

TCAF MEETING

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WELCOME TO THIS INFORMAL MEETING OF TCAF. THIS ISN'T EXPECTED TO BE A VOTING SESSION -- BUT AN INFORMATIONAL QUESTION AND ANSWER SESSION. I'M GLAD WE ARE ABLE TO TOUCH BASE AND HAVE THE OPPORTUNITY TO LISTEN TO EXPERT VIEWS ON MAJOR PROBLEMS REGARDING THE ADVERTISING DEMONSTRATION THAT WILL WILL NOT BE RESOLVED BY THE ELRA STUDY OR BY REPORTS FROM STATIONS. WE ALSO HAVE A BRIEF STATUS REPORT FOR YOUR INFORMATION.

AS YOU KNOW WE ARE APPROACHING THE TIME WHEN WE (1) REPORT THE RESULTS AND POSSIBLE RAMIFICATIONS AND POTENTIAL OF OUR ADVERTISING DEMONSTRATION AND (2) MOST IMPORTANT, SUBMIT OUR FINAL CONSENSUS REPORT AND OVERALL PROPOSALS TO CONGRESS WITH THE PURPOSE OF GENERATING LEGISLATIVE ACTION TO ENSURE NOT ONLY THE SALVATION BUT THE CONTINUED GROWTH OF PUBLIC BROADCASTING AND ITS DISTINCTIVE, DISTINGUISHED PROGRAMMING.

OUR TASK IS MADE A LITTLE MORE COMPLEX BECAUSE PUBLIC BROADCASTING'S ATTITUDE AND OBJECTIVES IN FUND-RAISING AND PROGRAMMING VARY ACCORDING TO

THE DIFFERENT CHARTERS AND THE BOARD OF DIRECTORS OF THE INDIVIDUAL LICENSEES. AS YOU KNOW, SOME BOARDS OPPOSE "LIMITED ADVERTISING" AND SOME STATE CHARTERS PROHIBIT IT.

ALTHOUGH PRELIMINARY REPORTS INDICATE RATHER LIMITED PUBLIC OPPOSITION TO THE ADVERTISING DEMONSTRATION CONDUCTED BY THE STATIONS, THERE HAS BEEN LEGITIMATE CONCERNS EXPRESSED BY VARIOUS PUBLIC BROADCASTERS REGARDING THE RELATIVE IMPACT OF WHAT WE APTLY LABEL "LIMITED ADVERTISING," THAT WAS SUCCESSFULLY CONDUCTED BY SEVEN STATIONS, AS DISTINGUISHED FROM ENHANCED UNDERWRITING CONDUCTED BY TWO STATIONS. THERE ARE MANY QUESTIONS TO BE RESOLVED.

FOR EXAMPLE, WE ARE TRYING FROM THE STATIONS AND FROM THE KEY INFORMANT SURVEY TO DETERMINE FROM ADVERTISERS AND UNDERWRITERS, WHAT EFFECT THE ADDITION OF "LIMITED ADVERTISING" MIGHT HAVE ON LONG-TERM UNDERWRITERS WHO TODAY ARE CONTRIBUTING MILLIONS TO PUBLIC BROADCASTING. WOULD THEY CONSIDER ADDITIONAL ADVERTISING AS DEVALUATING THEIR INVESTMENT? WOULD THEY CONSIDER IT AN

INTRUSION OR A FREE RIDE ON PROGRAMS THEY MADE POSSIBLE? WOULD THEY HAVE A LEGAL BASIS FOR CONTRACT RECONSIDERATION OR CONTRACT RENEGOTIATION? WHAT MIGHT HAPPEN TO NATIONAL UNDERWRITERS OF SUCH STALWART PBS PROGRAMMING AS MCNEIL-LEHRER, NOVA, WASHINGTON WEEK IN REVIEW, WALL ST. WEEK, NATIONAL GEOGRAPHIC, MASTERPIECE THEATRE, GREAT PERFORMANCES, INSIDE STORY, AND OTHERS?

IMPORTANTLY, BEFORE SUBMITTING A FINAL RECOMMENDATION ON "LIMITED ADVERTISING," WE MUST FIRST EXPLORE THE POTENTIAL IMPACT LIMITED ADVERTISING MIGHT HAVE ON PUBLIC BROADCAST STATIONS' (1) TAX EXEMPTIONS, (2) COPYRIGHT LIABILITY, AND (3) UNION CONTRACTS. THAT IS THE PRINCIPAL SUBJECT OF OUR MEETING HERE TODAY....THE BOTTOM LINE QUESTION TO BE RESOLVED IS: CAN ANY INCREASED COSTS OR ADVERSE CONSEQUENCES BE RESTRICTED TO STATIONS THAT CARRY "LIMITED ADVERTISING" OR WOULD ADVERSE CONSEQUENCES IN TAXES, COPYRIGHT OR UNION FEES APPLY TO THE PUBLIC BROADCAST SYSTEM AS A WHOLE?

WE WERE FORTUNATE IN BEING ABLE TO OBTAIN THE MOST DISTINGUISHED SPECIALISTS IN TAX LAW AND COPYRIGHT LAW. THESE BUSY GENTLEMEN RESPONDED TO OUR REQUEST FOR HELP AND GENEROUSLY VOLUNTEERED THEIR SERVICES -- THE LEGAL TERM IS PRO BONO + -- (GUESS THAT MEANS THEIR METERS AREN'T RUNNING AND WE ARE DAMN LUCKY TO GET THEM) -- WE ARE DELIGHTED TO HAVE TOM TROYER, TAX SPECIALIST WITH THE WASHINGTON LAW FIRM OF CAPLIN AND DRYSDALE AND BRUCE RICH, COPYRIGHT SPECIALIST WITH THE NEW YORK FIRM OF WEIL, GOTSHAL & MANGES.

BUD WOLFE OF AFTRA HAD A PREVIOUS LONG-TERM COMMITMENT, BUT WE ARE FORTUNATE IN BEING ABLE TO DRAW ON THE EXPERIENCE OF HERB HOLMES OF FLAGSHIP STATION WNET FOR HIS KNOWLEDGEABLE VIEWPOINTS. WE WILL ALSO HEAR FROM JOHN FORD, A STALWART PERFORMER ON THE TCAF WORKING GROUP, WHO WILL DISCUSS THE RANGE OF POSSIBLE FINANCIAL EFFECTS LIMITED ADVERTISING MAY HAVE ON UNION CONTRACTS.

WE WILL CONTINUE OUR EFFORTS TO ENSURE PRESENTATION OF THE UNION PERSPECTIVE IN TCAF'S FINAL REPORT TO CONGRESS.

SO FIRST, I'D LIKE TO CALL UPON MR. RICH -- IN
OUR LETTER TO MR. RICH, WE SUBMITTED REPRESENTATIVE QUESTIONS FOR HIS CONSIDERATION. THE FIRST QUESTION THAT WE ASKED WAS (1) WHAT IS THE CURRENT ARRANGEMENT BY WHICH PUBLIC BROADCASTERS (AND PROGRAM PRODUCERS) OBTAIN LICENSES TO USE COPYRIGHTED MATERIAL?

BUT MR. RICH, YOU TAKE THE QUESTIONS IN ANY ORDER YOU DEEM MOST LOGICAL....