanciful. Sinclair paid the producer, and the producer apparently paid Mr. Williams and others who appeared on the show. Apparently, the DOE also paid Mr. Williams to promote No Child Left Behind, but those payments never reached Sinclair

or, as Sinclair has been told, the producer of the program. Moreover, Sinclair did not have any reason to know of any payments.

Sinclair also had no reason to be suspicious that Mr. Williams may have received funds from the DOE.⁸ Although ABF is no longer in production, it was a nationally syndicated, Emmy Award-winning public affairs program produced by Uniworld Group, Inc., a company owned by the African American entrepreneur Byron Lewis, Sr. The format of the show consisted of discussions of public affairs issues with a focus of the impact of these issues on an African American audience, and was created in 1977 with the express goal of addressing the absence of high-quality original programming targeted to African Americans.⁹ These discussions were led by a host who solicited both facts and expressions of opinions from guests and regular commentators. A number of Sinclair stations, like many other stations across the country, aired ABF in order to provide an important public service to their audience, with a particular focus on serving the needs of African American members of that audience.

Moreover, the public could in no way have been confused as to who was trying to convince them of anything. Like many shows of its genre, ABF was expressly produced to allow commentators and guests with different political and social perspectives to present their opinions. Mr. Williams was specifically engaged by the producers of the program to express his

⁸ This is particularly true, because as the Commission points out in the Armstrong Williams citation, he failed to disclose this fact to broadcasters.

⁹ See <http://web.archive.org/web/20040610203326/www.abftv.com/about.asp> (visited November 6, 2007). ABF began as a local public affairs talk show and grew into a "national news and opinion institution seen in 80 major television markets across the country – reaching 70% of U.S. TV households." *Id.* According to the program's archived website, the show built its "reputation over the years with important guests including the foremost political leaders: President George Bush, Sr., President Bill Clinton, President Nelson Mandela and General Colin Powell. In addition, celebrities and media personalities such as Ed Bradley, Toni Morrison, Denzel Washington, Serena Williams, Tim Russert, Bill O'Reilly, Oprah Winfrey, Spike Lee and others have provided perspective and opinion." According to TVi Media, "America's Black Forum [was] the only credible weekend news source for African American perspectives on national issues." See www.tvimedia.com (visited November 6, 2007). Indeed, ABF was awarded an Emmy Award for Outstanding Program Achievement. See <http://blackamericatoday.com/aboutus.cfm> (visited November 6, 2007).

opinions, which generally represent a conservative viewpoint, about matters of importance raised on the show. Other participants expressed different views. Nothing was disguised on ABF. No so-called “fake news” was presented. Instead the producers of the program chose to let partisan individuals such as Armstrong Williams place their views before the viewing public so that the public could draw their own conclusions.

(b) The NAL reflects a fundamental misunderstanding as to the basis under which “America’s Black Forum” was carried.

The NAL appears to assume that either (a) Sinclair was paid to carry ABF, or (b) ABF was provided free to Sinclair by its producer. Neither assumption is correct.

As noted above, ABF was simply a syndicated program which Sinclair’s stations acquired for broadcast on a barter basis in a manner consistent with industry norms. Sinclair was not paid to air the show. Sinclair did not receive the show for free. Sinclair did not present the show as part of its station-produced news programming. Sinclair *purchased* the show pursuant to a barter arrangement – it received local broadcast rights to the program in exchange for providing the producers of the show with valuable commercial inventory in the program which the producers could, and in fact did, sell to advertisers. Prominent national sponsors including, State Farm, Post Cereal, Fixodent, Noxema, and Pontiac, among others, used this inventory. Simply put, this was the same manner Sinclair had purchased numerous other programs – from comedies and game shows to public affairs programs such as ABF.

ABF was not a political commercial and as such it did not require any sponsorship identification. Nor did it meet the other criteria triggering sponsorship identification requirements. It was no more “sponsored” by the producer or the guests on the show than is “Meet the Press,” “Face the Nation,” “This Week” or “FOX News Sunday.” ABF was an important public affairs show directed toward a generally underserved audience that was

presented as a public service by the Sinclair television stations. That the FCC has chosen to fine these stations for this public service is outrageous and unjustified.

(c) It would have been incorrect and improper to identify Armstrong Williams or GWG as the “sponsor” of this episode of “America’s Black Forum.”

The NAL asserts that Sinclair violated Section 73.1212(d) by failing to identify the “sponsors” of the 2004 Election Countdown episode of ABF. The NAL does not identify exactly who it believes those sponsors to be, but does say that sponsorship identification obligations were triggered when Mr. Williams and GWG “provided Sinclair with a complete program for broadcast on its stations.”¹⁰ Thus, it appears that the Commission believes that Armstrong Williams and/or GWG should be identified as the sponsor of the program episode. However, as noted neither Mr. Williams nor GWG paid Sinclair or any Sinclair station in connection with the broadcast of ABF. Nor did they furnish any film, record, transcription, talent, script, or other material or service of any kind, either directly or indirectly, to Sinclair or the Stations as an inducement for broadcasting the ABF episode in question. To the best of Sinclair’s knowledge, Mr. Williams did not control the comments of the other commentators.

Section 73.1212(d) requires broadcasters to air sponsorship disclosure in connection with the airing of “political broadcast matter” only when such programming has been provided to a station as an “inducement for broadcasting such matter.”¹¹ As the Commission acknowledges in the NAL, the “inducement component of the rule is satisfied whenever material is provided to a broadcaster *at no or nominal charge*.”¹² Because Sinclair *purchased* the programming directly from the producers of ABF for valuable commercial time, it, by definition, was not “induced” to broadcast the ABF program by anyone. Therefore, Sinclair was not required to make any

¹⁰ NAL at ¶ 17.

¹¹ See 47 C.F.R. § 73.1212(d); NAL at ¶ 7.

¹² NAL at ¶ 6 (emphasis added).

sponsorship identification during the program and its failure to do so is not a violation of Section 73.1212(d). Under the circumstances, it would have been factually erroneous to have identified Mr. Williams or GWG as sponsor of the program. Indeed, to do so would have been to commit a fraud on the viewing public – contradicting the very goal of the sponsorship identification rules.

(d) The Commission failed to properly investigate this matter before jumping to an incorrect conclusion and issuing an unsupported NAL.

As demonstrated above, the NAL is predicated on the Commission's incorrect understanding of the underlying facts in this proceeding. This would not have occurred had the Commission availed itself of normal investigatory procedures by first providing Sinclair an opportunity to hear the specific charges in order to defend itself. The Enforcement Bureau's Letter of Inquiry limited its inquiries to three narrow questions regarding the ABF program. None of the questions even remotely referred to a possible violation of the "political broadcast matter" provision of 73.1212(d) and Sinclair fully responded to the questions that were asked. However, out of nowhere, the NAL focuses exclusively on the "political broadcast matter" provision without Sinclair having being properly apprised of the nature of the challenge, and without Sinclair ever having had an opportunity to address this novel allegation before the Commission made both erroneous factual and legal conclusions and alleged Sinclair to be in violation of the provision. To make matters worse, the NAL chastises Sinclair for not responding to a question it was never asked.¹³ It is as if a judge held a trial, took evidence, found the defendant guilty, and issued a fine, all without notifying the defendant of the precise nature of the allegations. While Sinclair has demonstrated in this Opposition that the NAL is based on clear error and should be rescinded, the fundamental lack of due process in this matter is obvious and further undercuts the validity of the NAL.

¹³ NAL at n.45.

(e) The NAL is contrary to the Communications Act and demands a level of screening directly by broadcasters that is simply unrealistic.

The Communications Act simply does not impose strict liability on broadcasters to discern every motive of every speaker in every program broadcast regardless of the source. *See* 47 U.S.C. § 317(c) (licensees shall exercise reasonable diligence to obtain information necessary to make sponsorship identification announcements). Similarly, 47 U.S.C. § 508 requires those making or accepting payments for the inclusion of matter in broadcasts to disclose such payments to broadcast stations so that they may make the required sponsorship disclosures. Sinclair lacks the means to prove or disprove the FCC's central allegation: that Mr. Williams made statements on ABF that were "sponsored" by the DOE. Sinclair therefore takes no position on whether the DOE, Mr. Williams, or the producers of ABF violated Section 508.¹⁴ However, there is not a scintilla of evidence that the DOE, Mr. Williams, or anyone else informed Sinclair of any payments, and there is no evidence whatsoever that Sinclair failed to exercise reasonable diligence to acquire information necessary to make any required sponsorship identification. Indeed, as noted, the Commission issued a citation against Armstrong Williams on the very same day it issued the NAL which concedes that Mr. Williams withheld information from broadcasters which would have made broadcasters aware that a sponsorship disclosure might have been necessary.¹⁵ Ignoring its own conclusion, the Commission simultaneously attempts to impose strict liability by issuing the NAL against Sinclair in a manner irreconcilable with the express language of the Communications Act.¹⁶

¹⁴ However, if the facts alleged in the NAL are correct, then the Commission must show not only that the DOE paid Mr. Williams, but also that the DOE and/or Mr. Williams made appropriate disclosures to Sinclair and that Sinclair nonetheless failed to make required announcements.

¹⁵ *See* Letter from FCC to Graham Williams Group, 2007 WL 3047626 (F.C.C.) (Oct. 18, 2007).

¹⁶ Read together as they must be, the citation of Mr. Williams and the NAL against Sinclair reflect a new FCC policy to impose strict liability on broadcasters to discern hidden financial interests of political pundits, many of which have built lucrative careers espousing political views in mass media. Doing so is manifestly unworkable.

Although it appears that the Commission was motivated to issue the NAL because of the allegations relating to Armstrong Williams and the DOE, the NAL appears to be far broader in scope. In fact, the NAL breaks new ground in applying Section 73.1212(d) to any program that contains "political" or "controversial" material, apparently regardless of whether the station paid cash for the program or acquired it pursuant to a barter agreement, or even a network affiliation. There is no rational distinction between ABF and "Meet the Press," "Face the Nation," "This Week," "Fox News Sunday," and the multitude of other national and local news and public affairs programs aired weekly by stations nationwide without sponsorship identification and which frequently include commentary by guests that make lucrative careers out of espousing political views. The NAL against Sinclair presumably presages many more fines against stations carrying public affairs programming on which such commentators appear.

Even a narrow reading of the NAL to require sponsorship identification only when a guest commentator on the program has been paid, would create an untenable new obligation on broadcasters. Every station airing third party produced material, regardless of source, would be required develop a complete factual record of the financial interests that might have influenced any commentator on the program. George Will, Cokie Roberts, Tavis Smiley, Pat Robertson, Mary Matalin, James Carville, and countless other counterparts of Armstrong Williams have been and continue to be commentators on such programs and the Commission surely cannot be suggesting that broadcasters nationwide are responsible for cross-examining the commentators on talk programs to determine whether they have received payments, especially in instances where the broadcaster is outside the production chain, played no role in producing the show, and in fact gave valuable consideration in return for the right to carry the program.

Moreover, Sinclair does not believe that a sponsorship disclosure would have been necessary even if it had been aware of the DOE payments given that Sinclair was not induced to air ABF, but rather paid to acquire the rights to broadcast it.

Sinclair is unaware of any legal precedent, and the Commission does not cite any, where a broadcaster was fined for violating Section 73.1212(d), or any other rule section for that matter, for airing programs like the ABF program in question, during the *more than sixty years* that such programs have aired.¹⁷ As Courts have noted, while “an agency is not locked into the first interpretation of a statute it embraces, it cannot simply adopt inconsistent positions without presenting ‘some reasoned analysis.’”¹⁸ Here, the Commission’s expression of the law departs markedly from the plain and heretofore uncontroversial language of Sections 317 and 508 of the Communications Act. The FCC has applied Section 73.1212(d) in an arbitrary and capricious manner.¹⁹ As demonstrated in the discussion above, the NAL is based upon many serious factual errors and the Commission has failed to provide any valid legal rationale for its decision. Consequently, the Commission’s NAL cannot be squared with the Communications Act, the Administrative Procedure Act, or its own longstanding precedent, and must be rescinded.²⁰

¹⁷ Meet the Press debuted in 1947. See Nielsen Media Research, 2000 Rpt. on TV: The First Fifty Years (2000) at 13.

¹⁸ *Huntington Hosp. v. Thompson*, 319 F3d 74, 79 (2d Cir 2002).

¹⁹ The cases cited by the Commission in footnote 15 of the NAL are unavailing and are easily distinguishable from the instant case because they deal only with material provided to a broadcaster at “no or nominal charge” which is not at issue in the this case because Sinclair provided ABF with valuable commercial inventory in exchange for obtaining the right to air the program.

²⁰ In addition, the Commission’s actions in this case raise serious First Amendment concerns. It is well established that broadcast journalists are “entitled under the First Amendment to exercise ‘the widest journalistic freedom consistent with their public [duties].’” *FCC v. League of Women Voters of Cal.*, 468 U.S. 364, 377 (1984) (quoting *Columbia Broadcasting System, Inc. v. Democratic Nat’l Comm.*, 412 U.S. 94, 110 (1973)). The Commission has repeatedly recognized this fact. See, e.g., *American Broadcasting Companies, Inc.*, 83 F.C.C.2d 302, 305 (1980) (“The choice of what is or is not to be covered in the presentation of broadcast news is a matter committed to the licensee’s good faith discretion.”). It is without question that were the FCC to require broadcasters to undertake rigorous questioning of all commentators who participate on public affairs programs it would have a significant and impermissible chilling effect on broadcasters’ editorial discretion.

Conclusion

For the foregoing reasons, Sinclair hereby requests that the Commission rescind the NAL with respect to Sinclair and its stations in its entirety.

Respectfully submitted,

SINCLAIR BROADCAST GROUP, INC.

By: 

Kathryn R. Schmeltzer
Clifford M. Harrington
Paul A. Cicelski

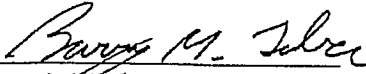
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Dated: November 19, 2007

DECLARATION

I, Barry M. Faber, Vice President and General Counsel of Sinclair Broadcast Group, Inc., declare under penalty of perjury that I have read the attached "Opposition" and the facts stated therein, except for those based on official records or other documents of which the FCC may take official notice, are true and correct.


Barry M. Faber

Executed on November 19, 2007.