

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

FILED/ACCEPTED

JUN - 9 2008

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
)  
Petition For Inquiry )  
Into Network Practices )  
)

DA 01-1264

TO: The Commission

**JOINT REQUEST**  
**OF THE NETWORK AFFILIATED STATIONS ALLIANCE AND THE ABC, CBS, NBC**  
**AND FOX TELEVISION NETWORKS TO RESOLVE NASA PETITION**

On June 22, 2001, the Network Affiliated Stations Alliance (“NASA”) filed a Motion for Declaratory Ruling<sup>1</sup> in this proceeding with respect to certain provisions in the network affiliation agreements of the ABC, CBS, NBC and Fox Television Networks (“Networks”). Since that time, each of the Networks engaged in constructive discussions with its respective affiliates and revised its current standard affiliation agreement to address the central issues raised by NASA. Accordingly, NASA and the Networks agree that a Commission ruling with respect to those particular contract provisions is no longer necessary.

NASA and the Networks have a mutual interest in avoiding future controversies regarding the meaning of the Commission’s network/affiliate rules and in assuring that the rules of the road for the network/affiliate relationship are clear. NASA and the Networks also believe that it will benefit all parties to resolve the instant proceeding. Accordingly, NASA and the Networks jointly request that the Commission issue an order in this proceeding ratifying the

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<sup>1</sup> NASA’s Early Comments and Motion for Declaratory Ruling, DA 01-1264 (June 22, 2001). The Network Affiliated Stations Alliance (“NASA”) is comprised of the ABC, CBS and NBC affiliates associations. The Fox affiliates association filed separately in this proceeding to support issuance of the requested declaratory ruling. *Ex Parte* Letter from John B. Tupper, FBC Television Affiliates Association, to Chairman Powell and Commissioners, FCC, DA 01-1264 (Sept. 10, 2002). The FBC Television Affiliates Association supports and is a signatory to this Joint Request.

following principles, with which both NASA and the Networks agree, consistent with the revisions to the standard affiliation agreements by the Networks and the amendments negotiated by the Networks and their affiliates to their current affiliation agreements:

1. **Licensee Control.** Affiliates, as the licensees of local television stations, must retain ultimate control over station programming, operations and other critical decisions with respect to their stations, and network affiliations must not undercut this basic control. Retention of this control by Commission licensees is required by Section 310(d) of the Communications Act and the FCC's Rules.

2. **The Right-to-Reject Rule.** Pursuant to Section 73.658(e) of the FCC's Rules, networks and their affiliates are prohibited from "having any contract . . . which, with respect to programs offered or already contracted for pursuant to an affiliation contract, prevents or hinders the station from: (1) Rejecting or refusing network programs which the station reasonably believes to be unsatisfactory or unsuitable or contrary to the public interest, or (2) Substituting a program which, in the station's opinion, is of greater local or national importance." The Networks and NASA agree that this language does not give an affiliate the unfettered right to preempt network programs, but that where a preemption is made pursuant to one of the two prongs of the right-to-reject rule, the economic consequence to the affiliate is irrelevant.

Consistent with the FCC's right-to-reject rule, the Networks and NASA agree that: Affiliation agreements should not include provisions that limit right-to-reject preemptions for "greater local or national importance" to breaking news events or any other specific type of programming. Affiliation agreements should not include provisions that prevent affiliates from rejecting a program as "unsatisfactory or unsuitable or contrary to the public interest" because they have carried a similar network program in the past. Affiliation agreements should not

include provisions that impose monetary or non-monetary penalties on affiliates based on preemptions protected by the right-to-reject rule. Affiliation agreements should not include provisions that subject right-to-reject preemptions to, or count them against, contractual preemption limits (or “baskets”) (though baskets are perfectly appropriate for preemptions not protected by the right-to-reject rule).

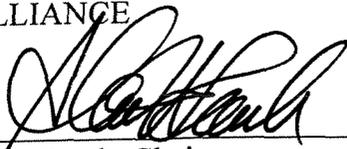
3. **Option-Time Rule.** Consistent with the option-time rule, affiliation agreements should not include provisions that result in the optioning of the station’s time to the network organization or that have the same restraining effect as time optioning. Network affiliation agreements may not, under the Commission’s option-time rule, obligate stations to carry a network’s programming or other content during certain time periods without reciprocally obligating the network to provide the content for those time periods. Similarly, network affiliation agreements may not require affiliates to carry, at some unspecified future date, unspecified digital content that the network may (or may not) choose to offer.

\* \* \*

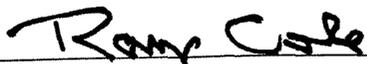
NASA and the Networks look forward to resolving this proceeding and moving forward with a continued productive relationship based on the principles outlined above. We respectfully request that the Commission affirm the principles set forth above and close this proceeding.

Respectfully submitted,

THE NETWORK AFFILIATED STATIONS ALLIANCE



Alan Frank, Chair  
Network Affiliated Stations Alliance



Ray Cole, Chairman  
ABC Television Affiliates Association



Michael J. Fiorile, President-Chairman  
NBC Television Affiliates



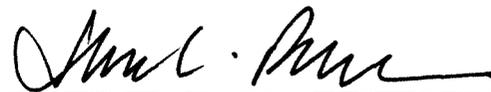
Scott Blumenthal, Chair  
CBS Television Network Affiliates Association

FBC TELEVISION AFFILIATES ASSOCIATION



Brian Jones, Chair

THE NETWORKS



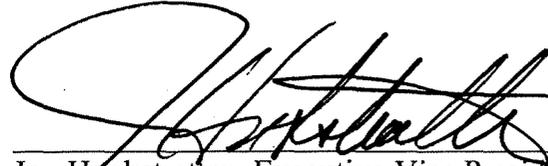
John Rouse, Sr. Vice President of Affiliate Relations  
ABC Television Network



John Eck, President  
NBC Television Network



Diana Wilkin, President of Affiliate Relations  
CBS Television Network



Jon Hookstratten, Executive Vice President  
of Network Distribution  
FOX Television Network