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U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515–6115

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October 13, 2004

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Powell:

We are writing regarding recent press reports that Sinclair Broadcasting, a licensee of the Federal Communications Commission, has directed its station managers at 62 television stations to preempt their network feeds and broadcast instead a film titled "Stolen Honor: Wounds that Never Heal." As described in press reports, this film features former prisoners of war attacking Senator John Kerry, a candidate for President of the United States, for his conduct during the Vietnam era. The film has been criticized as highly inaccurate and partisan. We ask the Commission to investigate this matter, to respond to the questions raised below, and to take appropriate action to enforce the Communications Act.

Broadcast licensees are trustees of the public, and are licensed to operate in the public interest. Accordingly, broadcasters play a vital role in our political process. The public relies on broadcasters to provide an objective and accurate source for news and information about candidates running for public office. And when they fail to do so, as CBS News did when it reported about apparently false documents concerning President Bush's record during the Vietnam War, it is important to ensure that such mistakes do not happen again. That incident has reemphasized the need to ensure that broadcasters air accurate and balanced information about candidates seeking elected office. So we are greatly troubled over the reports that Sinclair intends to air a one-sided film attacking a Presidential candidate, only days before Election Day.

Sections 307, 309, and 315 of the Communications Act of 1934 require licensees to serve the public interest. Specifically, Section 307 states that for a license to be renewed, the Commission must find that "the public interest, convenience, and necessity would be served thereby." Likewise, under Section 309, the Commission must make a similar finding to grant an application for a broadcast license. Finally, Section 315 states that broadcasters claiming to air newscasts or news documentaries are not relieved from "the obligation imposed upon them under this Act to operate in the public interest . . . ." Airing programming such as "Stolen Honor" just days before Election Day is to us, and many of our colleagues in Congress, inconsistent with the

public interest that broadcasters are licensed to serve. Accordingly, we request answers to the following questions:

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

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?

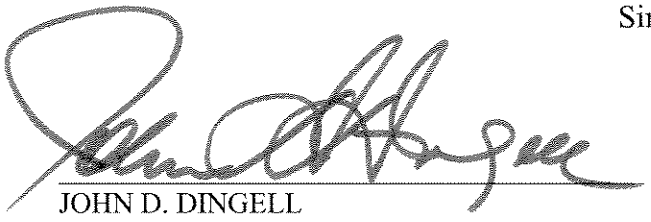
3. If the Commission determines that a licensee has violated the Commission's public interest test, can the Commission, during license renewal proceedings, designate an application for a hearing that could ultimately lead to the denial of renewal?

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?

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

Given the fact that Election Day is on November 2nd and that Sinclair has said that it will air the programming in question before that date, we ask the Commission to respond to these questions no later than Wednesday, October 20, 2004. And if, as we believe, Sinclair's intended course of action is violative of the Communications Act, we ask the Commission to take appropriate and expeditious action. Thank you for your attention to this request.

Sincerely,



JOHN D. DINGELL
RANKING MEMBER

EDWARD J. MARKEY
RANKING MEMBER
SUBCOMMITTEE ON TELECOMMUNICATIONS
AND THE INTERNET

cc: The Honorable Joe Barton, Chairman
Committee on Energy and Commerce

The Honorable Fred Upton, Chairman
Subcommittee on Telecommunications and the Internet