CHAIRMAN

Federal Communications Commission
Washington, D.C.

October 20, 2004

The Honorable John D. Dingell
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
2322 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Dingell:

Thank you for your October 13, 2004 letter concerning recent news reports that television stations operated and managed by the Sinclair Broadcast Group intend to broadcast a program entitled "Stolen Honor: Wounds that Never Heal." You request that the Commission investigate this matter and take appropriate action to enforce the Communications Act. As you may know, the Sinclair Broadcast Group issued a statement on October 19, 2004, indicating that the company intended to broadcast a program entitled "A POW Story: Politics, Pressure and the Media", and would not be airing "Stolen Honor" in its entirety.

Broadcasters, like all media, have broad discretion in choosing content. The First Amendment of the U.S. Constitution and Section 326 of the Communications Act prohibit the Commission from engaging in censorship. As a result, the Commission generally cannot prohibit a station from airing a specific program.

However, as you know, the Communications Act and Commission policies require broadcasters to provide comparable time under certain circumstances. The licensee's obligation to provide comparable time is determined in light of all the relevant facts of a particular case. The Commission thus cannot accurately ascertain if the comparable time requirements -- or exemptions to those requirements -- are triggered without a full understanding of the content of a particular program. Please be assured that the Commission will take appropriate action on any complaints it receives regarding the airing of the program. Because of the significant public interest involved, we are prepared to act expeditiously to determine compliance with our rules and policies in this area.

In all events, however, our nation's broadcasters have an obligation to serve the public interest. As always, we expect our licensees to act in the best interests of their local communities.

I have attached my responses to your specific questions. I appreciate your interest in this matter. Please let me know if I can be of further assistance with this or any other matter.

Sincerely,

Michael K. Powell

Enclosure

Responses to Questions

1. How does the Commission determine whether an action by a licensee serves the public interest?

The procedures governing applications concerning the issuance, renewal, sale or major modification of a broadcast license granted by the Commission provide opportunities to ensure that licensees comply with applicable federal law and Commission regulations. In each of these instances, the Commission issues a Public Notice inviting interested persons, including members of the viewing and listening public, to submit comments, informal objections, or petitions to deny the application. In addition, the Commission may conduct an audit to verify information provided in reports that broadcast licensees are required to file with the Commission describing the station's compliance with various requirements, such as obligations regarding children's programming and public file requirements. Finally, an interested person may file a complaint with the Commission at any time whether in connection with an application or not concerning a licensee's compliance with the Communications Act and the Commission's regulations. If the complaint presents allegations which, if true, could constitute a violation of laws or regulations that are within the Commission's jurisdiction, the matter will be investigated and the Commission will take appropriate action, which could include admonition, monetary forfeiture, or revocation.

Issues concerning whether a broadcast station has served the public interest are expressly considered when the station submits an application for license renewal to the Commission. In evaluating the renewal application, the Commission's decision is governed by Section 309(k) of the Communications Act. That section provides that if, upon consideration of the application and pleadings, the Commission determines that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Communications Act or the Commission's Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, the renewal application must be granted. If, however, the licensee fails to meet that standard, the Commission, after providing notice and opportunity for a hearing, may deny the application or grant the application subject to appropriate terms and conditions.

In determining whether a station's broadcast license should be renewed, the Commission considers, among other things, whether the licensee has addressed community issues with responsive programming. To assist with this determination, the Commission requires that broadcast licensees compile quarterly lists of programs that have provided the station's most significant treatment of community issues during the preceding three months. The Commission also requires that broadcast licensees retain correspondence from the public, including comments concerning programming, in the station's public file. The Commission may consider this correspondence, as well as the quarterly program lists, in determining whether the licensee has served the public interest.

In addition to the Public Notice issued by the Commission, broadcast stations seeking renewal generally are required to provide on-the-air announcements, at least twice per month for a minimum of six months, to ensure that persons served by the station will be apprised of their opportunity to participate in the license renewal process. If an interested person submits a

petition to deny the renewal application, the Commission will determine whether the petition makes specific allegations of fact which, if true, demonstrate that granting the license renewal would be inconsistent with the public interest. Finally, before granting any broadcast application, the Commission must find such grant to be consistent with the public interest, convenience and necessity, a judgment that is informed by all relevant facts available to the Commission at the time it acts. If the Commission cannot, based on the record, reach this conclusion, it must designate the application for hearing.

2. Does it serve the public interest for a licensee to air a program that is no more than a one-sided propaganda piece against one of the Presidential candidates two weeks before the election is held?

In determining whether a broadcast licensee has served the public interest, the Commission considers a number of factors, including the station's overall performance; its history of compliance with the Communications Act, Commission's regulations and orders, as well as other local, state, and federal law; and comments from interested persons and members of the general public. The Commission examines the totality of a station's performance in evaluating whether the public interest has been served.

3. If the Commission determines that a licensee has violated the Commission's public interest test, can the Commission, during license renewal proceedings, designate an application for a hearing that could ultimately lead to the denial of renewal?

Yes.

4. If the Commission determines that a licensee has violated the Commission's public interest test, would such violation be considered by the Commission during license renewal proceedings?

Yes.

5. If the Commission determines that a licensee has violated the Commission's public interest test, can the Commission commence license revocation proceedings?

Yes.