

October 24, 2004

Office of the Secretary
Federal Communications Commission
Attn: Video Division
License Renewal Processing Team
Room 2-A665
445 12th St. SW
Washington, DC 20554

RE: Informal Objection to the renewal of broadcast license for WLOS, Asheville, NC

Dear FCC Team;

The Sinclair Media Watch is a grassroots group of citizens living in the Greenville-Spartanburg-Asheville-Anderson media market. We are writing to register an Informal Objection to the renewal of the Sinclair Broadcasting Group's license to operate television station WLOS, broadcasting from Asheville, North Carolina.

Our Objection is based on four areas of concern. First, WLOS television exceeded allowable limits on commercials during children's programming hours for a five-month period in 2001.

Second, under Sinclair Broadcasting Group (SBG) ownership, WLOS became a partisan mouthpiece which actively tried to influence the 2004 General Election for President of the United States. In one important instance, we believe that Sinclair may have violated the provisions of the Campaign Finance Reform Act of 2002 by engaging in electioneering communications within sixty days of a General Election. Despite SBG's partisan agenda, WLOS fared poorly in a 2002 national study of how local television stations covered candidates and issues in the 2002 General Election campaign season.

Third, WLOS is the only commercial TV license assigned to the mountain region of North Carolina, a 17-county area of almost 7,000 square miles -- roughly the size of New Jersey -- with a 2003 population of 708,961. Though WLOS is considered part of the tri-city market of Greenville-Spartanburg (SC)-Asheville, the TV stations serving Greenville and Spartanburg closed their Asheville news bureaus more than 10 years ago. As a result, WLOS provides the only television news coverage -- commercial or non-commercial -- for the western North Carolina region. SBG's widely-publicized cost-cutting practice of replacing local news staff with a centralized news product under the banner, "NewsCentral," is very troubling to our community. SBG's weak financial position -- coupled with the fact that WLOS local news programs regularly rank last in the tri-city market -- make our local news department especially vulnerable to downsizing or elimination by SBG. The potential harm for our rugged mountain region, which is heavily dependent on WLOS for local weather and emergency announcements, is great.

Fourth, we believe that the relationship between the Sinclair Broadcasting Group and Cunningham Broadcasting, indirect parent of station WBSC, licensed in Anderson, SC, violates the duopoly rule in the Greenville-Spartanburg-Asheville-Anderson television market.

SBG exceeded the allowable minutes of commercials during children's programming hours.

SBG admitted, in its current application for renewal of the WLOS license that it "experienced a 30 second overage of children's commercial time limits during the period February 10, 2001 through July 14,

2001 . . ." This was a violation of CFR 47, Part §73.670. It should be noted that this violation went on for five months.

SBG has forced WLOS to become a mouthpiece for its political agenda, in possible violation of both the Federal Communications Commission Zapple Doctrine and the Campaign Finance Reform Act of 2002.

In the area of public affairs and local news programming, SBG has done a poor job of looking after the public's interest in the WLOS viewing area. This conclusion is based on a record of strong and often unacknowledged political bias, possible violation of the Zapple Doctrine, potential violation of the "electioneering communication" ban contained in the Campaign Finance Reform Act of 2002, and evidence of weak commitment to informing the electorate about the issues and candidates for political office.

The Center For Public Integrity reports that, "Between 1996 and mid-2004, Sinclair has contributed 89 percent of its \$2.3 million in contributions to Republicans." (1)

A content analysis of News Central's daily commentary, "The Point," between 8/8 and 9/30/2004 (2) revealed that twenty-five of the thirty-seven reviewed episodes made direct reference to President Bush, Senator Kerry, or both. Senator Kerry was consistently cast in a strongly negative light while the average score for mentions of President Bush was weakly positive. "The Point" commentaries are delivered each day by Mark Hyman, SBG's vice-president of corporate relations.

Between 9/8 and 9/27, eleven episodes of "The Point" amounted to Swift Boat Veterans-style attack ads against Senator Kerry. The following quotations were obtained from transcripts of "The Point" available through the WLOS website:

9/8 "The terrorist leaders would dearly love to see President Bush replaced with Senator Kerry who has a weak Senatorial record when it comes to national defense and fighting terrorism."

9/13 "John Kerry's account of killing what turned out to really be a wounded man while he fled continues Kerry's pattern of lies, exaggerations and embellishments." (Note: By 9/23 this armed Viet Cong victim had morphed into a fleeing Vietnamese teenager, without provision of any factual basis for the claim.)

9/22 "The Kerry-led protests emboldened Communist forces to launch offensive operations against American and South Vietnamese defensive positions only days later."

9/27 "John Kerry is a gundecking sea lawyer."

While Mark Hyman, who delivered these "editorials", ended each episode with an invitation for viewers to tell him what they think, he demonstrated no real commitment to broadcasting any alternative or opposing views. On a less than weekly basis, he did read excerpts from messages received in "The Mailbag." Dissenting opinions were truncated and often held up to ridicule.

The pattern of favoritism for Republican causes was very evident during the WLOS coverage of the 2004 Democratic and Republican political conventions. Our analysis shows that WLOS relied almost entirely on Sinclair-produced "NewsCentral" convention coverage, despite the fact that as an ABC affiliate, WLOS could have supplemented its coverage with ABC network-produced reporting. As a result, the pattern of favoritism for the GOP was strikingly heavy-handed. Coverage of the GOP convention repeated party-endorsed stock phrases

portraying Bush as a "strong leader" and the GOP as presenting "a new more moderate vision." Coverage of the Democratic convention emphasized the "harsh," "extreme" and "liberal" comments of Ted Kennedy, Al Sharpton, Hillary Clinton and Jesse Jackson and the "pervasive" presence of "Hollywood liberals." One segment even called Ted Kennedy the "conscience of the Democratic Party" and then spent more than two minutes recounting the Chappaquiddick incident. No coverage was provided of the speeches of former presidents Bill Clinton or Jimmy Carter.

Despite this clear lack of political balance, Sinclair has often attempted to cast itself as an unbiased public citizen. Laughably, in his The Point editorials, Mr. Hyman typically referred to network news shows as "the partisan press." But the clearest example of a knowing intent to mislead may have been the SBG response to the Ted Koppel Nightline episode on April 30, 2004 when Mr. Koppel read the names of American troops killed in Iraq.

Stations owned by Sinclair Broadcasting were not allowed to air the show, despite complaints by prominent citizens including Senator John McCain. SBG issued a statement. It is reprinted here in its entirety. (3)

Nightline Preemption Statement of Sinclair Broadcast Group: "The ABC Television Network announced on Tuesday that the Friday, April 30 edition of 'Nightline' will consist entirely of Ted Koppel reading aloud the names of U.S. servicemen and women killed in action in Iraq. Despite the denials by a spokeswoman for the show the action appears to be motivated by a political agenda designed to undermine the efforts of the United States in Iraq.

"While the Sinclair Broadcast Group honors the memory of the brave members of the military who have sacrificed their lives in the service of our country, we do not believe such political statements should be disguised as news content. As a result, we have decided to preempt the broadcast of 'Nightline' this Friday on each of our stations which air ABC programming.

"We understand that our decision in this matter may be questioned by some. Before you judge our decision, however, we would ask that you first question Mr. Koppel as to why he chose to read the names of 523 troops killed in combat in Iraq, rather than the names of the thousands of private citizens killed in terrorist attacks since and including the events of September 11, 2001. In his answer, we believe you will find the real motivation behind his action scheduled for this Friday."

You may e-mail comments to news@wlos.com and we will forward them to our parent company.

This statement failed to acknowledge SBG's own pronounced and well-documented political bias and did not address how that might have influenced the corporate decision. Instead it accused Mr. Koppel of political motivation and decried the practice of disguising political speech as news content (presumably only when practiced by parties other than SBG).

The statement conveniently ignored the fact that ABC did read the names of the victims of 9/11 on the anniversary of that attack. The statement reiterated an already discredited notion about a connection between 9/11 and Iraq. Finally, the statement invited comments. Within hours of Sinclair's announcement, WLOS news announced that it had received 4,000 e-mails and said it would forward them to SBG. Network news programs ran interviews with SBG executives who defended the decision to preempt. But when Mark Hyman went to "The Mailbag" the next night, the controversy was never mentioned.

What did the e-mail responses say? We don't know. But the experience of the local newspaper, the *Asheville Citizen-Times*, may provide a clue. The paper was immediately swamped with Letters to the Editor. They ran so overwhelmingly negative to the SBG decision that some people accused the paper of playing favorites. The *Citizen-Times* denied the charge and actually encouraged readers to send letters of support for Sinclair, but letters remained mainly negative.

These facts cause us to share the concern about violation of the Zapple Doctrine contained in a letter the Kerry-Edwards campaign sent to Sinclair Broadcasting on October 15, 2004. A copy of this letter was sent to Bobby Baker, Assistant Division Chief, Policy Division Media Bureau, FCC (4).

Through the mouthpiece of its stations, SBG was very active in the political process in 2004. By couching what amounts to political advertisement in "The Point" and in some of its News Central news stories, SBG made a mockery of the limits imposed on corporate contributions by the Campaign Finance Reform Act of 2002. Nowhere was this more evident than in the October 22, 2004 primetime "special news event" which finally aired as "A POW Story." Even Sinclair's own Washington Bureau Chief, Jon Leiberman, by his own account a Bush supporter in 2000, publicly denounced the perversion of journalism he had been told to produce (6). If Sinclair's redefinition of the term "news" is allowed to stand, the word has lost regulatory meaning and we have gone through the looking glass with Alice to Humpty Dumpty's world. "When I use a word," Humpty Dumpty said, in rather a scornful tone, "it means just what I choose it to mean---neither more nor less." If "A POW Story" was not news, and we believe it was not, the program fell under the Campaign Finance Reform Act's prohibition against "electioneering communication" within 60 days of a general election.

The Greenville, Spartanburg, Asheville, Anderson market area was included in a study by USC's Annenberg School and the University of Wisconsin titled, "Local TV News Coverage Of The 2002 General Election" (7). The study looked at the top-rated local news broadcasts on 122 television stations and rated them on seven measures, including total number of campaign stories, time devoted to campaign coverage, issue-oriented campaign stories, and percentage of locally focused campaign stories.

WLOS ranked in the bottom third of this group of 122 stations in all categories except percentage of locally focused campaign stories. Lest it be argued that the lack of a North Carolina Senate race in 2002 accounted for this poor showing, it should be noted that four other Sinclair stations were included in the study, WSYX in Columbus, WZTV in Nashville, KOKH in Oklahoma City, and KOVR in Sacramento. When scores from all seven domains are averaged, four of the five Sinclair stations scored below par. WZTV beat the average by the narrowest possible margin.

In his report of this study before the US Senate Commerce, Science, and Transportation Committee on 7/23/2003, principle author Martin Kaplan, Director of the Norman Lear Center and Associate Dean of the USC Annenberg School for Communications, singled out WLOS and its CBS competitor, WSPA, for special mention. He said that WLOS aired only 40 campaign stories during the fall 2002 study period while WSPA presented 146 (8).

News Central threatens the existence of truly local broadcast television news for more than 708,000 people in Western North Carolina.

The Sinclair business model calls for reducing local news expenses by substituting News Central, produced in Maryland, for local news departments. While SBG has repeatedly touted this as a service for stations which previously did not have local news shows, Washington Post reported on May 31, 2003 (9), that SBG terminated unprofitable existing news departments in Greensboro, NC, St. Louis, and Tallahassee. Other news departments

have been cut. According to Broadcasting & Cable (10), Sinclair fired eleven news staffers at WPGH in Pittsburgh in the spring of 2003 and put in a nighttime News Central show. Other cost-saving tricks include interweaving local and News Central news staff on the air in such a way that viewers are given the illusion of a local show. How's it working? The Pittsburgh Post-Gazette reported on 8/19/2004 (11), that WPGH ratings fell substantially after the news staff firings in 2003. But a review of SBG reports confirms that more stations are being converted to News Central each quarter.

At WLOS, News Director Tom Loebig told one of us that during his seven-year tenure with the station, the news department has remained about the same size. Locally produced minutes on at least some newscasts have, however, decreased. The Point has been broadcast at least twice daily. Clearly identified News Central news stories ran frequently. WLOS anchors wrote and read stories based on footage obtained from News Central on a daily basis.

Mr. Loebig added that the station used an even larger number of prepackaged stories from ABC and CNN. He admitted that News Central strongly encouraged him to run certain News Central stories. He had not had any occasion to find out what would happen if he chose not to comply.

WLOS stopped producing both local weekend morning news shows a couple of years ago. Very recently, the Saturday morning program was resumed. But on Sunday morning, a rerun of the Saturday evening 11 pm broadcast continued to be shown as of October, 2004. This may seem insignificant, but for local weather and local emergency situations, the loss is problematic.

Sinclair has a history of replacing local news with News Central in weak advertising markets. Unfortunately for citizens of Western North Carolina, the Greenville-Spartanburg-Asheville-Anderson media market is segmented.

There are more viewers in South Carolina than in North Carolina. Accordingly, WLOS news generally ranks behind its main competitors, the South Carolina NBC and CBS affiliates. How does WLOS news fare in terms of public demand? A MediaWeek.com webpage (12) provides a November 2001 snapshot of Nielsen ratings in the Greenville-Spartanburg-Asheville-Anderson market. At that time WLOS ranked behind WYFF on each of the evening newscasts, 5, 5:30, 6, and 11 pm. WLOS finished third, behind both WYFF and WSPA, at 5 and 11 pm. Information obtained by one of our members for the May sweeps period 2001 through 2004 confirmed that this MediaWeek snapshot was representative of the relative rating and audience share data during the four year time period. WLOS news has had a policy of providing its news programs free of charge to regional radio stations. The proviso is that stations do not have permission to edit content. Six very small radio stations currently run WLOS news. News Director, Loebig told one of us that fewer stations are currently taking advantage of that service than in the past.

The vulnerability of local news on WLOS is probably enhanced by the corporate financial weakness of Sinclair. Although Sinclair is the largest corporate owner of broadcast television stations in the United States, its corporate balance sheet is nothing to cheer about. SBG lost money in fiscal years 2001 and 2002 (13). The period 2000-2003 taken together showed a net loss of about \$600 million. On 2/5/2004, David Smith, President and CEO of Sinclair, was quoted in an SBG press release (14) which praised the News Central model, "Our focus going forward will primarily be on adding additional news dayparts and converting certain existing news stations to the more cost effective News Central model."

Again, WLOS is the only commercial TV license assigned to the mountain region of North Carolina, a 17-county area of almost 7,000 square miles -- roughly the size of New Jersey -- with a 2003 population of

708,961. Though WLOS is considered part of the tri-city market of Greenville-Spartanburg (SC)-Asheville, the TV stations serving Greenville and Spartanburg closed their Asheville news bureaus more than 10 years ago.

As a result, WLOS provides the only television news coverage -- commercial or non-commercial -- for the western North Carolina region. SBG's widely-publicized cost-cutting practice of replacing local news staff with a centralized news product under the banner, "NewsCentral," is very troubling to our community.

We believe that Sinclair's business arrangement with Cunningham Broadcasting, owner of WBSC television, amounts to a violation of the duopoly rule.

Sinclair owns WLOS and manages WBSC, another broadcast television station in the Greenville-Spartanburg-Asheville-Anderson market area, through a Local Marketing Agreement, LMA. This arrangement has been necessary because the FCC has refused requests by Sinclair to allow it to buy WBSC outright on grounds that Sinclair ownership of WBSC would violate the duopoly rule. We believe that, in effect, Cunningham Broadcasting is an unacknowledged branch of the Sinclair operation.

According to the current Ownership Report For Commercial Broadcast Stations filed with the FCC on behalf of WBSC, the station is owned by Anderson (WFBC-TV) Licensee, Inc. The same document states that Cunningham Broadcasting Corporation is the "indirect parent of the licensee respondent." It wholly owns Anderson (WFBC-TV) Inc., the owner of Anderson (WFBC-TV) Licensee, Inc (Anderson). The Vice President, Director listed for Anderson is Carolyn C. Smith of Cockeysville MD, mother of four brothers who make up half the Sinclair Broadcasting Group Board of Directors. They are David Smith, CEO of the Sinclair Broadcasting Group, Frederick Smith, Vice President, Duncan Smith, Vice President and Secretary, and Robert Smith, a Sinclair Director.

Free Press, a public interest watchdog group, has looked into the relationship between Sinclair and Cunningham (15). It describes Cunningham, formerly known as Glencairn Ltd., as a "pass-through company" used by Sinclair as an owner of convenience for television stations it is not allowed to own directly due to the duopoly rule. According to the report, Glencairn/Cunningham only does business in television markets where Sinclair needs it for that purpose. In 1997, Carolyn Smith, who at that time "controlled 90% of the equity in Glencairn, transferred her ownership interest to her grandchildren---the children of the principle owners of Sinclair itself."

So, at an ownership level and chief executive level, three generations of the Smith family control Sinclair, Cunningham, and Anderson. The three corporations are also joined at other levels, including two Maryland law firms. Thomas & Libowitz. PA is represented on the Sinclair Board of Directors by Basil Thomas, a Thomas & Libowitz partner. His son, Steven Thomas, is listed as "of counsel" to Sinclair. Steven Thomas was the partner of Thomas & Libowitz who replied to an inquiry a member of Sinclair Media Watch made to WBSC about Cunningham Broadcasting. Mr. Thomas told our member that the answer to his question was private information and threatened legal action if he copied or passed on that information.

The other law firm of interest is Shaw Pittman LLP. A retired Shaw Pittman partner, Martin R. Leader, also sits on the Sinclair Board of Directors. The biennial statement of WBSC ownership, cited above, lists Clifford Harrington Esq. of Shaw Pittman as the corporate contact for Anderson. Shaw Pittman is also the law firm which submitted Sinclair's license renewal application form to the FCC on August 3, 2004. Of the eight members of the Sinclair Broadcasting Group's Board of Directors, all but two have obvious ties to Cunningham and Anderson.

This connection extends down to the local level. Although the public mailing address for WBSC is in Greenville, SC, it shares a studio with WLOS at 110 Technology Drive in Asheville, NC. The building is signed as housing both stations. The telephone operator answers the phone "WLOS, WBSC". WLOS lists a South Carolina mailing address. It is the published WBSC mailing address in Greenville.

As of October, 2004, the stations also shared management. The General Manager for both stations was Jack Connors. Other shared managers included General Sales Manager, Audra Swain; National Sales Manager, Tracey Bazon; and Business Manager, Darrell Rhoden.

Both stations' websites are within a Sinclair Broadcasting Group shell. On the WBSC site, there is a link for making comments to Sinclair Broadcasting but not to Cunningham.

WLOS and WBSC filed a joint annual EEO Public Report (16). Taken together, these facts do not support the idea of WBSC is an independently owned station.

Instead, it appears that the shared ownership/directorships between Sinclair and Cunningham in the matter of WLOS and WBSC, has resulted in two stations belonging to the same family and certain close business partners. We believe this arrangement effectively violates the FCC's duopoly rule and should, by itself, bring FCC sanctions down on Sinclair/Cunningham/Anderson.

Considered in the larger context of Sinclair's record of poor and politically biased stewardship of the public airwaves, and in the interest of the local news needs of citizens in Western North Carolina, we believe the FCC should deny Sinclair's application for renewal of its license to operate broadcast television station WLOS. Thank you for your serious consideration of this matter.

Sincerely;

Michael Hopping

Wally Bowen

and the attached list of concerned citizens

Sinclair Media Watch
a division of Citizens for Media Literacy
34 Wall Street, Suite 407
Asheville NC 28801
(828) 255-0182

cc: Jack Connors, General Manager
WLOS TV
110 Technology Drive
Asheville, NC 28803

Sources

1)<<http://www.publicintegrity.org/telecom/analysis/CompanyProfile.aspx?HOID=22261>>

- 2) <<http://www.sinclairwatch.net/hymanstudy.shtml>> (Attachment 1)
- 3) The statement, downloaded from the Sinclair website in early May, is no longer available there. Other versions are currently available at: <<http://blogs.salon.com/0003379/2004/04/29.html>>
- 4) available at <<http://www.newsmax.com/archives/ic/2004/10/15/184520.shtml>>
- 5) available at <<http://sbgweb2.sbgnet.com/index.shtml>>
- 6) Folkenflik, David. Sinclair Employee Decries Planned Program On Kerry. Baltimore Sun. October 18, 2004.
- 7) Local TV News Coverage of the 2002 General Election <<http://learcenter.org/pdf/LCLNAReport.pdf>>
- 8) <www.rbr.com/archives/july03.asp> Note: only cached form is available on Google
- 9) Farhi, Paul. TV's News Central: One Source Fits All. Washington Post. May 31, 2003. page A01.
- 10) Miller, Mark K. Sinclair's Pittsburgh Outlet Pares Staff. Broadcasting & Cable.
<<http://print.google.com/print/doc?articleid=pp8LLmRBzG6>>
- 11) Owen, Rob. Tuned In: WPGH Manager Plans Few Changes. Pittsburgh Post-Gazette. August 19, 2004.
- 12) <<http://www.mediaweek.com/mediaweek/top50/greenville.jsp>>
- 13) <<http://www.publicintegrity.org/telecom/analysis/CompanyProfile.aspx?HOID=22261>>
- 14) SBG Reports 2003 Results <http://www.sbgi.net/press/release_200425_64.shtml>
- 15) Sinclair And The Public Airwaves: A History Of Abuse, available through <<http://www.sinclairwatch.org>>
- 16) available through the WLOS website <<http://www.WLOS.com/>>