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December 22, 2006

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Federal Communications Commission  
Bureau / Office

Benigno E. Bartolome, Jr.  
Deputy Chief, Investigations & Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Suite 4-C330  
Washington, DC 20554

**Re: Station WTTO(TV), Homewood, AL**  
**File No. EB-06-IH-3486**

Dear Mr. Bartolome:

Sinclair Broadcast Group, Inc. ("Sinclair"), the ultimate parent company of the licensees of the stations included in footnote 1, below (collectively, the "Stations"),<sup>1</sup> by its counsel, hereby responds to the Enforcement Bureau's letter dated November 7, 2006 ("Letter"). The Letter states that the Bureau is investigating whether various licensees aired material that was allegedly paid for by a third party without making the required

<sup>1</sup> WTTO(TV), Homewood, AL; WBFF(TV), Baltimore, MD; WRDC(TV), Durham, NC; WLOS(TV), Asheville, NC; WMMP(TV), Charleston, SC; WXLV-TV, Winston-Salem, NC; WMYV(TV), Greensboro, NC; WLFL(TV), Raleigh, NC; WTWC-TV, Tallahassee, FL; WEAR-TV, Pensacola, FL; WRLH-TV, Richmond, VA; WABM(TV), Birmingham, AL; WZTV(TV), Nashville, TN; WUXP-TV, Nashville, TN; WDKY-TV, Danville, KY; WKEF(TV), Dayton, OH; WSYX(TV), Columbus, OH; WSMH(TV), Flint, MI; WICS(TV), Springfield, IL; WVTV(TV), Milwaukee, WI; WICD(TV), Champaign, IL; WCGV(TV), Milwaukee, WI; WMSN-TV, Madison, WI; KBSI(TV), Cape Girardeau, MO; KDNL-TV, St. Louis, MO; KGAN(TV), Cedar Rapids, IA; KDSM-TV, Des Moines, IA; WUCW(TV), Minneapolis, MN; KOKH-TV, Oklahoma City, OK; KOCB(TV), Oklahoma City, OK; KABB(TV), San Antonio, TX; KMYS(TV), Kerrville, TX; KVMY(TV), Las Vegas, NV; WGME-TV, Portland, ME; WGGB-TV, Springfield, MA; WUTV(TV), Buffalo, NY; WUHF(TV), Rochester, NY; WSYT(TV), Syracuse, NY; WNYO-TV, Buffalo, NY; WPMY(TV), Pittsburgh, PA and WPGH-TV, Pittsburgh, PA. It should be noted that Sinclair sold station KSMO-TV to Meredith Corporation (See FCC File No. BALCT - 20050107ACA, granted on September 27, 2005), station KETK-TV to Comcorp of Tyler License Corp. (See FCC File No. BALCT - 20040702AER, granted November 12, 2004) and KOVR(TV) to UPN Stations Group Inc. (See FCC File No. BALCT - 20041202AGE, granted April 18, 2005). The Bureau's Letter inaccurately refers to Sinclair station WUCW(TV), Minneapolis, MN as WVCW(TV) and WUHF(TV) Rochester, NY as WUHV(TV).

disclosures required by Commission rules. The Letter cites 47 U.S.C. § 317, 47 C.F.R. § 73.1212 and § 76.1615.

At the outset, Sinclair denies that the Stations have in any way violated the sponsorship identification provisions of the Communications Act or the Commission's Rules. As the Bureau is undoubtedly aware, the Commission's sponsorship identification rules are only triggered when payment is received or promised to a broadcast licensee for the airing of material.<sup>2</sup> Indeed, the Commission determined long ago that the purpose of its sponsorship identification rules is to ensure that viewers are informed when "hearing or viewing matter which has been *paid for*...."<sup>3</sup> The Commission has also concluded that the "sole test" regarding "whether a sponsorship identification announcement was required was whether there had been broadcast exposure in return for ... payment."<sup>4</sup> More recently, the Commission confirmed that the fundamental question to be asked in this context is "whether or not a station receives valuable consideration for broadcasting" the material.<sup>5</sup>

Sinclair's employees have historically been made aware of the company's requirement that employees understand the obligations and prohibitions pursuant to the Communications Act and the FCC's rules regarding payola and sponsorship identification. In this case, *none* of the Stations' received or were offered *any* payment or consideration for the airing of the programming at issue here. In light of these facts, there is no basis for enforcement action here.

In any case, Sinclair's responses to the Bureau's specific inquiries are provided below. The Bureau requested information regarding whether the following "Program Material" aired on the stations on the following dates:

(1) the following episodes of the program "The Right Side with Armstrong Williams":

Show No. 212 "National Security," taped December 11, 2003;  
Show No. 207 "What is Faith?," taped December 11, 2003;  
Show No. 211 "Judicial Nominations," taped December 11, 2003;

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<sup>2</sup> See 47 C.F.R. § 73.1212.

<sup>3</sup> Public Notice, *Application of Sponsorship Identification Rules to Political Broadcasts, Teaser Announcements, Governmental Entities and Other Organizations*, 66 FCC 2d 302 (1977).

<sup>4</sup> *Amendment of Sections 3.119, 3.289, 3.654 and 3.789 of the Commission's Rules*, 34 FCC 829, 836 (1963).

<sup>5</sup> Order, *Advertising Council Request for Declaratory Ruling or Waiver Concerning Sponsorship Identification Rules*, 17 FCC Rcd 22616, 22621 (2002). The Commission added that "[G]enerally, when no payment or other valuable consideration is paid or promised for the broadcast or cablecast, no 'sponsorship identification' is necessary, since by definition there is no sponsor." *Id.*

Show No. 210 "Young Americans in Government," taped December 11, 2003;

Show No. 209 "Year End Review," taped December 11, 2003;

Show No. 244 "O'Donnell/Aguirre," taped May 29, 2004;

Show No. 216 "On Pint with Rod Paige," taped January 8, 2004;

Show entitled "Armstrong Debut, containing "Interview with John Gibbons," taped January 5, 2004; and;

(2) America's Black Forum, "2004 Election Countdown," taped September 12, 2004.

**Response (1):** None of the Stations aired any of the listed episodes of "The Right Side with Armstrong Williams." Thus, that program is not an issue in this proceeding.

**Response (2):** With respect to America's Black Forum, "2004 Election Countdown," only the following Stations aired the program, at the times indicated:

WABM(TV), Birmingham, AL, aired 9/11/2004 at 5:30 a.m.

KSMO-TV, Kansas City, MO, aired 9/12/2004 at 4:30 a.m.<sup>6</sup>

WVTV(TV), Milwaukee, WI, aired 9/12/2004 at 6:00 a.m.

WUXP-TV, Nashville, TN, aired 09/11/2004 at 6:30 a.m.

KOCB(TV), Oklahoma City, OK, aired 09/11/2004 at 5:30 a.m.

WEAR-TV, Pensacola, FL, aired 09/11/2004 at 4:30 a.m.

WPMY(TV), Pittsburgh, PA, aired on 09/12/2004 5:30 a.m.

KABB(TV), San Antonio, TX, aired on 09/11/2004 at 4 a.m.

WTWC-TV, Tallahassee, FL, aired on 09/12/2004 at 12:00 p.m.

The Letter also asks a series of questions with respect to the "Program Material" aired. Sinclair's responses to those questions are provided below:

1. *For each Program Material segment, as defined and identified above, state whether the Sinclair station listed above aired such material:*

**Response:** As noted above, none of the Stations aired any of the identified episodes of the program "The Right Side with Armstrong Williams." In addition, the Stations which aired America's Black Forum, "2004 Election Countdown," were WABM(TV), KSMO-TV,<sup>7</sup> WVTV(TV),

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<sup>6</sup> As noted above, Sinclair has sold station KSMO-TV since the airing of the program. See *supra*, n.1.

<sup>7</sup> *Id.*

WUXP-TV, KOCB(TV), WEAR-TV, WPMY(TV), KABB(TV), and WTWC-TV.

- a. *identify the steps, if any, Sinclair took to determine whether the segment required sponsorship identification;*

**Response:** To Sinclair's knowledge, America's Black Forum, "2004 Election Countdown," is a syndicated public interest program. Sinclair has no involvement in producing the program. Indeed, the stations believed they were providing a public service to their communities by selecting and airing this show.

In any event, as noted, no consideration was offered to, or received by, the Stations or the Stations' staff for airing the chosen program. Moreover, Sinclair and its employees had no actual knowledge or had any reason to believe that any person involved in the production of the program paid or received consideration for the program and Sinclair's staff made their own independent, uncompensated decision to include the material. Whether those involved in the production aspects of the program were paid was not a matter considered by Sinclair at the time it made its independent decision to air the material.<sup>8</sup> Again, significantly, no Station personnel received any compensation whatsoever for inclusion of the material in the segment, which is the relevant issue here.

Finally, as stated previously, Sinclair's employees have historically been made aware of the company's requirement that employees understand the obligations and prohibitions pursuant to the Communications Act and the FCC's rules regarding payola and sponsorship identification. Sinclair has no reason to believe that its employees did not follow the Commission's rules or Sinclair's policy here, with respect to the selection and airing of America's Black Forum, "2004 Election Countdown."

- b. *state whether Sinclair was aware of or had reason to believe that any person involved in the production of the segment paid or received consideration for the inclusion of material in the segment;*

**Response:** See Response to Question (1)(a).

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<sup>8</sup> The broadcast of "America's Black Forum," by the Stations occurred under exactly the same model as does the broadcast of a large amount of syndicated programming, such as reruns of shows like "Seinfeld" and "Friends," and first run syndicated programs like "Oprah," "Wheel of Fortune" and "Judge Judy." There is no more reason to investigate a television station's broadcast of episodes of "America's Black Forum" than there is to investigate broadcasts of any other syndicated program.

December 22, 2006

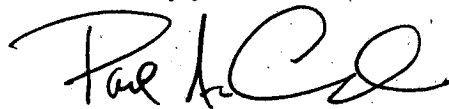
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*c. state whether Sinclair identified the segment as sponsored, and if so, the manner in which that identification took place.*

**Response:** As noted, to Sinclair's knowledge, America's Black Forum, "2004 Election Countdown," is a syndicated public interest program. Sinclair is not in any way involved in producing the program. Sinclair and its employees simply did not know, and had no reason to know, that the program required any identification, and thus its Stations did not provide identification when airing the program.

For the reasons stated herein, Sinclair respectfully submits that there is no basis for enforcement action regarding this matter. Should there be any questions, please contact either of the undersigned.

Sincerely yours,



Kathryn R. Schmeltzer  
Paul A. Cicelski

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**DECLARATION**

I Bill Butler, Vice President of Programming for Sinclair Broadcast Group, Inc., have read the foregoing December 22, 2006 Letter Response and the facts stated therein are true and accurate to the best of my knowledge and belief under penalty of perjury.



Bill Butler

Date: 12/20/06