

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of
Applications for Renewal of Station License of

KATU(TV))	
Portland, OR)	BRCT20060928AOZ
)	
KOIN (TV))	
Portland, OR)	BRCT20061002AVY
)	
KPTV (TV))	
Portland, OR)	BRCT20061002AXF
)	
KGW (TV))	
Portland, OR)	BRCT20061002AUN
)	
KPXG (TV))	
Portland, OR)	BRCT 20060929AKA
)	
KNMT (TV))	
Portland, OR)	BRCT 20060929AHS
)	
KPDX (TV))	
Vancouver, WA)	BRCT 20061002AXR
)	
KRCW-TV)	
Salem, OR)	BRCT 20060929APG

PETITION TO DENY RENEWAL

Pursuant to Section 309(d)(1) of the Communications Act, Oregon Alliance to Reform Media (OR ARM)¹ respectfully submits this petition to deny renewal of the above captioned applications. As is demonstrated below, grant of this applications is *prima facie* inconsistent with the public interest standard set forth in Section 309(a) of the Communications Act. Accordingly, these applications should be designated for hearing.

¹Attachment A hereto is the declaration of Janice Thompson, which identifies OR ARM's interest in these applications. OR ARM is a working group that was created to promote a responsive and responsible, public-interest media environment in Oregon.

INTRODUCTION

This petition challenges the renewal of all the commercial television stations in the Portland market that offer regularly scheduled newscasts. The basis of this challenge is that, singly and together, each of these stations has failed to meet the needs of their community of license and, therefore, that renewal of their licenses would not serve the public interest. Specifically, as documented below, these stations failed to present adequate programming relating to state and local elections during the 2004 election campaign. In the four weeks prior to the election, less than 1% of newscast time was devoted to state level elections, about 9% to ballot issues and less than 1% to other local elections.

The current policies relating to license renewals were adopted in 1984. At that time, the Commission eliminated programming guidelines as to quantities of news and public affairs programming which would be presumed to constitute service in the public interest. However, in so doing, the Commission stressed that “the basic responsibility to contribute to the overall discussion of issues confronting the community is a non-delegable duty for which each licensee will be held individually accountable.” *Deregulation of Radio*, 98 FCC 1075 (1984).

Attachment B hereto is the declaration of Meredith McGhehee, Director of the Media Policy Program of the Campaign Media Legal Center. Exhibit A to that declaration is a study prepared by the Center for Media and Public Affairs (CMPA).² CMPA was commissioned to analyze all regularly scheduled news programming and public affairs programming carried by the four highest rated commercial stations in Portland for the four weeks prior to the November, 2004 election. This

²CMPA is a nonpartisan research and educational organization which was founded in 1985 and conducts scientific studies of the news and the entertainment media.

programming represented substantially all of the regularly scheduled locally produced news available in Portland.³ Ms. McGhehee's declaration described the methodology and data collection for the study.

As Ms. McGhehee explains, trained volunteers taped the programming,⁴ which was provided to CMPA for analysis using coding methodology which employs numerous statistical and other controls to assure completeness and accuracy of its analysis.⁵ She continues:

The data show clearly an overall lack of news coverage of the 2004 local elections by the four highest-rated Portland stations and

³KPXG merely rebroadcast newscasts from KGW.

⁴Between 99 and 100 percent of targeted programming was recovered, assuring a high degree of statistical reliability.

⁵As CMPA explains on its website,

Categories and criteria are rigorously defined and applied consistently to all material. Each system must be reliable, meaning that additional researchers using the same criteria should reach the same conclusions. Because it is both systematic and reliable, content analysis permits the research to transcend the realm of impressionistic generalizations, which are subject to individual preferences and prejudices.

CMPA researchers have honed their skills on a wide variety of projects since 1987, making them among the best trained and most experienced at news media content analysis. Researchers examine news stories on a statement-by-statement level, recording all overt opinions expressed by either the reporter or other individuals quoted in the story. Each opinion is catalogued according to the source of the comment, the target, and the issue under discussion.

Researchers do not assign overall positive and negative scores to entire stories, since such an approach is inherently subjective and fails to fully account for the nuances within each story. Individual statements are logged into a computerized database, allowing statistical analyses to fully describe the relationships among news sources, time periods, the focus of coverage and the tone of coverage.

Depending on the length and breadth of the study, CMPA's codebooks (which contain the categories and rules for coding) range from 100 to 300 pages long and include 20 to 50 different analytic variables. Research assistants are trained for between 150 and 200 hours before they begin work on a project. During the training process, researchers code sets of stories, and their work is compared to that of previous coders until a minimum reliability level of 80% is reached for all variables. That means that the new coders must reach the same conclusions as their counterparts at least four out of five times. For most variables, the level of agreement is much higher.

<http://www.cmpa.com/ourMethodology/index.htm>

illustrate that there was a market-wide failure to provide voters in the Portland viewing area with the information they needed about local races to be the informed voters essential to a healthy, working democracy.

Specifically, the data show that only 4.9 % of total newscast time was devoted to elections in the four weeks prior to a major election, and that the U.S. Presidential and U.S. Senate races accounted for 80% of that coverage. All other Portland elections and ballot referenda together counted for approximately 10% of the election news coverage. This is well under 1% of the total time devoted to news on the stations on the four monitored stations.⁶

Analysis of the content of the election coverage demonstrates that qualitative factors make the picture even worse. CMPA reports that the dominant frame in Portland coverage (over one third of all election coverage) was the strategic element of campaign and campaign activities, and that “horse race coverage” was about 24% of time devoted to campaign news. While these are certainly newsworthy, over half of the news coverage did not inform voters about issues or other facts which actually assist them in voting or in deciding for whom to vote. Moreover, only 9% of the news coverage was devoted to carriage of candidates speaking on behalf of themselves, and the average

⁶To examine whether information about non-Presidential races were made available on the national news programming, volunteers also examined national news programming aired during the two weeks leading up to Election Day. That analysis of 132 hours of national news and public affairs programming that aired on ABC, CBS, NBC and Fox networks found that 92% of the election coverage aired on national networks was devoted to the presidential contest, with 81.6% of the candidate soundbites coming from the presidential candidates. Candidate soundbites for U.S. Senate candidates constituted 0.4%, for U.S. House 1.2% and for other candidates 0.3%. Two percent of stories examined ballot initiatives and referenda, and slightly less than 2% were devoted to U.S. Senate or House races. The remaining stories were devoted to voting issues not specific to any particular race (like absentee ballots or voting machines). All told, the national networks devoted about 30 hours to local elections news – approximately one-fifth of their news hole. However, the majority of coverage focused on the horse race of the candidates’ campaign strategies rather than issues.

candidate soundbite was 8.7 seconds long.

There was also a modicum of local coverage outside of news programming.⁷ This programming's dominant focus was issue discussions, however, the Presidential campaign accounted for most of the issue discussions. About one-third of election related discussion on was devoted to "horse race" and strategic matters.

ADDITIONAL FACTS

Other interested parties have presented declarations which elaborate on the consequences of the inadequate coverage of state and local elections in Portland.

Ruth Alice Anderson is a member of Oregon Action, which represents 6500 dues-paying members and over 30,000 registered voters in Portland. Ms. Anderson declares that she has "noted a common theme among many non-voters. ... [I]t is that they feel ill-informed to make important decisions for their communities ... [and] for most people, television plays an enormous role." See Attachment C.

Erik Sten is a Portland City Commissioner. He complains that the 2004 Portland mayoral race, "despite the importance of this race for the future of the City or Portland," was given "short shrift." See Attachment D.

Mark Sturbois is a resident of Portland who is especially concerned about the lack of campaign coverage on locally produced news programs notwithstanding the carriage of political commercials during those programs. See Attachment E.

Janice Thompson is a member of Money in Politics Research Action Project, a non-profit,

⁷This petition does not address advertising. Such programming is no substitute for news or public affairs coverage conducted by journalists. Indeed, under Section 315(a) of the Communications Act, licensees have no discretion whatsoever as to the content of candidate "uses."

non-partisan organization dedicated to increase access, accountability, and participation in the political process and in governmental decision-making. She notes that the “need for effective coverage of political campaigns and civic engagement is a particular concern regarding races ‘down the ticket’ from the presidential race.” See Attachment F.

LEGAL ANALYSIS

The Commission cannot grant a license renewal without a hearing unless it determines, based on the available information, that the applicant has met its burden of establishing that grant is in the public interest. 47 USC §309. If, as here, a petition to deny raises substantial and material questions of fact as to whether grant of the application is in the public interest, the Commission must designate the matter for hearing. *Id.*

Localism (along with diversity and competition) is one of the three basic elements of the Commission’s public interest analysis of broadcast applications. See *NBC v. U.S.*, 319 U.S. 190, 203(1943) (“Local program service is a vital part of community life. A station should be ready, able, and willing to serve the needs of the local community”). Section 307(b) of the Communications Act assures that licenses are distributed with regard to assuring localism. See *FCC v. Allentown Broadcast Corp.*, 349 U.S. 358, 362 (1955) (upholding authority to distribute licenses “to a community in order to secure local competition for originating and broadcasting programs of local interest.”); *FCC v. Pottsville Broadcasting Co.*, 309 U.S. 134, 139 (1940) (renewal not in the public interest where “applicant did not sufficiently represent local interests in the community.”). Localism has been reaffirmed legislatively on countless occasions; *MPAA v. FCC*, 309 F.3d 796, 804 (D.C. Cir. 2002) (upholding power to promote localism). See, e.g., H.R. Rep. 104-104 (1996) (“[Localism] is a vitally important value ... [and] should be preserved and enhanced as we reform our laws for the

next century.”); Pub. L. 102-385 §§2(a)(10-11) (substantial governmental interest in ensuring localism and local program origination and “broadcast television stations continue to be an important source of local news and public affairs programming ... critical to an informed electorate.”).⁸

OR ARM recognizes that the Commission has afforded broadcasters wide discretion in determining how to meet the needs of their communities. However, the paucity of coverage of local elections available to Chicago area voters cannot be reconciled with the localism which the Communications Act demands. The failure to provide such coverage is a gross abuse of discretion which is incompatible with the broadcasters’ most fundamental obligations to the public and absolutely precludes grant of renewal without exploration at a hearing.

“It is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial here.” *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 390 (1969). From the standpoint of the citizenry, their single most important need is access to information from and about candidates for public office.

The FCC itself has stressed the importance of political broadcasting many times. In one statement, it said:

In short, the presentation of political broadcasting, while only one of the many elements of service to the public ... is an important facet, deserving the licensee’s closest attention, because of the contribution broadcasting can thus make to an informed electorate--in turn so vital to the proper functioning of our Republic. *Licensee Responsibility as to Political Broadcasts*, 15 FCC 2d 94 (1968).

Political Primer, 100 FCC2d 1476 (1984). Because freedom of speech is valuable not only as a

⁸The Commission has recently reaffirmed its commitment to localism. See, *2002 Biennial Review*, 18 FCCRcd 13620, 13643-44 ¶¶73-77, rev’d on other grounds sub nom. *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004) (citing *NBC v. U.S.*, supra).

personal liberty but also for the role it plays in the proper functioning of our entire democratic form of government, the Supreme Court has repeatedly recognized that the First Amendment “‘has its fullest and most urgent application’ to speech uttered during a campaign for political office.” *Eu v. San Francisco Democratic Committee*, 489 US 214, 223 (1989) (quoting *Monitor Patriot Co. v. Roy*, 401 US 265, 272 [1971]); *Mills v. Alabama*, 384 US 214, 218 (1966) (“[T]here is practically universal agreement that a major purpose of th[e First] Amendment was to protect the free discussion of governmental affairs.”); *Garrison v. Louisiana*, 379 US 64, 74-75 (1964) (“[S]peech concerning public affairs is more than self-expression; it is the essence of self-government.

Moreover, in 1984, the Commission made plain that, in giving greater discretion to TV broadcasters in meeting their programming obligations, it did “not constitute a retreat from our concern with the programming performance of television station licensees.” *TV Deregulation*, 98 FCC2d 1075 (1984)⁹. It emphasized that the fact that a broadcaster carries some issue responsive programming is not dispositive, and that the Commission will conduct an “ad hoc review” to look into well-pleaded allegations of insufficiency to determine “whether the challenged licensee acted reasonably in choosing the issues it addressed in its programming...,” and that “the burden will be on the licensee to demonstrate that the exercise of discretion was appropriate in the circumstances.” *Id.* See also, *UCC v. FCC*, *supra*, 707 F.2d at 1434 (“Quantity of programming remains ...a factor that the Commission may choose to deemphasize, but may not ignore altogether.”); *Television Deregulation (Reconsideration)*, 104 FCC2d 358, 362-3 n.8 (“Our decision ... cannot be reasonably read to have rendered quantity irrelevant.”).

⁹In affirming the Commission’s radio programming policies, the Court of Appeals stressed that “[t]his power to license in the public interest ... necessarily entail[s] the power to license on the basis of program service.” *UCC v. FCC*, 707 F.2d 1413, 1428 (D.C. Cir. 1983).

CONCLUSION

OR ARM has established a fundamental marketplace failure in the coverage of what is arguably the most important kind of programming in a modern democracy - coverage of local elections. It is impossible to find that Portland TV stations have fulfilled their public interest obligation singly, or taken together. Accordingly, the Commission must grant this petition, designate the above-captioned applications for hearing, and grant all such other relief as may be just and proper.

Respectfully submitted,

Andrew Jay Schwartzman

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Counsel for Oregon Alliance to Reform Media

December 22, 2006

ATTACHMENT A

**DECLARATION OF JANICE THOMPSON IN SUPPORT OF
PETITION TO DENY RENEWAL APPLICATIONS**

I am Janice Thompson, a member of the Oregon Alliance to Reform Media (OR ARM) and executive director of the Money in Politics Research Action Project. I am also a viewer of TV in the Portland media market. Members of the Oregon Alliance to Reform Media members include the Money in Politics Research Action Project, Communication Workers of America Local 7901, American Federation of Musicians Local 99, Oregon State Public Interest Group (OSPIRG), and Northwest office of the Justice and Peace Action Network of the United Church of Christ.

The collective membership of OR ARM includes many individuals who reside in the Portland, Oregon television market and regularly watch television. The Money in Politics Research Action Project is a six-year-old nonprofit organization whose goals are to increase accountability and participation in politics and governmental decision making.

This declaration is submitted in support of the Oregon Alliance to Reform Media's Petition to Deny Renewal of all Portland area commercial television stations. I am familiar with the contents of the petition to deny and declarations submitted in support of the petition to deny. The facts set forth therein are true to the best of my knowledge.

Executed on December 11, 2006.

Janice Thompson
(signature of Declarant)

ATTACHMENT B

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

In re:

Petition to Deny Renewal
Applications

For Licenses of Stations

KATU-TV, Portland, OR
Licensee ABC Broadcasting, Inc.
KOIN-TV, Portland, OR
Licensee CBS Broadcasting Inc.
KPTV-TV, Portland, OR
Licensee Fox Televisions Inc.
KGW-TV, Portland, OR
Licensee NBC Universal

**PETITION TO DENY LICENSE
RENEWAL APPLICATIONS**

**AFFADAVIT OF MEREDITH MCGEHEE IN SUPPORT OF
PETITION TO DENY LICENSE RENEWAL APPLICATIONS**

I, Meredith McGehee, being duly sworn, deposes and says:

1. My name is Meredith McGehee. I am the Policy Director of the Campaign Legal Center (the "Legal Center"), a nonprofit, nonpartisan public interest group. I am filing this Affidavit on behalf of the Legal Center's Media Policy Program in support of the Petition to deny the license renewal of the following commercial stations: KATU-TV, KOIN-TV, KPTV-TV, and KGW-TV.

1.

2. The Legal Center's Media Policy Program seeks to revitalize our democracy by promoting awareness and enforcement of political broadcasting laws through Federal Communication Commission rulemaking proceedings, congressional action and public

education, and by improving elections by promoting campaigns in which the most useful information reaches the greatest number of citizens in the most engaging ways. I have served as Director of the Legal Center's Media Policy Program since February 2005.

3. Prior to joining the Legal Center, I served as Executive Director of the Alliance for Better Campaigns (the "Alliance"), an organization advocating for reforms that reduce the cost and increase the flow of political communication on the nation's publicly-owned airwaves. The Alliance merged with the Legal Center in February 2005. Prior to joining the Alliance, I had been Senior Vice President of Common Cause where I worked for 15 years. I graduated from Pomona College *cum laude* with a Bachelor of Arts degree in Government.

4. The sources of the information and other data cited in this affidavit are two studies conducted or commissioned by the Alliance while I served as Executive Director. The first study, entitled "2004 Campaign News Study in Chicago, Milwaukee and Portland Markets," was commissioned by the Alliance in December of 2003. The study was conducted independently by the Center for Media and Public Affairs ("CMPA"), a nonpartisan research and educational organization which was founded in 1985 and conducts scientific analyses of the news and the entertainment media. A true and correct copy of the CMPA study is attached to this affidavit as Exhibit A. The second study is an analysis of national news programming in the 2004 election conducted by the Alliance.

2.

5. The scope of the CMPA study was determined by the Alliance in consultation with the Media Access Project and CMPA. The study targeted the four-week period prior to Election Day – from October 4 through November 1, 2004. During this period, volunteers trained by the Money in Politics Research Action Project ("MIPRAP") taped all locally produced news and

public affairs programming that aired on top commercial English-language stations in the Portland media market. This time period was selected because it corresponds to the period of greatest voter interest and most intense campaign activities. As CMPA noted, even the undecided and uninvolved voters pay the most attention to the campaign in these final days.

6. The sample consists of the four highest-rated stations in the Portland media market: KATU-TV (ABC affiliate), KOIN-TV (CBS affiliate), KPTV-TV (Fox affiliate), and KGW-TV (NBC affiliate). The study includes 149.9 hours of actual taped locally produced news on KATU, 110.4 hours on KOIN, 119.75 hours on KPTV, and 140.8 hours on KGW. CMPA also examined public affairs programming found outside of regularly scheduled newscasts.

7. The MIPRAP volunteers taped an extremely high percentage of targeted newscasts, ranging between 99 to 100 percent recovery rate. Any losses were generally due to taping errors or scheduling changes. According to CMPA, these high rates of recovery indicate that the sample reflects accurately the news offerings available to Portland viewers.

8. Analysts at CMPA coded each news story that mentioned a candidate, a ballot initiative, or the election in general. The coding methodology was designed by CMPA, which employs numerous statistical and other controls to assure the completeness and accuracy of its analysis. The following variables were coded for each story: story length, the contest being discussed, candidate soundbites and the primary frame used to address the campaign (e.g. horse race, issue discussion, strategy, etc.). Stories were also separated by the race level (e.g., U.S. House, U.S. Senate, State Legislature and Mixed or Other).

3.

9. The data collected in the CMPA study shows clearly an overall lack of news coverage of the 2004 local elections by the four highest-rated Portland stations and illustrate that

there was a market-wide failure to provide voters in the Portland viewing area with the information they needed about local races to be the informed voters essential to a healthy, working democracy.

10. Of the 520.85 total hours of locally produced news programming for the market, CMPA found that only 4.9 percent of Portland stations' airtime — about 25.5 hours — was focused on the imminent 2004 elections. KPTV had the highest percentage (5.9 percent) with seven hours and ten minutes. The station with the highest number of news air time, KGW, devoted only 4.2 percent of that news to election stories.

11. The presidential race strongly dominated coverage in Portland, accounting for 78 percent (1,128) of all election stories (1,450). According to the CMPA analysis, KPTV gave the race for the White House the greatest proportional coverage with 82 percent of election stories; KOIN devoted the least, with 74 percent of election stories focused on the presidential race.

12. The race for U.S. Senate between Democratic incumbent Ron Wyden and Republican challenger Al King accounted for two percent of all campaign stories (33 stories), according to CMPA. This low number was due to the uncompetitive nature of the race. On KATU and KPTV, this race accounted for only one percent of election news, according to CMPA. House races constituted one percent (12 stories) of all election stories, races for the Oregon State Legislature less than one percent (8 stories), and Oregon local races also less than one percent (6 stories).

13. CMPA found that another nine percent of stories focused on ballot initiatives (130 stories), predominantly controversial measures dealing with gay marriage, legalized marijuana for medicinal purposes, the capping of medical malpractice awards, and the revamping of Oregon's workers' compensation system.

14. CMPA reports that the dominant frame in Portland coverage was the strategic element of candidate and campaign activities, such as where the candidates were campaigning and how they were angling for undecided or swing voters. Thirty-seven percent of all Portland area elections stories approached campaign news from the vantage point of its strategic implications.

15. Only 24 percent of election stories in Portland were issue-focused coverage, CMPA found. An additional 24 percent of election stories used a horse race frame. KATU broadcast the highest percentage of stories using an issue frame (30 percent) or a horse race frame (27 percent). Information on how and where to register to vote or how to vote accounted for three percent of all campaign coverage.

16. The CMPA study also analyzed all instances in which a candidate spoke on camera during news broadcasts and timed these soundbites. Candidate air time varied from a high of 41 minutes at KPTV to a low of 27 minutes at KOIN. Overall, candidate soundbites accounted for only nine percent of news stories on campaigns on Portland stations (two hours 18 minutes total). The average soundbite across the Portland market was 8.7 seconds long. Thus, of the 4.9 percent of the news that was spent on election news, only nine percent of that 4.9 percent allowed voters to hear directly from candidates.

4.

17. In the Portland market, only three of the four stations offered public affairs programming outside their regularly scheduled newscasts. KATU, KOIN, and KGW aired a combined total of 5.5 hours of public affairs programming beyond their coverage of the three Presidential debates and one Vice-Presidential debate.

18. KGW offered by far the most public affairs programming, most notably its regularly-scheduled 30-minute public affairs program, *Viewpoint*. This program included extended interviews with candidates or ballot initiative activists, and a panel discussion with journalists and academics. KGW also hosted a debate for Portland mayoral candidates and offered candidates for federal office four minutes to discuss why people should vote for them on a program called *It's Your Time*. KOIN and KATU hosted special Town Hall programs.

5.

19. To determine whether national news programming provided information about local races (i.e., races below the presidential level), the Media Policy Program (then the Alliance) did an analysis of the national news programming in the two weeks leading up to Election Day. *See* Exhibit B for more information regarding the Alliance study. This analysis was independent from the CMPA study, discussed above, which focused on locally produced news programming.

20. The Alliance examined 132 hours of national news and public affairs programming that aired on ABC, CBS, NBC and Fox networks in this period. It found that 92 percent of the election coverage aired on national networks was devoted to the presidential contest, with 81.6 percent of the candidate soundbites coming from the presidential candidates. Candidate soundbites for U.S. Senate candidates constituted 0.4 percent, for U.S. House 1.2 percent and for other candidates 0.3 percent of candidate soundbites. Two percent of stories examined ballot initiatives and referenda, and slightly less than two percent were devoted to U.S. Senate or House races. The remaining stories were devoted to voting issues (like absentee ballots or voting machines) not specific to any particular race.

21. All told, the national networks devoted about 30 hours to local elections news – approximately one-fifth of their news hole. However, the majority of coverage focused on the horse race of the candidates’ campaign strategies rather than issues.

22. The Lear Center, a collaboration between the University of Southern California’s Annenberg School for Communication and the Department of Political Science’s NewsLab at the University of Wisconsin-Madison, also conducted a study in October 2004 and had similar findings. See <http://www.localnewsarchive.org>. The Lear Center examined all evening news coverage that aired in 11 markets by ABC, CBS, NBC and Fox affiliates from October 4 through 10, 2004. Only three percent of stories focused on U.S. House races, and just two percent were devoted to ballot initiatives or bond referenda. Also, the Lear Center Local News Archive found that nearly eight out of ten election stories focused on the presidential or vice presidential candidates. In contrast, only five percent of all stories were about local elections.

23. Thus, this data indicate that the nationally produced news programs were no substitute for information about local races, including Oregon.

6.

24. The picture painted by this collection of data is clear: The four most-watched stations in the Portland media market failed to adequately cover the 2004 campaign so that citizens in its viewing area could be informed, engaged voters in local elections.

25. Both case law and current policies make clear that the renewal of these above-mentioned licensees should only be granted if the licensees fulfill the obligations they agreed to when obtaining the broadcast license. Since the early days of radio, the publicly owned airwaves have been managed and operated on the “public trustee” model, described by the Federal Radio Commission in this manner:

[Despite the fact that] the conscience and judgment of a station's management are necessarily personal...the station itself must be operated as if owned by the public...It is as if the people of a community should own a station and turn it over to the best man in sight with this injunction: 'Manage this station in our interest.' The standing of every station is determined by that conception.

The Federal Radio Commission and the Public Service Responsibility of Broadcast Licensees, 11 Fed. Comm. B.J. 5, 14 (1950) (quoting *Schaeffer Radio Co.*, an unpublished 1930 FRC decision).

26. As the Supreme Court has noted in *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 389 (1969), "A license permits broadcasting, but the licensee has no constitutional right to be the one who holds the license or to monopolize a radio frequency to the exclusion of his fellow citizens, and also must conduct himself as a proxy or fiduciary with obligations to present those views and voices which are representative of his community." The Court also noted that the public has the right to receive suitable access to political ideas and experiences. *Id* at 390.

27. Moreover, localism has also been a central feature of the current broadcast licensee model. In the 1990s, Congress declared: "A primary objective and benefit of our Nation's system of regulation of television broadcasting is the local origination of programming. There is a substantial governmental interest in ensuring its continuation." Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385, 106 Stat. 1460, 1461 (1992). Congress, through the policies it has adopted, has made clear that it views broadcast television primarily as a local service. As the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters noted, community programming and service are public interest responsibilities that distinguish broadcasting from most other electronic media.

7.

28. The data collected in the Portland market in the period right before the 2004 elections indicate that KATU-TV, KOIN-TV, KPTV-TV, and KGW-TV did a wholly inadequate job of providing information about local campaigns and elections. By failing to air both a sufficient amount of appropriate information about the local candidates and elections in 2004, the licensees have failed to meet core statutory obligations of their licensee agreement and do not merit renewal. The licensees' petitions for renewal of their licenses should be denied.

I, Meredith McGehee, hereby swear that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on December 18, 2006


Meredith McGehee

ATTACHMENT C

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

In re:)
)
)
Petition to Deny Renewal)
Applications for Licenses of Stations)
KATU2-TV, Portland, OR)
Licensee ABC Broadcasting Inc.)
KOIN6-TV, Portland, OR)
Licensee CBS Broadcasting Inc.)
KPTV12-TV, Portland, OR)
Licensee Fox Television Stations Inc.)
KGW8-TV, Portland, OR)
Licensee NBC Universal)
KPTV22-TV, Portland, OR)
Licensee, Paxson Salem Licensee)
KGW24-TV, Portland, OR)
Licensee, National Minority TV, Inc.)
KPDX49, Vancouver, WA)
Licensee, Meredith Corporation)
KRCS32, Beaverton, OR)
Licensee Tribune Company)

**DECLARATION OF OREGON ACTION
IN SUPPORT OF PETITION TO DENY RENEWAL APPLICATIONS**

1.

My name is RuthAlice Anderson. I am a viewer of TV in the Portland media market. I am filing this declaration on behalf of Oregon Action. Oregon Action is a nonprofit community organization that supports grassroots involvement in the democratic process. The organization is a broad-based, multi-racial membership organization, representing roughly 6500 dues-paying

members and 60,000 registered voters around the state, over half of which are in the Portland media market.

2.

I have read the report, “2004 Campaign News Study in Chicago, Milwaukee and Portland Markets,” and agree with its findings.

3.

Oregon Action believes that good government depends on an active and engaged public that fully participates in democracy. For this reason, we work to involve people in the democratic process, fostering broader and more inclusive participation. Each year, we engage in voter registration and voter education efforts, focusing on people who have been historically ignored, disenfranchised or otherwise under-represented in electoral politics and policy making. This includes people of color, people who are low-income and ex-felons, among others.

During the course of our voter registration work, we have noted a common theme among many non-voters. Deep down, it is not that they don't care or don't want to participate, it is that they feel ill-informed to make important decisions for their communities.

People inform themselves in different ways in this country, and our possibilities and preferences for how to do this are influenced by many factors, including our access to resources of time, money and education. However, for most people, television plays an enormous role.

During the 2004 election when so much media attention was focused on the presidential race, it seemed particularly difficult for voters (especially those we worked with who had limited time and financial resources) to get good information on local and state candidates and ballot measures.

4.

For the period of four weeks prior to November 2, 2004, the major Portland-area television stations, as documented in “2004 Campaign News Study in Chicago, Milwaukee and Portland Markets” did not meet a critical civic need in its inadequate coverage of political campaigns and issues on locally produced news. This was in marked contrast to a large volume of political advertising.

5.

Due to our focus on building an inclusive democracy, Oregon Action has some experience with the issue of ex-felon enfranchisement. There is a lack of clear understanding – among both ex-felons themselves and the general public – that in Oregon these citizens regain their right to vote once they pay their penalties. Given that broadcast TV stations receive free franchise licenses in return for serving the public interest, it seems that we should expect them to play a more active role in covering issues such as this on locally produced news or public affairs programming.

7.

Based on our voter registration and education efforts with people in the Portland TV media market and based on our agreement with the findings in “2004 Campaign News Study in Chicago, Milwaukee and Portland Markets” we believe that there is a market-wide failure in the Portland media market to provide the public with the information necessary for the functioning of a healthy democracy.

8.

In order to be adequately informed, many citizens will look to television stations to provide news coverage on issues and candidates. Low-income voters, in particular, may rely on television as a primary source of information.

In the “2004 Campaign News Study in Chicago, Milwaukee and Portland Markets,” it was gratifying to see that Portland TV stations provided more coverage to ballot measures than to several categories of candidate races. Ballot measures are an important part of electoral politics in Oregon, and warrant sufficient coverage. However, it was disturbing to read that all the ballot measures did not receive the same attention in local news and public affairs programming as that given to Ballot Measure 36 on the “hot button” topic of marriage equality. In reality, all the measures deserved more coverage in local news.

Regarding both candidates and ballot measures voters cannot rely on commercials as a major source of election information.

RuthAlice Anderson for Oregon Action, being duly sworn according to law, swears and affirms that she is Declarant in the action and that the facts set forth in the foregoing matter are true and correct to the best of her knowledge, information, and belief.

Executed on December _____, 2006.

RuthAlice Anderson
(Signature of Declarant)

ATTACHMENT D

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

In re:)
)
)
Petition to Deny Renewal)
Applications for Licenses of Stations)
KATU2-TV, Portland, OR)
Licensee ABC Broadcasting Inc.)
KOIN6-TV, Portland, OR)
Licensee CBS Broadcasting Inc.)
KPTV12-TV, Portland, OR)
Licensee Fox Television Stations Inc.)
KGW8-TV, Portland, OR)
Licensee NBC Universal)
KPTV22-TV, Portland, OR)
Licensee, Paxson Salem Licensee)
KGW24-TV, Portland, OR)
Licensee, National Minority TV, Inc.)
KPDX49, Vancouver, WA)
Licensee, Meredith Corporation)
KRCS32, Beaverton, OR)
Licensee Tribune Company)

**DECLARATION OF ERIK STEN IN SUPPORT OF
PETITION TO DENY RENEWAL APPLICATIONS**

1.

My name is Erik Sten. I am a Portland City Commissioner and a life-long resident of Portland. During that time, I have been a viewer of the following Portland area television stations: KATU 2 (ABC), KOIN 6 (CBS), KPTV 12 (FOX), and KGW 8 (NBC). Throughout my residency in Portland, I have watched locally produced news on

these stations and, given my status as an elected official since 1996, I have particularly focused on coverage of political campaigns and elections over the last 10 years.

2.

I have read the report, “2004 Campaign News Study in Chicago, Milwaukee and Portland Markets,” and agree with its findings. Having run for office in 1996, 1998, 2002, and 2006 I can also say that it seems that political coverage in those election cycles were not significantly different from what is summarized in this 2004 report. Obviously the 2004 election cycle focused a great deal on the presidential campaign, but in other years a similar pattern was typical with media attention focused on one or two high-profile races to the detriment of the voter who needs and has the right to expect news coverage of lower-profile candidate campaigns and of issues they face as ballot measures.

3.

During the 2004 election cycle I was particularly interested in the Portland mayoral race. This was a contested open seat race between a City Council colleague and challenger who had 30 years of public service experience but chose to run under self-imposed limits on campaign contributions. By contrast my fellow Commissioner set a fundraising record of \$1 million. Given the importance of this race for the future of the City of Portland my impression that Portland TV stations gave this contest short shrift is supported by the “2004 Campaign News Study in Chicago, Milwaukee and Portland Markets” study.

One station, KGW, did air a mayoral debate, which was commendable. However, one debate on one station in the nation’s 22nd largest media market is not at all adequate particularly when there was not even one debate between candidates in the city’s other

major race, a citywide contest for an open City Council seat. Also a debate, or even multiple debates, by no means replaces the need to provide coverage of these important local races during the regularly scheduled news programs that are watched by many more voters.

4.

I have also been concerned by two frequent characteristics of political coverage when it does appear on local news shows. One, as documented in the 2004 report, is that too little attention is given to what candidates have to say about issues. Instead, limited news time that is devoted to elections focus on horse race or tactical aspects of campaigns. My second comment is based on my personal viewing of local news and concerns the use of political commentators who are involved, sometimes informally, but still involved in some of the campaigns they are analyzing. This would be troubling even if these connections were disclosed, but they are particularly problematic when their comments are presented as being from an impartial political observer.

5.

The lack of election-oriented programming in the weeks preceding the November 2, 2004 election by Portland area broadcasters contributed to a deficiency in candidate and issue exposure. I believe that there is a market-wide failure in the Portland media market to provide the public with the information necessary for voters to effectively fulfill their civic role in choosing candidates and making critical policy decisions in their decisions on ballot measures. Providing this kind of civic information is vital to ensure a healthy democracy.

What is needed is significantly increased coverage of local and state level races, in addition to media attention on one or two high-profile candidate races. Such coverage should include candidate and issue focused stories on regularly scheduled news programs, multiple candidate debates, and far more attention to ballot measures. Unfortunately based both on the 2004 report and my history of watching election news, the Portland broadcast TV stations are not pulling their weight in providing this vital civic information

Erik Sten, being duly sworn according to law, swears and affirms that he is Declarant in the action and that the facts set forth in the foregoing matter are true and correct to the best of his knowledge, information, and belief.

Executed on December _____, 2006.

Erik Sten
(signature of Declarant)

ATTACHMENT E

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

In re:)
)
)
Petition to Deny Renewal)
Applications for Licenses of Stations)
KATU2-TV, Portland, OR)
Licensee ABC Broadcasting Inc.)
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Licensee CBS Broadcasting Inc.)
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Licensee NBC Universal)
KPTV22-TV, Portland, OR)
Licensee, Paxson Salem Licensee)
KGW24-TV, Portland, OR)
Licensee, National Minority TV, Inc.)
KPDX49, Vancouver, WA)
Licensee, Meredith Corporation)
KRCS32, Beaverton, OR)
Licensee Tribune Company)

**DECLARATION OF MARK STURBOIS IN SUPPORT OF
PETITION TO DENY RENEWAL APPLICATIONS**

1.

My name is Mark Sturbois. I am over eighteen years old, and I have been a resident of Portland for 36 years. During that time, I have been a viewer of the following Portland area television stations: KATU 2 (ABC), KOIN 6 (CBS), KPTV 12 (FOX), and KGW 8 (NBC). Throughout my residency in Portland I have obtained much of my local

news and information from these stations on a regular basis. I have read the report, “2004 Campaign News Study in Chicago, Milwaukee and Portland Markets,” and agree with its findings.

2.

I am a registered voter and have voted in past elections, including the November 2, 2004 election. I am very interested in the direction my country, state, and city take politically. I believe that democracy cannot thrive without access with information on these political matters. An uninformed public cannot cast their ballots wisely.

3.

For period of four weeks prior to November 2, 2004, I relied on the aforementioned television stations in the Portland area to provide interviews with candidates, news reports on the respective candidate races for that year’s local, state, and national elections, and coverage on ballot measures. During that period, I could not attend the campaign events for all of the candidates for office and I could not attend candidate debates related to the various elections.

4.

For the period of four weeks prior to November 2, 2004, the Portland-area television stations mentioned in paragraph one failed to adequately interview the candidates for office during their regularly scheduled news programs, and conduct substantive reporting on either candidates or ballot measures. These stations, however, ran political advertisements during commercial breaks. I am particularly concerned that lack of campaign coverage on locally produced news programs in contrast to paid political advertising by candidates. This combination of trends seems that it would skew

the electoral process towards the typically better funded incumbent and I find this a disturbing development.

5.

The lack of election-oriented programming in the weeks preceding the November 2, 2004 election by Portland area broadcasters contributed to a deficiency in candidate and issue exposure. I believe that there is a market-wide failure in the Portland media market to provide the public with the information necessary for the functioning of a healthy democracy. This deficiency in exposure denied me the opportunity to make a well-informed evaluation of candidates. Moreover, political advertisements are devoid of in-depth candidate explanations on positions, which are essential to my making an informed voting decision.

6.

I recognize my responsibility as a citizen to be as informed as possible about the issues from an objective, professional organization, not through advertisements paid for by the candidates or their surrogates. I cannot intelligently and fully meet my responsibility as a citizen in the greater Portland area, free from commercial influence, unless information about the issues and candidates is provided through the airwaves. In conversations with others I find that many people don't know about candidates and my difficulty in obtaining information about issues and candidates is shared by others.

7.

Increased coverage of political candidate activities and events would have significantly enhanced my ability to fully and fairly evaluate candidates and, consequently, make a more well-informed decision in that year's elections. It is difficult

to justify the use of the airwaves by broadcasters when this important information needed by me and other voters to adequately meet the civic responsibility of informed voting is not provided.

8.

Because publicly elected officials can implement policy decisions potentially adverse to my economic and liberty interests, I must learn as much about candidates for public office as possible before voting. As do most of my fellow citizens, I primarily rely on broadcast television for this information.

9.

In order to be adequately informed, I need Portland television stations to broadcast a broad range of candidate debates at reasonable times; report on developments in the wide range of races in play in the Portland media market; and announce opportunities to attend candidate events. I cannot rely on commercials as the sole source of election information.

Mark Sturbois, being duly sworn according to law, swears and affirms that he is Declarant in the action and that the facts set forth in the foregoing matter are true and correct to the best of his knowledge, information, and belief.

Executed on December _____, 2006.

Mark Sturbois
(Signature of Declarant)

ATTACHMENT F

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

In re:)
)
)
Petition to Deny Renewal)
Applications for Licenses of Stations)
KATU2-TV, Portland, OR)
Licensee ABC Broadcasting Inc.)
KOIN6-TV, Portland, OR)
Licensee CBS Broadcasting Inc.)
KPTV12-TV, Portland, OR)
Licensee Fox Television Stations Inc.)
KGW8-TV, Portland, OR)
Licensee NBC Universal)

**DECLARATION OF JANICE THOMPSON FOR THE MONEY IN POLITICS
RESEARCH ACTION PROJECT IN SUPPORT OF PETITION TO DENY
RENEWAL APPLICATIONS**

1.

My name is Janice Thompson. I am filing this declaration on behalf of the Money in Politics Research Action Project (MiPRAP). MiPRAP is a non-profit, non-partisan organization founded in 1999. MiPRAP's goals are to increase access, accountability, and participation in the political process and in governmental decision-making. We track political money, both campaign contributions and lobbying spending, and advocate for campaign finance reform, improvements in ethics and lobbying laws, and efforts to improve voter engagement and participation. We are particularly interested in local broadcast TV news coverage of elections and campaigns because in meetings on these reform topics participants frequently mention the lack of political news coverage as well

as concerns that coverage does not focus on issues helpful to voters. These comments are frequently coupled with concerns about political advertising being far more prevalent but not provided a balanced discussion of campaign issues.

2.

I have read the report, “2004 Campaign News Study in Chicago, Milwaukee and Portland Markets,” by the Center for Media and Public Affairs (hereafter Center report) and agree with its findings. MiPRAP coordinated taping by staff and volunteers of Portland TV news programming that captured 99 to 100 percent of all newscasts labeled by the stations as being locally produced news as summarized in Table 17 of the Center report. Taping was not repeated in 2006 because the time required for detailed analysis of the 2006 Portland TV market news coverage of politics could not have been completed prior to the deadline for filing this challenge.

Volunteer monitoring of local news during the 2006 primaries and general elections was not nearly as comprehensive as the 2004 taping, but still didn’t indicate any dramatic shift in local news coverage of “down ticket” elections. The 2006 Oregon governor’s race appears to have replaced the 2004 presidential race as the election receiving more attention than other campaigns.

During the summer of 2004 staff from MiPRAP and Common Cause Oregon attempted to contact the Portland stations discussed in the Center report about signing on to a Public Interest Public Airwaves Coalition pledge to broadcast two hours per week of issue related news in the six weeks prior to the election. Calls were either not returned or contact never progressed beyond voice mail exchanges with two stations. One general manager spoke with the Common Cause executive director but a meeting could not be

arranged. A meeting with KGW did occur and though agreement with the public interest pledge was not obtained. Evidently there were plans for increased political coverage though this was not seen in comparison to other stations studied in the month before the November 2004 election. During the meeting, it was good to learn that KGW had recently launched a new 30-minute public affairs show airing 6:30 AM on Saturdays.

3.

In general, the Center report's findings regarding little election coverage, especially of non-presidential campaigns, during the regularly scheduled broadcast news is especially frustrating given that Portland stations, particularly KGW and KATU, have demonstrated its capacity to do more by providing more public affairs programming than many other stations in the country. For example, in "Local TV News Coverage of the 2002 General Election" by Lear Center on Local News by USC Annenberg School and the University of Wisconsin, KATU was noted as being only one of two out of 122 stations in 50 media markets that aired a special extended campaign program. The KATU program cited was evidently a Town Hall show on a political topic during the time period studied. But a frequent comment heard by MiPRAP staff on this topic is that people remember when Town Hall was a regular program that aired at a relatively accessible time and they regret that it is now only aired occasionally with its frequency diminishing over time. For example, MiPRAP's review of programming guides indicates that Town Hall aired five times between September and December of 2002 but the number of Town Hall shows during the same time period in 2004 declined.

In 2004 KGW aired *It's Your Time*, cited in the Center report as "an unusual program that offered candidates for federal office in the area four minutes to discuss why

people should vote for them.” Given that providing such candidate-centered coverage is atypical, this public affairs programming approach is commendable. Even more helpful to the voting public however, would be to incorporate into higher viewership local news programs coverage of political campaign with a similar focus on hearing directly from candidates.

In other words, even the commendable public affairs programming by some of the Portland TV stations by no means should be viewed as an adequate replacement for covering political campaigns during regularly scheduled local news shows.

4.

The importance of covering campaigns and election news on local news programs is documented in research by Mark Cooper titled Media Usage: Traditional Outlets Still Dominate Local News and Information. “These four traditional sources – local TV, local dailies and weeklies and radio – dominate the local news landscape mentioned by 88% of the respondents as the most frequently used source and 72% for second most frequent.”

The Cooper study was Part III, Local Television Stations and Daily Newspapers Remain the Dominant Sources of Local News, in a Compendium of Public Interest Research on Media Ownership, Diversity and Localism filed on October 23, 2006 with the Federal Communications Commission.

5.

Other commercial TV stations have found providing coverage of politics on local news a good business practice. For example, stations owned by Hearst-Argyle Television aired “at least 10 minutes per weekday and, where possible, per weekend day of serious

locally produced political news coverage.” (Television Week, March 27, 2006) This particular article highlighted this pledge for political news coverage during the month before upcoming primaries. The article also indicates that the Hearst-Argyle Television pledge for 2006 primary and general elections builds on five-minute daily commitments to provide local coverage of political news made in 2000, 2002, and 2004. In other words, the 25 stations owned by Hearst-Argyle provided election coverage in regularly scheduled news programs during the same election studied for the Portland market in the Center report and had been doing so since 2000. Instead of cutting back from this pledge in 2006, these stations doubled their political news coverage in local news shows.

As quoted in the Television Week article, Hearst-Argyle President and CEO David Barrett said “We want to be the local news leader,” adding that he doesn’t believe a station can aspire to be No. 1 without effective political coverage. Hearst-Argyle executives “are encouraged that their strategy is effective because of their station’s competitive ratings performance. The majority of Hearst-Argyle stations rank No. 1 or No 2. in news in their markets.”

Hearst-Argyle deserves the Walter Cronkite Award for its political news coverage commitments it has received from the University of Southern California Annenberg School of Communication. But it is unfortunate that meeting such a relatively low bar for election coverage on local news justifies an award. MiPRAP joins the Campaign Legal Center and the Public Interest, Public Airwaves Coalition in calling for a minimum of three hours weekly coverage of local elections, campaign issues, as well as coverage of governmental and civic affairs.

The need for effective coverage of political campaigns and civic engagement is a particular concern regarding races “down the ticket” from the presidential race. For example, the November 2004 Portland elections involved two citywide contested open seats, one for mayor and one for city council. The city council race was particularly close and MiPRAP conversations with city council candidates Nick Fish and Sam Adams confirmed their agreement with the Center’s report findings on minimal coverage on local news regarding city races.

Nick Fish has submitted his own affidavit on his 2004 campaign.

Sam Adams said, “My opponent and I talked about the many important issues during our campaign, but you would never know it by watching local TV news. The voters deserve more and better coverage of political elections.” *(double checking this quote with Sam)*

7.

Lack of local news coverage of the race between Nick Fish and Sam Adams was in stark contrast to advertising expenditures by each campaign. The Adams campaign focused on radio advertising and spent \$38,000 during the general election. This cost comprised 21% of total general election campaign spending by Sam Adams. Nick Fish spent \$158,029.40 on radio, broadcast and cable TV advertising and related production costs during the general election. This was 60% of total general election spending by Nick Fish.

At the same time that coverage of local politics on local news was minimal, the dollars spent on political advertising by the Fish and Adam campaigns is a small portion

of total political advertising dollars that went to the four broadcast TV stations in the Portland market.

According to data compiled for the Alliance for Better Campaigns (now the Media Program at the Campaign Legal Center) between January 1 and the general election on November 2, 2004 Portland TV stations aired 41,072 political ads at a cost of \$26,847,634.

Surely some of these dollars could be used to expand the capacity of local TV news production of campaigns and other public affairs programming pertaining to civic engagement.

8.

I believe that there is a market-wide failure in the Portland media market to provide the voters with needed information to help inform decisions on issues and candidates on their ballots. The potential to meet this goal can be glimpsed in public affairs programming in the Portland market. But such public affairs program would need to be significantly expanded and made available at more readily accessible times to be considered adequate. Even more important, increased issue-based coverage of political campaigns on locally broadcast TV news is needed to meet public interest needs regarding that most important component of civic engagement – voting.

Janice Thompson, being duly sworn according to law, swears and affirms that she is Declarant in the action and that the facts set forth in the foregoing matter are true and correct to the best of her knowledge, information, and belief.

Executed on December _____, 2006.

Janice Thompson
(Signature of Declarant)

Certificate of Service

I, Benjamin Lennett, hereby certify that on this 22nd day of December 2006, a copy of the foregoing *Petition to Deny* was served via first-class mail to those upon the following:

David D. Burns
Latham and Watkins LLP
555 Eleventh Street, NW
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Washington, DC 20004 - 1304
Monetecito Portland License, LLC

Clifford M. Harrington
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*Fisher Broadcasting - Portland TV,
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Kevin P. Latek
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Meredith Corporation - KPDX (TV)

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Benjamin Lennett