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

In the Matter of	)	
	)	
Complaints Against Various	)	File No. EB-03-1H-0110
Broadcast Licensees Regarding	)	
Their Airing of the	)	
"Golden Globe Awards" Program	)	

TO: The Commission

COMMENTS OF NBC TELEVISION AFFILIATES IN SUPPORT OF THE PETITION FOR PARTIAL RECONSIDERATION OF THE NATIONAL BROADCASTING COMPANY, INC.

The NBC Television Affiliates (the "NBC Affiliates") support the petition for partial reconsideration (the "Petition") filed by the National Broadcasting Company, Inc. ("NBC") of the Commission's decision in this proceeding.[1]

As NBC correctly points out, the Commission dramatically changed the ground rules by which all broadcasters must operate on a day-to-day basis when it determined that, regardless of context, even "fleeting and isolated" examples of inappropriate language could be the basis for significant fines and forfeitures. We will not add additional legal and constitutional arguments beyond those made by NBC. We do, however, add our voices to NBC's in asking the Commission to revisit the breadth of its analysis and refine its standards. Restoring a proper balance to adjudications of indecency is essential for local broadcasters to carry out their essential roles in reporting

[1] *See Complaints Against Various Broadcast Licensees Regarding Their Airing of the "Golden Global Awards" Program*, Memorandum Opinion and Order, 19 FCC Rcd. 4975 (2004) (the "*Order*").

on and to their communities of license. Self-censorship is the harsh result of the *Order*; it is intolerable and contrary to the public interest; and it cannot be allowed to stand.

Local broadcasting thrives precisely because local television stations respond to the needs, tastes and programming desires of their audiences. In the case of coarse language, broadcasters have heard their audiences loud and clear and, as a result, there has been a new sensitivity to the appropriateness of content. Local affiliates take seriously their responsibility to determine the suitability of all content, including content provided by the network, for their audiences. In the effective functioning of the network/affiliate relationship, they make known their assessment of community tastes and occasionally preempt network programming on this ground. But this healthy give-and-take, a system of checks and balances, is a far cry from the legal definition of indecency. As to that issue, the NBC Affiliates are four-square in support of NBC's position.

In the *Order*, the Commission expanded the scope of its content regulation policies and placed the heavy hand of the government above the needs of local audiences. By abandoning the long-standing view that fleeting and incidental expletives do not violate the law, by diminishing the crucial role that context plays in a determination of indecency, and by resurrecting a vague and boundary-free concept of "profane" speech, the Commission has tipped the balance to the point where it has interfered with local broadcasting. Local broadcasters reasonably may question whether live local news outside of the safe harbor is feasible under the Commission's new indecency policies. Local sports, public affairs and feature programming will be affected as well. Loss of the technique of live local news, in which broadcasters have invested greatly and which is

used to inform and enlighten local audiences, would be a significant loss for the public interest. We join NBC in asking the Commission to reconsider its holding in this case.

We also agree that the Commission should reconsider its determination that NBC and its affiliates have "violated" the Commission's indecency policies. As the Petition points out, the Commission correctly determined not to issue a fine or forfeiture against NBC or its affiliates in connection with the *Order*. However, we agree with NBC that the fact that the Commission found a "violation" in the *Order* is a significant penalty regardless of the lack of a fine or forfeiture. This element of the *Order* should be modified. Under prior interpretations of the Commission's indecency policy, as correctly summarized by the staff decision below, the language at issue here would not have "violated" the law. It is only under the newly announced standard, expressed for the very first time on March 18, 2004, that this language could legitimately be considered a violation of the Commission's policies. Accordingly, it is unfair and improper retroactive application of a just-announced standard to hold that NBC and the NBC Affiliates "violated" the law in a broadcast on January 19, 2003.

Respectfully submitted,

NBC TELEVISION AFFILIATES

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May 5, 2004

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of NBC Television Affiliates in Support of the Petition for Partial Reconsideration of the National Broadcasting Company, Inc., was sent via first-class, U.S. mail on this 5th day of May, 2004, to the following:

KALB-TV
Media General Communications, Inc.
333 East Franklin Street
Richmond, VA 23219

KARE
Multimedia Holdings Corporation
7950 Jones Branch Drive
McLean, VA 22107

KARK-TV
909 Lake Carolyn Parkway, #1450
Irving, TX 75039

KATV
KATV, LLC
Post Office Box 77
Little Rock, AR 72203

KBTV-TV
Nexstar Broadcasting of Beaumont/Port Arthur
909 Lake Carolyn Parkway, #1450
Irving, TX 75039

KCBD
Libco, Inc.
639 Isbell Road, #390
Reno, NV 89509

KCEN-TV
Channel 6, Inc.
Post Office Box 6103
17 South Third Street
Temple, TX 76503

KCNC-TV
CBS Television Stations, Inc.
2000 K Street, NW, #725
Washington, DC 20006

KCRA-TV
KCRA Hearst-Argyle Television, Inc.
888 Seventh Avenue
New York, NY 10106

KETK-TV
KETK Licensee L.P.
Shaw Pittman (K.R. Schmeltzer)
2300 N Street, NW
Washington, DC 20037

KFDM-TV
Freedom Broadcasting of Texas, Inc.
Post Office Box 7128
Beaumont, TX 77706

KFOR-TV
New York Times Management Services
Corp. Center 1
2202 NW Shore Boulevard, #370
Tampa, FL 33607

KGW
King Broadcasting Company
400 South Record Street
Dallas, TX 75202

KHAS-TV
Greater Nebraska Television, Inc.
6475 Osborne Drive West
Hastings, NE 69801

KING-TV
King Broadcasting Company
400 South Record Street
Dallas, TX 75202

WNBC, *et al.*
National Broadcasting Company, Inc.
1299 Pennsylvania Avenue, NW, 11th Floor
Washington, DC 20004

KOB-TV
KOB-TV, LLC
3415 University Avenue
Atten: L. Wefring
St. Paul, MN 55114

KPRC-TV
Post-Newsweek Stations, Houston, LP
8181 Southwest Freeway
Houston, TX 77074

KRIS-TV
KVOA Communications, Inc.
409 South Staples Street
Corpus Christi, TX 78401

KSDK
Multimedia KSDK, Inc.
c/o Gannett Co., Inc.
7950 Jones Branch Drive
McLean, VA 22107

KSNF
Nexstar Broadcasting of Joplin, LLC
909 Lake Carolyn Parkway, #1450
Irving, TX 75039

KTIV
KTIV Television, Inc.
3135 Floyd Boulevard
Sioux City, IA 51105

KWES-TV
Midessa Television Company
Post Office Box 60150
Midland, TX 79711

KKCO
Eagle III Broadcasting, LLC
2325 Interstate Avenue
Grand Junction, CO 81505

KOAA-TV
Sangre de Cristo Communications, Inc.
2200 Seventh Avenue
Pueblo, CO 81003

KPNX
Multimedia Holdings Corporation
7950 Jones Branch Drive
McLean, VA 22107

KRBC-TV
Mission Broadcasting, Inc.
544 Red Rock Drive
Wadsworth, OH 44281

KTGF
MMM License LLC
900 Laskin Road
Virginia Beach, VA 23451

KSHB-TV
Scripps Howard Broadcasting Company
312 Walnut Street
Cincinnati, OH 45202

KTEN
Channel 49 Acquisition Corporation
Post Office Box 549
Hampton, VA 23669

KUSA-TV
Multimedia Holdings Corporation
c/o Gannett Co.
7950 Jones Branch Drive
McLean, VA 22107

KWWL
Raycom America, Inc.
RSA Tower, 20th Floor
201 Monroe Street
Montgomery, AL 36104

KYTV
KY3, Inc.
999 West Sunshine Street
Springfield, MO 65807

WAVE
Libco, Inc.
639 Isbell Road, #390
Reno, NV 89509

WBOY-TV
West Virginia Media Holdings, LLC
Post Office Box 11848
Charleston, WV 25339

WCNC-TV
WCNC-TV, Inc.
400 South Record Street
Dallas, TX 75202

WCYB-TV
Appalachian Broadcasting Corp.
101 Lee Street
Bristol, VA 24201

WDSU
New Orleans Hearst-Argyle Television, Inc.
888 Seventh Avenue
New York, NY 10106

WFIE
Libco, Inc.
639 Isbell Road, #390
Reno, NV 89509

WFMJ-TV
WFMJ Television, Inc.
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Washington, DC 20037

WHDH-TV
WHDH-TV Government Center
7 Bulfinch Place
Boston, MA 02114

WANE-TV
Indiana Broadcasting, LLC
4 Richmond Square
Providence, RI 02906

WBBH-TV
Waterman Broadcasting Corp. of Florida
3719 Central Avenue
Fort Myers, FL 33901

WBRE-TV
Nexstar Broadcasting of NE PA, LLC
909 Lake Carolyn Parkway, #1450
Irving, TX 75309

WCSH
Pacific & Southern Co., Inc.
c/o Gannett Co.
7950 Jones Branch Drive
McLean, VA 22107

WDIV-TV
Post-Newsweek Stations, Michigan, Inc.
550 West Lafayette Boulevard
Detroit, MI 48226

WESH
Orlando Hearst-Argyle Television, Inc.
888 Seventh Avenue
New York, NY 10106

WFLA-TV
Media General Communications, Inc.
333 East Franklin Street
Richmond, VA 23219

WGAL
WGAL Hearst-Argyle Television, Inc.
888 Seventh Avenue
New York, NY 10106

WHEC-TV
WHEC-TV, LLC
c/o Hubbard Broadcasting, Inc.
3415 University Avenue
St. Paul, MN 55114

WHO-TV
New York Times Management Services
Corporate Center 1
2202 NW Shore Boulevard, #370
Tampa, FL 33607

WJFW-TV
Northland Television, Inc.
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WLWT
Ohio/Oklahoma Hearst-Argyle TV, Inc.
Post Office Box 1800
Raleigh, NC 27602

WMFE-TV
Community Communications, Inc.
11510 East Colonial Drive
Orlando, FL 32817

WMTV
Gray MidAmerica TV Licensee Corp.
615 Forward Drive
Madison, WI 53711

WNYT
WNYT-TV, LLC
c/o Hubbard Broadcasting, Inc.
3415 University Avenue
St. Paul, MN 55114

WOWT-TV
Gray MidAmerican TV Licensee Corp.
3501 Farnam Street
Omaha, NE 68131

WPXI
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Las Vegas, NV 89109

WRIC-TV
Young Broadcasting of Richmond, Inc.
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Richmond, VA 23236

WILX-TV
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Lansing, MI 48911

WKYC-TV
WKYC-TV
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McLean, VA 22107

WMC-TV
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RSA Tower, 20th Floor
201 Monroe Street
Montgomery, AL 36104

WMGT
Endurance Broadcasting, LLC
c/o Dan Smith
104 North Main Street
Stillwater, MN 55082

WNDU-TV
Michiana Telecasting Corp.
Post Office Box 1616
South Bend, IN 46634

WOOD-TV
Wood License Company, LLC
120 College Avenue, SE
Grand Rapids, MI 49503

WPMI
Clear Channel Broadcasting Licenses, Inc.
2625 South Memorial Drive, #A
Tulsa, OK 74129

WRCB-TV
Sarkes Tarzian, Inc.
205 North College Avenue
Bloomington, IN 47402

WSAV-TV
Media General Communications, Inc.
333 East Franklin Street
Richmond, VA 23219

WSAZ-TV
Emmis Television License Corporation
3500 West Olive Avenue, #300
Burbank, CA 91505

WSMV-TV
Meredith Corp. Television Stations
1716 Locust Street
Des Moines, IA 50309

WTMJ-TV
Journal Broadcast Corporation
3355 South Valley View Boulevard
Las Vegas, NV 89102

WVLA
Knight Broadcasting of Baton Rouge Lic. Corp.
700 St. John Street, #301
Lafayette, LA 70501

WWLP
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WTHR
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