

Before the  
COPYRIGHT ROYALTY JUDGES  
Washington, D.C.

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In the Matter of )

Distribution of 1998 and 1999 )  
Cable Royalty Funds )

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Docket No. 2008-1 CRB CD 98-99  
(Phase II)

**INDEPENDENT PRODUCERS GROUP**  
REBUTTAL TO THE WRITTEN DIRECT STATEMENT  
OF THE SETTLING DEVOTIONAL CLAIMANTS



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August 12, 2014

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Worldwide Subsidy Group LLC (a Texas limited liability company) dba Independent Producers Group ("IPG") hereby submits its rebuttal testimony and exhibits in the above-captioned proceeding.

IPG will present one witness:

1. Dr. Laura Robinson, a managing director and principal of Navigant Economics, whom has been commissioned to review the electronic records and documents produced by the Settling Devotional Claimants in this proceeding and conduct econometric analysis thereon.

Ms. Robinson will sponsor the exhibits referenced in and appended to her testimony.

IPG maintains that it is entitled to percentages of the Phase II royalties allocated to the Devotional Programming category, as more specifically set forth in the IPG Amended Direct Statement, but reserves its right to revise its claim in light of evidence presented in this

proceeding.

Respectfully submitted,



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Attorneys for Independent Producers Group

August 12, 2014

## REBUTTAL REPORT OF LAURA ROBINSON, PH.D

### I. INTRODUCTION AND ASSIGNMENT

1. My name is Laura Robinson. I have been retained by Pick and Boydston, LLP, counsel for Worldwide Subsidy Group, LLC dba Independent Producers Group (“IPG”), to provide expert witness testimony in the matter of *Distribution of 1998 and 1999 Cable Royalty Funds*. This matter involves the distribution of 1998 and 1999 cable retransmission royalties.

2. The issues I have been asked to address concern the distribution of 1999 cable retransmission royalties (“1999 Cable Royalties”) within the “Devotional” category. According to the U.S. Copyright Office, cable system operators paid over one hundred and thirteen million dollars in 1999 Cable Royalties.<sup>1</sup> I understand that the Phase I dispute regarding the 1999 Cable Royalties, to the extent that it allocated royalties to the Devotional category, was resolved by settlement.<sup>2</sup>

3. The instant matter is a Phase II proceeding wherein IPG and various other claimants (“Non-IPG Claimants”) are in dispute as to the division of the 1999 Cable Royalties allocated to the Devotional category. I understand that a central

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<sup>1</sup> See U.S. Copyright Office, Licensing Division, Report of Receipts, published at <http://www.copyright.gov/licensing/lic-receipts.pdf>.

<sup>2</sup> See Final Order, Distribution of 1998 and 1999 Cable Royalty Funds, Docket No. 2001-8 CD 98-99, 69 Fed. Reg. 3606 (January 26, 2004).

issue in determining the appropriate division of funds allocated to the Devotional category relates to the relative market value of the broadcasts retransmitted by cable systems operators (“CSOs”) of the compensable copyrighted program titles held by IPG and the Non-IPG Claimants.

4. As discussed in my reports dated November 26, 2013 (“Opening Report”) and January 31, 2014 (“Supplemental Report”), both incorporated in their entirety herein, I analyzed the relative market value of the retransmitted broadcasts of the compensable copyrighted program titles held by IPG and the Non-IPG Claimants and estimated the share attributable to IPG. I found that the share attributable to IPG is in the range of 46%-51% or more. In this report I have been asked to evaluate the testimony of the Non-IPG Claimants regarding these issues.

5. I have reviewed and analyzed various data and information during the preparation of this report including (i) Written Direct Statement of the Settling Devotional Claimants, including the direct testimony of Alan G. Whitt (“Whitt Direct Testimony”) and John S. Sanders (“Sanders Direct Testimony”),<sup>3</sup> (ii) the Settling Devotional Claimants’ Designated Testimony in its Written Direct Statement,<sup>4</sup> and (iii) various backup files produced by the SDC.<sup>5</sup>

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<sup>3</sup> Written Direct Statement of the Settling Devotional Claimants, Dec. 2, 2013.

<sup>4</sup> Settling Devotional Claimants’ Designated Testimony in Written Direct Statement, Apr. 25, 2014.

6. I file this report in my individual capacity. I have no financial stake in the outcome of this case. My work in this matter is ongoing. I reserve the right to conduct additional analyses and to adjust my opinions accordingly.

## II. SUMMARY OF OPINIONS

7. Mr. Whitt's results, as presented in Exhibit 1 of his report entitled "Report of Household Viewing Hours from the 1999 MPAA Copyright Royalty Data Base Showing Cable Viewing Data for 1999," are not reliable. My conclusion is based on analysis and evidence showing that (1) Mr. Whitt has not provided the programs, data, and information underlying and supporting his work that will allow an analyst to replicate same, and (2) Mr. Whitt has not provided evidence identifying the sample stations used in his analysis.

8. Mr. Sanders' conclusions that the relative value share for SDC and IPG are 81.5% and 18.5%, respectively, are not reliable. My conclusion is based on analysis and evidence showing that (1) Mr. Sanders has relied on the results of

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<sup>5</sup> SDC0001179 -1190; SDC0001191.sas7bdat; "AlanWhitt\_report.dta"; "Channel-City\_list.dta"; "Estimates.xlsx"; "Merge\_data.do"; "Nielsen\_Media\_Research\_1998-99\_Local\_Measurement\_Schedule.pdf"; "SAS\_Read\_In\_Nielsen\_data.sas"; "Sweep\_dates.csv". I consider and comment on the testimony and backup files provided by Dr. Erdem in this report in case the Judges rule to allow such testimony and files. I understand that such information was not produced in discovery and that the Judges previously ruled in connection with IPG's Motion to Strike Portions of SDC Direct Statement that Mr. Erdem's testimony and files were being considered solely for purposes of the hearing thereon - - "We're not implying that we would hear or consider Mr. Erdem's testimony in the determination hearing scheduled for September in this matter. We note that the deadline for amending a written direct statement is statutory, and that date has past." Docket no. 2008-1 CRB CD 98-99 (Phase II), Order of May 2, 2014 at fn. 12.

Mr. Whitt in coming to his conclusions (and as indicated above Mr. Whitt's results are not reliable), (2) Mr. Sanders relies on estimates of viewership in order to estimate relative value, (3) Mr. Sanders' analysis of viewership is flawed because he does not correctly analyze the so-called "zero-viewing" problem.

9. Dr. Erdem has not replicated the results of Mr. Whitt. Further, to the extent that he has produced similar results, Dr. Erdem has not replicated Mr. Whitt's results, but rather has essentially reverse engineered Mr. Whitt's results by means of implementing limitations and constructs intended to produce the same result. Additionally Mr. Erdem relied on a "Sweeps dates" file which appears to map Nielsen cycle dates to calendar dates but which I understand was neither cited nor produced by Mr. Whitt, nor appeared in any designated testimony.

### III. ANALYSIS

#### ***Mr. Whitt's Analysis is not Reliable***

##### *Mr. Whitt's analysis cannot be replicated*

10. Mr. Whitt did not provide the data, computer programs, and information underlying and supporting his analysis. Mr. Whitt states that "[his] report was derived from the three sources" including the "sample of stations chosen by Marsha Kessler."<sup>6</sup> Mr. Whitt did not provide the "Kessler Sample" that

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<sup>6</sup> Whitt Direct Testimony, at 3.

he relied on for his analysis, nor any detail about how such list was derived, nor any specific reference to where such list may be obtained.

11. It is my understanding that the “Kessler Sample” of stations does not appear anywhere in the oral testimony of Marsha Kessler that was designated by the SDC from the 1998-1999 Phase I proceedings. The written testimony of Marsha Kessler from the 1998-1999 Phase I proceedings identifies a 180 station “Kessler Sample.” I analyzed the 180 station Kessler Sample and compared same with the 123 stations appearing in the Nielsen data that was produced by the SDC, and the 72 stations ultimately appearing in the Whitt station sample. See IPG Rebuttal Exh. 1. I find that the Whitt sample could not have been based on the 180 Station Kessler Sample. Consequently, it is not possible to deduce why or how the 72 Whitt stations were selected.<sup>7</sup>

12. Mr. Whitt’s analysis must have included a written computer program that would have shown how he merged the Nielsen data and Tribune data (“TV Data”) for the sample stations. Without the list of sample stations it is not possible to replicate Mr. Whitt’s analysis. Even if Mr. Whitt had produced the sample stations it would be unnecessarily difficult to replicate his analysis without his

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<sup>7</sup> Additionally the SDC produced a list of 64 stations. SDC0001178.CAS. I understand that this list was produced in response to IPG’s discovery request for all documents upon which the Whitt sample of stations was based. I have analyzed these 64 stations and conclude that the Whitt sample could not have been based on same (see IPG Rebuttal Exh. 1).

computer programs showing the details of the process for how he merged, manipulated, and calculated the data.

*Mr. Whitt's sample does not provide a basis for generalization*

13. In order to make statistically valid inferences and generalizations from a sample there must be evidence that the sample is representative of the population from which it is drawn.<sup>8</sup> Mr. Whitt has not provided evidence that the sample he used to generate his results is representative. Thus, Mr. Whitt cannot properly infer that the results for the 72 stations he analyzed will apply to stations that he did not analyze. For example, Mr. Whitt's sample suffers from selection bias through its exclusion of Canadian stations.<sup>9</sup> Mr. Whitt provides no evidence as to why the 72 non-Canadian stations analyzed are representative of the Canadian stations.

***Mr. Sanders' Analysis is not Reliable***

*Mr. Sanders has relied on Mr. Whitt's analysis*

14. Underlying the entirety of Mr. Sanders' opinion is his reliance on the Whitt report which is the basis for Mr. Sanders' computations and conclusions. Mr. Sanders essentially projects results for all stations and time periods using "sweeps"

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<sup>8</sup> Sharon L. Lohr, 2010, *Sampling: Design and Analysis, 2nd Ed.*, Boston, MA: Brooks/Cole Cengage Learning, at 1-9.

<sup>9</sup> For a discussion of selection bias, see *id.* at 5-9.

period data from Mr. Whitt's unknown (and not produced) sample of 72 stations.<sup>10</sup> Mr. Sanders' conclusions about the relative market value of SDC and IPG programming rely on his generalization of Mr. Whitt's results for the unknown 72 stations to all other stations distantly broadcasting the claimants' programming. Mr. Sanders has not provided evidence that this generalization is statistically valid.

*Mr. Sanders has relied exclusively on viewership in order to measure relative value*

15. I understand that a prior ruling of the Librarian of Congress, in Phase I of these proceedings, held that household viewership is the "wrong thing" to measure for allocating cable retransmission royalties. Distribution of 1998 and 1999 Cable Royalty Funds, 69 Fed. Reg. 3606, 3613 (Jan. 26, 2004). Essentially, by computing only one estimate that is derived from viewership data, Mr. Sanders is assuming that viewer ratings for particular *titles* are the primary consideration of a cable system operator in determining which broadcast *stations* to retransmit.<sup>11</sup>

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<sup>10</sup> Mr. Sanders' estimates are effectively the product of several degrees of projection. I understand that the Nielsen data are projections not actual measured viewership. For example, I understand that Nielsen employees have testified that a measurement of "10,300" viewers might be the result of a single viewer in Los Angeles County, California. I understand that for his 72 station sample Mr. Whitt relies on Nielsen data for 6 "sweeps" periods of four weeks each. Mr. Sanders then uses the projected data for the 72 stations for the 24 "sweeps" weeks to infer viewership for the remaining 28 calendar weeks as well as for all other distantly-transmitted stations.

<sup>11</sup> Mr. Sanders does conduct an analysis that he claims supports his results (also discussed in this Report) but such analysis also relies on (different) viewership data. Sanders Direct Testimony at 9-11.

16. Viewership of a program title as measured by the Nielsen ratings data produced<sup>12</sup> do not provide a direct measure of the economic value of such program title to a CSO for various reasons including: (1) a CSO primarily benefits from attracting subscribers rather than viewers, (2) broadcasting a program title with more viewers than another program title will not necessarily increase the aggregate subscribership for the CSO, (3) broadcasting a program title with fewer viewers than another program title may increase the aggregate subscribership for the CSO, and (4) the Nielsen ratings data produced do not distinguish among viewers with different demographic characteristics, and such demographic characteristics influence the value of such viewers to the CSO.

*Mr. Sanders has not accounted for the Nielsen data “zero-viewership” issue*

17. Mr. Sanders does not account for the overall high incidence of zero-viewing broadcasts or for the asymmetry of such observations in the SDC and IPG data. In the 2000-2003 Proceedings the Judges determined that:

“the Nielsen data are not without problems. The sample size is not sufficient to estimate low levels of viewership as accurately as a larger sample. Mr. Lindstrom acknowledged that ‘[t]he relative error on any given quarter-hour for any given station . . . would be very high, 6/3/13 Tr. at 303 (Lindstrom)—an acknowledgment echoed by Dr. Gray. 6/4/13 Tr. at 518-19 (Gray) (agreeing that, with samples of

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<sup>12</sup> For the purposes of this discussion I assume that Nielsen ratings are statistically significant. As I have not been provided standard errors along with the Nielsen data produced, I do not know if the produced data are statistically significant.

10,000 households, there is a high relative error rate for each quarter-hour 'point estimate')."<sup>13</sup>

18. A high incidence of zero-viewing broadcasts is problematic when basing any conclusions on an aggregation of multiple samples as the SDC has done. Each of the viewership observations in the Nielsen data used by Mr. Whitt and Mr. Sanders includes a single point estimate projection of the number of viewers of the given station at the given time. However, these projections are based on a much smaller sample of surveyed viewers. If a different sample of the population of viewers for a given station at a given time had been taken, the observed number of viewers may have been different. Because the projections in the Nielsen data are based on surveys and not the full population of viewers, then each projection has a "standard error" associated with it. The standard error is an indicator on the reliability of the mean that is based on the observed survey results, the sample size, and the size of the population of viewers. For example, in the case

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<sup>13</sup> Docket no. 2008-2 CRB CD 2000-2003 (Phase II), Final Distribution Order (Aug. 13, 2013) at 35-36. The Judges also observed, "Furthermore, Mr. Lindstrom acknowledged that he had not produced the margins of error or the levels of confidence associated with the Nielsen viewership data, despite the fact that such information could be produced. 6/3/13 Tr. at 391-93, 410 (Lindstrom). Without this information, the reliability of any statistical sample cannot be assessed...The Judges infer that, had such information underscored the reliability of the Nielsen data, it would have been produced by MPAA." Id. at 36.

of simple random sampling, the standard error SE of the observed mean  $\bar{y}$  is equal to:<sup>14</sup>

$$SE(\bar{y}) = \sqrt{\left(1 - \frac{n}{N}\right) \frac{s^2}{n}}$$

where  $n$  is the size of the sample,  $N$  is the size of the population, and  $s$  is the standard deviation of the observed sample result, defined as:

$$s = \sqrt{\frac{1}{n-1} \sum_{i \in S} (y_i - \bar{y})^2}$$

19. When the results of multiple samples are added together, then the standard error of the sum will increase. For example, in the case of independent random variables  $X_1$  and  $X_2$ , each with a standard deviation of  $s_1$  and  $s_2$ , the standard deviation of the sum of those variables is equal to:<sup>15</sup>

$$s(X_1 + X_2) = \sqrt{s_1^2 + s_2^2}$$

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<sup>14</sup> See, e.g., Sharon L. Lohr, 2010, *Sampling: Design and Analysis, 2nd Ed.*, Boston, MA: Brooks/Cole Cengage Learning, at 36.

<sup>15</sup> See, e.g., Morris H. DeGroot & Mark J. Schervish, 2012, *Probability and Statistics, 4th Ed.*, Boston, MA: Addison-Wesley, at 230.

20. Although no increase in the total number of viewers is observed when broadcasts with zero viewers are added to the total, the standard error of the sum *does* increase. I cannot calculate this increase, however, because the standard errors of each rating observations was not included in the data produced by SDC.

21. The zero-viewing issue is pervasive throughout the 1999 Nielsen data used by SDC; Table 1 shows that 72% of all broadcasts in the TV Data shown by all 123 stations in the Nielsen data reflect zero viewing.

**Table 1: Analysis of Zero Viewing in 1999 Nielsen Data Used in SDC Analysis**

Station Sample	Program Type*	# of Quarter-Hours	# of Quarter Hours with Zero Viewing	% of Quarter Hours with Zero Viewing	# of Broadcasts	# of Broadcasts with Zero Viewing	% of Broadcasts with Zero Viewing
All 123 Stations	All	1,743,233	1,276,657	73.2%	574,578	414,686	72.2%
All 123 Stations	Devotional	32,121	29,294	91.2%	13,043	11,901	91.2%
Whitt's 72 Stations	All	1,027,929	747,303	72.7%	342,423	246,722	72.1%
Whitt's 72 Stations	Devotional	32,006	29,187	91.2%	12,994	11,854	91.2%
Whitt's 72 Stations	SDC & IPG Claimed Programs	12,662	10,907	86.1%	4,971	4,305	86.6%

Note: \* Devotional Programs are classified per the methodology found in Dr. Erdem's programming code file "Merge\_data.do".

22. In the 2000-2003 Proceedings the Judges indicated that it would be instructive to conduct an analysis at the program title level in order to determine

the validity of the Nielsen data, “This distinction is critical, because, under the hypothetical market construct, royalties would accrue on a program-by-program basis to individual copyright owners, not to the distantly retransmitted stations.”<sup>16</sup> Analysis at the program title level shows that many program titles in the Nielsen data have aggregate zero-viewing. Table 2 analyzes the zero-viewing by title and shows that 49% of the 8,289 unique program titles in the TV Data that were broadcast on the 123 stations in the Nielsen data had zero viewing for *every broadcast*. In other words, the Nielsen data indicate that zero households viewed approximately half of all program titles over the entirety of the sample period. Table 3 shows two examples: program titles *Alfred Hitchcock Presents* and *Today’s Homeowner*. The Nielsen data shows that all 126 broadcasts of *Alfred Hitchcock Presents* from the TV Data had zero viewing on the three stations on which it was broadcast in the Nielsen data. The data also shows that all 72 broadcasts of *Today’s Homeowner* had zero viewing on the four stations on which it was broadcast in the Nielsen data.

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<sup>16</sup> Docket no. 2008-2 CRB CD 2000-2003 (Phase II), Final Distribution Order (Aug. 13, 2013) at 34-35.

**Table 2: Analysis of Zero Viewing in 1999 Nielsen Data Used in SDC Analysis, by Program Title**

Station Sample	All 123 Stations	All 123 Stations	Whitt's 72 Stations	Whitt's 72 Stations	Whitt's 72 Stations
Program Type*	All Programs	Devotional Programs	All Programs	Devotional Programs	SDC & IPG Claimed Programs
# of Program Titles	8,289	224	4,723	219	19
% of Program Titles with Zero Viewing for All Broadcasts	48.9%	54.0%	51.9%	53.4%	15.8%
<b>% of Broadcasts of the Program Title with Zero Viewing</b>					
Mean	80.0%	92.2%	83.4%	92.2%	83.5%
Median	98.0%	100.0%	100.0%	100.0%	91.1%
Minimum	0.0%	10.4%	0.0%	10.4%	10.4%
Maximum	100.0%	100.0%	100.0%	100.0%	100.0%
Std. Dev.	29.9%	14.4%	25.6%	14.3%	22.0%
<b>% of Quarter Hours of the Program Title with Zero Viewing</b>					
Mean	77.3%	91.4%	80.9%	91.3%	82.3%
Median	97.4%	100.0%	100.0%	100.0%	90.5%
Minimum	0.0%	8.3%	0.0%	8.3%	8.3%
Maximum	100.0%	100.0%	100.0%	100.0%	100.0%
Std. Dev.	32.3%	15.6%	28.6%	15.6%	22.6%

Note: \* Devotional Programs are classified per the methodology found in Dr. Erdem's programming code file "Merge\_data.do".

**Table 3: Example Programs with Zero Viewing for All Broadcasts in 1999 Nielsen Data**

Broadcast Start Dates/Times						
Alfred Hitchcock Presents			Today's Homeowner			
KBWB	KTVU	KXTX	KNBC	KRON	KSHB	KXTX
1/8/99 5:00 AM	7/10/99 4:30 AM	5/9/99 3:00 AM	1/10/99 10:30 AM	1/11/99 1:30 AM	1/10/99 11:00 AM	2/5/99 3:30 PM
1/9/99 1:30 AM	7/17/99 4:30 AM	5/9/99 3:30 AM	1/17/99 10:30 AM	1/16/99 12:00 PM	1/17/99 11:00 AM	2/12/99 3:30 PM
1/9/99 5:00 AM	7/24/99 4:30 AM	5/16/99 3:30 AM	1/24/99 10:30 AM	1/18/99 1:30 AM	1/24/99 11:00 AM	2/19/99 3:30 PM
1/9/99 5:30 AM	7/31/99 4:30 AM		1/31/99 10:30 AM	1/25/99 1:30 AM	1/31/99 11:00 AM	2/26/99 3:30 PM
1/11/99 5:00 AM	10/2/99 4:30 AM		2/14/99 10:30 AM	1/31/99 12:30 PM	2/7/99 11:00 AM	4/30/99 3:30 PM
1/12/99 5:00 AM	10/9/99 4:30 AM		7/25/99 10:30 AM	2/1/99 1:30 AM	2/14/99 11:00 AM	5/7/99 3:30 PM
1/13/99 5:00 AM	10/16/99 4:30 AM		8/1/99 11:30 AM	2/14/99 10:00 AM	2/21/99 11:00 AM	5/14/99 3:30 PM
1/14/99 5:00 AM	10/23/99 4:30 AM			2/15/99 1:30 AM	2/28/99 5:30 AM	5/21/99 3:30 PM

Broadcast Start Dates/Times						
Alfred Hitchcock Presents			Today's Homeowner			
KBWB	KTVU	KXTX	KNBC	KRON	KSHB	KXTX
1/15/99 5:00 AM	10/23/99 1:30 PM			2/22/99 1:30 AM	5/2/99 5:30 AM	7/9/99 3:30 PM
1/16/99 5:00 AM	10/23/99 2:00 PM			3/1/99 1:30 AM	7/11/99 11:30 AM	7/16/99 3:30 PM
1/16/99 5:30 AM	10/23/99 2:30 PM			5/1/99 11:00 AM	7/18/99 11:30 AM	7/23/99 3:30 PM
1/18/99 5:00 AM	11/6/99 4:30 AM			5/3/99 1:30 AM	7/25/99 11:30 AM	7/30/99 3:30 PM
1/19/99 1:30 AM	11/6/99 1:30 PM			5/10/99 1:30 AM	8/1/99 11:30 AM	
1/19/99 5:00 AM	11/6/99 2:00 PM			5/16/99 11:00 AM	10/3/99 11:30 AM	
1/20/99 1:30 AM	11/6/99 2:30 PM			5/17/99 1:30 AM	10/10/99 11:30 AM	
1/20/99 5:00 AM	11/13/99 4:30 AM			5/24/99 1:30 AM	10/17/99 4:30 AM	
1/21/99 5:00 AM	11/13/99 1:30 PM			7/11/99 10:00 AM	10/24/99 11:30 AM	
1/22/99 5:00 AM	11/13/99 2:00 PM			7/12/99 1:30 AM	11/7/99 11:30 AM	
1/23/99 5:00 AM	11/13/99 2:30 PM			7/18/99 10:00 AM	11/14/99 4:00 AM	
1/23/99 5:30 AM	11/20/99 4:30 AM			7/19/99 1:30 AM	11/21/99 11:30 AM	
1/25/99 5:00 AM	11/20/99 1:30 PM			7/25/99 10:00 AM	11/28/99 11:30 AM	
1/26/99 5:00 AM	11/20/99 2:00 PM			7/26/99 2:00 AM		
1/27/99 5:00 AM	11/20/99 2:30 PM			8/1/99 10:00 AM		
1/28/99 5:00 AM	11/27/99 4:30 AM			8/2/99 1:30 AM		
1/29/99 5:00 AM	11/27/99 1:30 PM			10/4/99 1:30 AM		
1/30/99 5:00 AM	11/27/99 2:00 PM			10/11/99 1:30 AM		
1/30/99 5:30 AM	11/27/99 2:30 PM			10/18/99 1:30 AM		
2/1/99 5:00 AM				10/25/99 2:00 AM		
2/2/99 5:00 AM				11/8/99 1:30 AM		
2/3/99 5:00 AM				11/15/99 1:30 AM		
2/4/99 5:00 AM				11/22/99 1:30 AM		
2/5/99 5:00 AM				11/29/99 1:30 AM		
2/6/99 5:00 AM						
2/6/99 5:30 AM						
2/8/99 5:00 AM						
2/9/99 5:00 AM						
2/10/99 5:00 AM						
2/11/99 5:00 AM						
2/12/99 5:00 AM						
2/13/99 5:00 AM						
2/13/99 5:30 AM						
2/14/99 1:30 AM						
2/15/99 1:30 AM						
2/15/99 5:00 AM						

Broadcast Start Dates/Times						
Alfred Hitchcock Presents			Today's Homeowner			
KBWB	KTVU	KXTX	KNBC	KRON	KSHB	KXTX
2/16/99 5:00 AM						
2/17/99 5:00 AM						
2/18/99 5:00 AM						
2/19/99 1:30 AM						
2/19/99 5:00 AM						
2/20/99 1:30 AM						
2/20/99 5:00 AM						
2/20/99 5:30 AM						
2/22/99 5:00 AM						
2/23/99 5:00 AM						
2/24/99 5:00 AM						
2/25/99 5:00 AM						
2/26/99 5:00 AM						
2/27/99 1:30 AM						
2/27/99 5:00 AM						
2/27/99 5:30 AM						
3/1/99 5:00 AM						
3/2/99 5:00 AM						
3/3/99 5:00 AM						
3/4/99 5:00 AM						
4/30/99 1:30 AM						
4/30/99 5:00 AM						
5/1/99 5:00 AM						
5/1/99 5:30 AM						
5/3/99 5:00 AM						
5/4/99 5:00 AM						
5/5/99 1:30 AM						
5/5/99 5:00 AM						
5/6/99 1:30 AM						
5/6/99 5:00 AM						
5/7/99 5:00 AM						
5/8/99 5:00 AM						
5/8/99 5:30 AM						
5/9/99 1:30 AM						
5/10/99 5:00 AM						
5/11/99 5:00 AM						

Broadcast Start Dates/Times						
Alfred Hitchcock Presents			Today's Homeowner			
KBWB	KTVU	KXTX	KNBC	KRON	KSHB	KXTX
5/12/99 5:00 AM						
5/13/99 5:00 AM						
5/14/99 5:00 AM						
5/15/99 5:00 AM						
5/15/99 5:30 AM						
5/17/99 5:00 AM						
5/18/99 5:00 AM						
5/19/99 5:00 AM						
5/20/99 5:00 AM						
5/21/99 5:00 AM						
5/22/99 5:00 AM						
5/22/99 5:30 AM						
5/24/99 5:00 AM						
5/25/99 5:00 AM						
5/26/99 5:00 AM						
5/27/99 5:00 AM						

23. Table 2 examines the zero-viewing statistics for the 72 stations in the Whitt sample and shows that the zero-viewing results are similar to those for the 123 stations. For example, it shows that 52% of the 4,723 unique program titles in the TV Data that were broadcast on Whitt's 72 stations had zero viewing for *every broadcast*.

24. Tables 4 and 5 examine the particular titles at issue in this proceeding for the 72 stations considered by Mr. Sanders. Table 5 is identical to Table 4, except the results are grouped by programs with similar program titles, whereas Table 4 shows results for each program title as reported in the Whitt and Sanders

testimony. The analysis shows the incidence of zero-viewing in the data used by Mr. Sanders for each program title claimed by SDC and IPG. For example, Table 5 shows that 652 of 705 broadcasts of IPG's program "Benny Hinn" had zero viewing in the Nielsen data. Further, Table 5 shows that the incidence of zero-viewing data points is higher for IPG broadcasts than for SDC broadcasts. In particular it shows approximately two-thirds of the 4,305 zero viewing instances are attributed to IPG and one-third to the SDC.<sup>17</sup>

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<sup>17</sup> The data indicate that 2,820 or 91% of IPG broadcasts had zero-viewing compared with 1,485 or 79% of SDC broadcasts. Based on Pearson's chi-squared test, the difference between 91% and 79% is statistically significant at the 99.9% confidence level.

**Table 4: Analysis of Zero Viewing in SDC Analysis of “1999 MPA Copyright Royalty Database Showing Compensable IPG & SDC Cable Viewing Data for 1999”**

Common Program Name	Program Title from SDC Analysis	Claimant	Household Viewing Hours	# of Quarter-Hours	# of Quarter Hours with Zero Viewing	% of Quarter Hours with Zero Viewing	# of Broadcasts	# of Broadcasts with Zero Viewing	% of Broadcasts with Zero Viewing
<b>IPG Claimed Titles</b>									
BENNY HINN	BENNY HINN	Benny Hinn Ministries	56,094	1,172	1,095	93.4%	585	542	92.6%
BENNY HINN	BENNY HINN DAILY	Benny Hinn Ministries	15,513	240	220	91.7%	120	110	91.7%
CREFLO A. DOLLAR JR.	CREFLO A. DOLLAR JR.	Creflo Dollar Ministries	78,153	1,790	1,649	92.1%	895	821	91.7%
CREFLO A. DOLLAR JR.	CREFLO A. DOLLAR JR. WEEKLY	Creflo Dollar Ministries	0	6	6	100.0%	3	3	100.0%
KENNETH COPELAND	KENNETH COPELAND	Eagle Mountain Int'l Church (Kenneth Copeland Ministries)	108,313	2,492	2,269	91.1%	1,246	1,128	90.5%
LIFE TODAY	LIFE TODAY	Life Outreach International	21,991	488	433	88.7%	244	216	88.5%
<b>Total IPG</b>			<b>280,063</b>	<b>6,188</b>	<b>5,672</b>	<b>91.7%</b>	<b>3,093</b>	<b>2,820</b>	<b>91.2%</b>
<b>IPG Share of IPG + SDC</b>			<b>18.5%</b>	<b>48.9%</b>	<b>52.0%</b>		<b>62.2%</b>	<b>65.5%</b>	

<b>SDC Claimed Titles</b>									
700 CLUB	700 CLUB	Christian Broadcasting Network, Inc.	214,765	2,716	2,357	86.8%	801	686	85.6%
700 CLUB	700 CLUB SUPER SUNDAY	Christian Broadcasting Network, Inc.	0	16	16	100.0%	4	4	100.0%
CORAL RIDGE	CORAL RIDGE	Coral Ridge Ministries Media, Inc.	5,194	58	49	84.5%	28	23	82.1%
CORAL RIDGE	CORAL RIDGE HOUR	Coral Ridge Ministries Media, Inc.	26,335	168	137	81.5%	50	40	80.0%
CORAL RIDGE	CORAL RIDGE MINISTRIES	Coral Ridge Ministries Media, Inc.	1,090	128	124	96.9%	32	29	90.6%
CORAL RIDGE	CORAL RIDGE MINISTRY	Coral Ridge Ministries Media, Inc.	12,857	188	170	90.4%	47	42	89.4%
DR. JAMES KENNEDY	DR. JAMES KENNEDY	Coral Ridge Ministries Media, Inc.	15,505	476	441	92.6%	127	117	92.1%
DR. JAMES KENNEDY	JAMES KENNEDY	Coral Ridge Ministries Media, Inc.	0	64	64	100.0%	16	16	100.0%
HOUR OF HEALING	HOUR OF HEALING	Oral Roberts Evangelistic Association, Inc.	1,386	272	270	99.3%	68	67	98.5%
HOUR OF POWER	HOUR OF POWER	Crystal Cathedral Ministries, Inc.	273,906	1,364	973	71.3%	341	233	68.3%

Common Program Name	Program Title from SDC Analysis	Claimant	Household Viewing Hours	# of Quarter-Hours	# of Quarter Hours with Zero Viewing	% of Quarter Hours with Zero Viewing	# of Broadcasts	# of Broadcasts with Zero Viewing	% of Broadcasts with Zero Viewing
IN TOUCH	IN TOUCH	In Touch Ministries, Inc.	301,826	848	567	66.9%	308	212	68.8%
IN TOUCH	IN TOUCH MINISTRIES	In Touch Ministries, Inc.	86,528	128	62	48.4%	32	14	43.8%
MIRACLES NOW	MIRACLES NOW	Oral Roberts Evangelistic Association, Inc.	298,006	48	5	10.4%	24	2	8.3%
<b>Total SDC</b>			<b>1,237,396</b>	<b>6,474</b>	<b>5,235</b>	<b>80.9%</b>	<b>1,878</b>	<b>1,485</b>	<b>79.1%</b>
<b>SDC Share of IPG + SDC</b>			<b>81.5%</b>	<b>51.1%</b>	<b>48.0%</b>		<b>37.8%</b>	<b>34.5%</b>	

**Table 5: Analysis of Zero Viewing in SDC Analysis of “1999 MPA Copyright Royalty Database Showing Compensable IPG & SDC Cable Viewing Data for 1999”**

Common Program Name	Claimant	Household Viewing Hours	# of Quarter-Hours	# of Quarter Hours with Zero Viewing	% of Quarter Hours with Zero Viewing	# of Broadcasts	# of Broadcasts with Zero Viewing	% of Broadcasts with Zero Viewing
<b>IPG Claimed Titles</b>								
BENNY HINN	Benny Hinn Ministries	71,607	1,412	1,315	93.1%	705	652	92.5%
CREFLO A. DOLLAR JR.	Creflo Dollar Ministries	78,153	1,796	1,655	92.1%	898	824	91.8%
KENNETH COPELAND	Eagle Mountain Int'l Church (Kenneth Copeland Ministries)	108,313	2,492	2,269	91.1%	1,246	1,128	90.5%
LIFE TODAY	Life Outreach International	21,991	488	433	88.7%	244	216	88.5%
<b>Total IPG</b>		<b>280,063</b>	<b>6,188</b>	<b>5,672</b>	<b>91.7%</b>	<b>3,093</b>	<b>2,820</b>	<b>91.2%</b>
<b>IPG Share of IPG + SDC</b>		<b>18.5%</b>	<b>48.9%</b>	<b>52.0%</b>		<b>62.2%</b>	<b>65.5%</b>	
<b>SDC Claimed Titles</b>								
700 CLUB	Christian Broadcasting Network, Inc.	214,765	2,732	2,373	86.9%	805	690	85.7%
CORAL RIDGE	Coral Ridge Ministries Media, Inc.	45,475	542	480	88.6%	157	134	85.4%
DR. JAMES KENNEDY	Coral Ridge Ministries Media, Inc.	15,505	540	505	93.5%	143	133	93.0%
HOUR OF HEALING	Oral Roberts Evangelistic Association, Inc.	1,386	272	270	99.3%	68	67	98.5%
HOUR OF POWER	Crystal Cathedral Ministries, Inc.	273,906	1,364	973	71.3%	341	233	68.3%
IN TOUCH	In Touch Ministries, Inc.	388,354	976	629	64.4%	340	226	66.5%
MIRACLES NOW	Oral Roberts Evangelistic Association, Inc.	298,006	48	5	10.4%	24	2	8.3%
<b>Total SDC</b>		<b>1,237,396</b>	<b>6,474</b>	<b>5,235</b>	<b>80.9%</b>	<b>1,878</b>	<b>1,485</b>	<b>79.1%</b>
<b>SDC Share of IPG + SDC</b>		<b>81.5%</b>	<b>51.1%</b>	<b>48.0%</b>		<b>37.8%</b>	<b>34.5%</b>	
<b>Total IPG + SDC</b>		<b>1,517,459</b>	<b>12,662</b>	<b>10,907</b>	<b>86.1%</b>	<b>4,971</b>	<b>4,305</b>	<b>86.6%</b>

25. Mr. Sanders' relative market value conclusions also seem to be inconsistent with other computations from his data. Table 5 shows that Mr. Sanders' own data indicates that IPG has 62% of the broadcasts (3,093 compared with the SDC's 1,878 broadcasts) and IPG has 49% of the broadcast quarter-hours (6,188 compared with the SDC's 6,474 broadcast quarter-hours). Yet, Mr. Sanders estimates that 18.5% of the relative market value is attributable to IPG and 81.5% to SDC. As discussed above, in order to come to his relative market value conclusions, Mr. Sanders relies on flawed household viewing data wherein (i) the data are sampled from a population in which 49% of all titles have zero-viewing for *every broadcast* of such title, (ii) a substantial majority, 87%, of all broadcast observations used in his computation of the 18.5%/81.5% relative market value share indicate zero-viewing (4,305 of 4,971 of broadcast observations), and (iii) 66% or 2,820 of those zero-viewing instances are attributed to IPG.

26. Zero viewing also varies widely for the same program title across all stations in the Nielsen data on which it is broadcast. To measure this variation in zero viewing, I first identify all unique station-program title combinations in the TV Data during the sweeps periods covered by the Nielsen data. For each station-program title combination, I calculate the percentage of broadcasts with zero viewing for the entire broadcast. I call this percentage "Station Zero Share." For example, if Program A was broadcast 5 times on station X, and 3 of those

broadcasts had zero viewers for the duration of the broadcast, then the Station Zero Share is 60% for that station-program title combination. Next, for each program title that is broadcast on multiple stations in the sample, I calculate the standard deviation of the program's Station Zero Shares. This standard deviation (with a minimum value of zero and a maximum value of 1) is a measure of the variation in zero viewing for the program across the stations on which it was broadcast. If this standard deviation is close to zero for a given program, then the incidence of zero viewing for the program is fairly consistent across all stations in the sample. A higher standard deviation indicates higher variation in the incidence of zero viewing across the stations in the sample on which the program is broadcast. If the incidence of zero-viewing varies widely across the stations in the sample, then that could suggest a high error rate in the viewership projection (including a high error rate for the zero viewership projections in the data). Table 6 presents the results of this analysis of the variation in zero viewing for the same program title across stations.

**Table 6: Variation in Zero Viewing across Stations for the Same Program Title in 1999 Nielsen Data**

Station Sample	All 123 Stations	All 123 Stations	Whitt's 72 Stations	Whitt's 72 Stations	Whitt's 72 Stations
Program Type*	All Programs	Devotional Programs	All Programs	Devotional Programs	SDC & IPG Claimed Programs
# of Program Titles	8,289	224	4,723	219	19
# of Stations	123	78	72	72	54
# of Program Title - Station Combinations	35,658	415	20,279	407	127
<b>"Station Zero Share": % of Broadcasts of the Program Title on the Station with Zero Viewing</b>					
<i>Statistics across all Program Title-Station Combinations</i>					
Mean	72.2%	88.8%	72.7%	88.8%	82.0%
Median	100.0%	98.3%	100.0%	97.5%	91.0%
Minimum	0.0%	0.0%	0.0%	0.0%	8.3%
Maximum	100.0%	100.0%	100.0%	100.0%	100.0%
Std. Dev.	38.2%	18.0%	38.6%	17.5%	19.5%
<b>"Station Zero Share Standard Deviation by Program": For each program title, the standard deviation of its ZeroShares across all stations on which it is broadcast</b>					
<i>Statistics across all Program Titles with Broadcasts on Multiple Stations</i>					
# of Program Titles	4,075	46	2,574	45	14
Mean	23.1%	11.2%	22.3%	10.2%	13.4%
Median	19.4%	8.7%	18.2%	8.7%	11.5%
Minimum	0.0%	0.0%	0.0%	0.0%	0.0%
Maximum	70.7%	57.7%	70.7%	35.4%	29.2%
Std. Dev.	22.1%	11.9%	22.1%	9.8%	8.1%

Note: \* Devotional Programs are classified per the methodology found in Dr. Erdem's programming code file "Merge\_data.do".

27. Table 6 shows that there are 8,289 unique program titles on 123 stations in the TV and Nielsen data used by the SDC, with 35,658 unique

combinations of program titles and stations.<sup>18</sup> The next panel of results in Table 6 shows that many program title-station combinations have zero viewing for *every* broadcast, given that the median Station Zero Share across all combinations of program titles and stations is 100% in the first column. Table 6 shows substantial variation in zero-viewing for the same program across all stations.

28. The bottom panel of results in Table 6 (“Station Zero Share Standard Deviation by Program”) shows the variation in Station Zero Shares for individual programs. The first column shows that there are 4,075 program titles that were broadcast on multiple stations in the sample of 123 stations in the Nielsen data. For each of these 4,075 program titles, I calculate the standard deviation of the given title’s Station Zero Shares. The bottom panel of Table 6 shows the summary statistics for these 4,075 standard deviations. The mean of the standard deviations is 23.1%, indicating variation.

*Mr. Sanders’ comparison to local viewing data is flawed and undermines his conclusions*

29. Mr. Sanders undertakes an unorthodox comparison of the relative shares of each IPG and SDC program within a local ratings database and the distant viewing Nielsen data upon which he bases his conclusions. There is no

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<sup>18</sup> The number of unique program title-station combinations is less than the product of the number of stations and the number of program titles because not all program titles are broadcast on every station.

basis to conclude that Mr. Sanders' relative viewership share of 18.5% for IPG is "confirmed" simply based on the correlation between the relative viewership shares of each program in the two Nielsen databases.

30. Although Mr. Sanders argues that the local viewing data "confirms" his distant viewing results, Mr. Sanders fails to note that the relative viewership in the local ratings data is significantly different than the relative viewership in the distant viewing data. Table 7 is based on Mr. Sanders' Appendix F, which shows the number of viewers for SDC and IPG titles in both the local viewing and distant viewing data analyzed by Mr. Sanders. As Table 7 shows, IPG's relative viewership share in the local ratings data is 28.7%, whereas IPG's share in the distant viewing data is 23.0%.<sup>19</sup> The difference between these shares is statistically significant at the 99.9% confidence level. That is, IPG's relative viewership share when using the local ratings data is statistically significantly *greater* than its relative viewership share when using the distant viewing data upon which Mr. Sanders bases his conclusions. If Mr. Sanders alleges that the local ratings data "confirms" his results, then the local ratings data must also "confirm" that IPG's relative viewership share may be statistically significantly greater than his estimate.

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<sup>19</sup> IPG's share of 23.0% in Table 7 is different from Mr. Sanders' ultimate conclusion of 18.5% because he does not include programming broadcast on WGN in his comparison of the two databases in his Appendix F. See Sanders Direct Statement at 9-10.

**Table 7: Comparison of Relative Viewership Shares from Sanders Appendix E and Appendix F**

	"Nielsen Total Households In Market" (Local Ratings Data)		"HHVH Out of Market Coverage" (Distant Viewing Data)		Sanders Total Distant Viewership Hours (Sanders Appendix E)	
		Share		Share		Share
SDC	2,542,000	71.3%	938,004	77.0%	1,237,396	81.5%
IPG	1,023,000	28.7%	280,064	23.0%	280,063	18.5%
<b>Total</b>	<b>3,565,000</b>	<b>100%</b>	<b>1,218,068</b>	<b>100%</b>	<b>1,517,459</b>	<b>100%</b>

***Dr. Erdem has not replicated Mr. Whitt's Analysis***

31. It is my understanding that in lieu of providing the computer programs and documents used by Mr. Whitt to calculate his results, the SDC instead provided programming files produced by Dr. Erdem. The SDC alleges it retained Dr. Erdem and his firm KPMG to replicate Mr. Whitt's results using only the raw Nielsen data and TV Data, Mr. Whitt's direct testimony in the current proceeding, Mr. Whitt's rebuttal testimony in the 2000-2003 cable royalty proceeding, and start dates for the Nielsen sweeps periods.<sup>20</sup> However it is my understanding that Mr. Whitt's rebuttal testimony in the 2000-2003 proceeding and the start dates for the Nielsen sweeps periods were not produced to IPG upon the filing of the SDC's Written Direct Statement or otherwise in discovery.

<sup>20</sup> E-Mail from Matthew J. MacLean, Pillsbury Winthrop Shaw Pittman LLP, to Brian D. Boydston, Pick & Boydston, LLP, Mar 27, 2014.

32. Furthermore, my review of Dr. Erdem's programming code shows that he did *not* replicate the selection of the 72 stations from Mr. Whitt's sample. Instead, it appears from Dr. Erdem's code that he took the sample of 72 stations as a given through his use of the file "Channel-City\_list.dta". This file consists of a list of 72 unique station call signs, as well as the channel and city for those stations. It is not clear how KPMG obtained this list of stations. The file may simply be a compilation of the 72 unique call signs included in Exhibit 1 to Mr. Whitt's direct testimony. If so, then Dr. Erdem's alleged "replication" of Mr. Whitt's analysis is merely the result of reverse engineering and does not provide insight Mr. Whitt's methodology.

33. Dr. Erdem also made modifications to the program titles in the original data when identifying broadcasts of those titles. Neither the existence of these modifications nor the reasons were produced by SDC. For example, Dr. Erdem changes the program title "FIRST BAPTIST CHURCH" on station KPLR to "FIRST BAPTIST". No reason for this change is given, but this change has the effect of making Dr. Erdem's tabulation of broadcasts for "FIRST BAPTIST" on KPLR to match the results shown in Mr. Whitt's testimony. Again, this appears to be a case of reverse engineering by KPMG to achieve the results shown in Mr. Whitt's testimony.

#### IV. CONCLUSIONS

34. In this report I examine the testimony of Mr. Whitt, Mr. Sanders, and Mr. Erdem. I find the testimony of Mr. Whitt is not reliable as (1) he has not provided the programs, data, and information underlying and supporting his work that will allow an analyst to replicate same, and (2) he has not provided evidence identifying the sample stations used in his analysis. I find the testimony of Mr. Sanders is not reliable as (1) he has relied on the results of Mr. Whitt in coming to his conclusions, (2) he relies on estimates of viewership in order to estimate relative value, and (3) his analysis of viewership is flawed because he does not account for the so-called “zero-viewing” problem. I find that Dr. Erdem has not replicated the results of Mr. Whitt.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Laura O. Robinson". The signature is written in black ink and is positioned above a horizontal line.

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Laura O. Robinson, Ph.D  
Navigant Consulting, Inc.

I declare under penalty of perjury that the foregoing testimony is true and correct to the best of my knowledge. Executed this 12<sup>th</sup> day of August, 2014.

A handwritten signature in cursive script that reads "Laura O. Robinson". The signature is written in black ink and is positioned above a horizontal line.

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Laura O. Robinson

# **EXHIBIT 1**

Present in:

Call	Whitt Ex. 1 (72 stations), from SDC Direct Statement	Kessler 1999 (180 stations), per written testimony in 1998-1999 Phase I	SDC0001178 (64 stations)	Nielsen data (SDC0001191) (123 stations)
1 KABC	Y	Y	Y	Y
2 KADN	Y	Y	Y	Y
3 KARK	Y	Y	Y	Y
4 KATN	Y	Y	Y	Y
5 KATU	Y	Y	Y	Y
6 KATV	Y	Y	Y	Y
7 KBWB	Y	Y	Y	Y
8 KCAL	Y	Y	Y	Y
9 KCBS	Y	Y	Y	Y
10 KCET	Y	Y	Y	Y
11 KCNC	Y	Y	Y	Y
12 KCOP	Y	Y	Y	Y
13 KCTS	Y	Y	Y	Y
14 KCTV	Y	Y	Y	Y
15 KDKA	Y	Y	Y	Y
16 KDSD	Y	Y	Y	Y
17 KDTN	Y	Y	Y	Y
18 KDVR	Y	Y	Y	Y
19 KERA	Y	Y	Y	Y
20 KETS	Y	Y	Y	Y
21 KEZI	Y	Y	Y	Y
22 KFXB	Y	Y	Y	Y
23 KGO	Y	Y	Y	Y
24 KHQ	Y	Y	Y	Y
25 KHWB	Y	Y	Y	Y
26 KICU	Y	Y	Y	Y
27 KIMO	Y	Y	Y	Y
28 KIPT	Y	Y	Y	Y
29 KLAX	Y	Y	Y	Y
30 KLRT	Y	Y	Y	Y
31 KLTL	Y	Y	Y	Y
32 KMBC	Y	Y	Y	Y
33 KMGH	Y	Y	Y	Y
34 KMOT	Y	Y	Y	Y
35 KMSP	Y	Y	Y	Y
36 KMSS	Y	Y	Y	Y
37 KNBC	Y	Y	Y	Y
38 KOAC	Y	Y	Y	Y
39 KOMO	Y	Y	Y	Y
40 KOOD	Y	Y	Y	Y
41 KOTV	Y	Y	Y	Y
42 KPIX	Y	Y	Y	Y
43 KPLR	Y	Y	Y	Y
44 KPTV	Y	Y	Y	Y
45 KQBN	Y	Y	Y	Y
46 KQED	Y	Y	Y	Y
47 KRON	Y	Y	Y	Y
48 KRWG	Y	Y	Y	Y
49 KSHB	Y	Y	Y	Y
50 KSLA	Y	Y	Y	Y
51 KSNK	Y	Y	Y	Y
52 KTEJ	Y	Y	Y	Y
53 KTHV	Y	Y	Y	Y
54 KTLA	Y	Y	Y	Y
55 KTNC	Y	Y	Y	Y
56 KTSF	Y	Y	Y	Y
57 KTTV	Y	Y	Y	Y
58 KTVK	Y	Y	Y	Y

	Present in:	
	Whitt & Kessler 1999:	218
	Whitt & SDC0001178:	218
Kessler 1999 & Nielsen data (SDC0001191):		218
SDC0001178 & Kessler 1999:		218

Present in:

Call	Whitt Ex. 1 (72 stations), from		Kessler 1999 (180 stations), per written testimony in		Nielsen data (SDC0001191) (123 stations)
	SDC Direct Statement	1998-1999 Phase I	1998-1999	SDC0001178 (64 stations)	
59 KTVU	Y	Y	Y	Y	Y
60 KTXL	Y	Y	Y	Y	Y
61 KTXS	Y	Y	Y	Y	Y
62 KUHT	Y	Y	Y	Y	Y
63 KUTP	Y	Y	Y	Y	Y
64 KWES	Y	Y	Y	Y	Y
65 KWGN	Y	Y	Y	Y	Y
66 KWTW	Y	Y	Y	Y	Y
67 KXII	Y	Y	Y	Y	Y
68 KXTX	Y	Y	Y	Y	Y
69 WAAY	Y	Y	Y	Y	Y
70 WABC	Y	Y	Y	Y	Y
71 WACY	Y	Y	Y	Y	Y
72 WAGA	Y	Y	Y	Y	Y
73 WATM	Y	Y	Y	Y	Y
74 WAXN	Y	Y	Y	Y	Y
75 WBAL	Y	Y	Y	Y	Y
76 WBBJ	Y	Y	Y	Y	Y
77 WBFS	Y	Y	Y	Y	Y
78 WBNS	Y	Y	Y	Y	Y
79 WBOC	Y	Y	Y	Y	Y
80 WBRC	Y	Y	Y	Y	Y
81 WBRE	Y	Y	Y	Y	Y
82 WBVT	Y	Y	Y	Y	Y
83 WBVT-	Y	Y	Y	Y	Y
84 WBZ	Y	Y	Y	Y	Y
85 WBZL	Y	Y	Y	Y	Y
86 WCAU	Y	Y	Y	Y	Y
87 WCBS	Y	Y	Y	Y	Y
88 WCET	Y	Y	Y	Y	Y
89 WCFT	Y	Y	Y	Y	Y
90 WCPO	Y	Y	Y	Y	Y
91 WCTI	Y	Y	Y	Y	Y
92 WDAM	Y	Y	Y	Y	Y
93 WDCA	Y	Y	Y	Y	Y
94 WDEF	Y	Y	Y	Y	Y
95 WDIV	Y	Y	Y	Y	Y
96 WDKY	Y	Y	Y	Y	Y
97 WETM	Y	Y	Y	Y	Y
98 WFAA	Y	Y	Y	Y	Y
99 WFFT	Y	Y	Y	Y	Y
100 WFLD	Y	Y	Y	Y	Y
101 WFMJ	Y	Y	Y	Y	Y
102 WFQX	Y	Y	Y	Y	Y
103 WFRV	Y	Y	Y	Y	Y
104 WFUM	Y	Y	Y	Y	Y
105 WFXB	Y	Y	Y	Y	Y
106 WFYI	Y	Y	Y	Y	Y
107 WGBH	Y	Y	Y	Y	Y
108 WGBY	Y	Y	Y	Y	Y
109 WGCB	Y	Y	Y	Y	Y
110 WGCL	Y	Y	Y	Y	Y
111 WGEM	Y	Y	Y	Y	Y
112 WGGB	Y	Y	Y	Y	Y
113 WGME	Y	Y	Y	Y	Y
114 WGN	Y	Y	Y	Y	Y
115 WGVK	Y	Y	Y	Y	Y
116 WHA	Y	Y	Y	Y	Y

Present in:

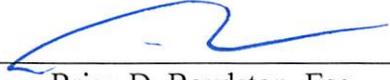
Call	Whitt Ex. 1 (72 stations), from SDC Direct Statement	Kessler 1999 (180 stations), per written testimony in 1998-1999 Phase I	SDC0001178 (64 stations)	Nielsen data (SDC0001191) (123 stations)
117 WHAG	Y	Y	Y	Y
118 WHDF	Y	Y	Y	Y
119 WHIO	Y	Y	Y	Y
120 WHLA	Y	Y	Y	Y
121 WHP	Y	Y	Y	Y
122 WHYI	Y	Y	Y	Y
123 WIAT	Y	Y	Y	Y
124 WIFR	Y	Y	Y	Y
125 WILX	Y	Y	Y	Y
126 WIPB	Y	Y	Y	Y
127 WIS	Y	Y	Y	Y
128 WISN	Y	Y	Y	Y
129 WITI	Y	Y	Y	Y
130 WITN	Y	Y	Y	Y
131 WJAC	Y	Y	Y	Y
132 WJSU	Y	Y	Y	Y
133 WJW	Y	Y	Y	Y
134 WJZ	Y	Y	Y	Y
135 WKBD	Y	Y	Y	Y
136 WKBN	Y	Y	Y	Y
137 WKJG	Y	Y	Y	Y
138 WKNO	Y	Y	Y	Y
139 WKRN	Y	Y	Y	Y
140 WKSO	Y	Y	Y	Y
141 WKYT	Y	Y	Y	Y
142 WLAE	Y	Y	Y	Y
143 WLEF	Y	Y	Y	Y
144 WLIW	Y	Y	Y	Y
145 WLKY	Y	Y	Y	Y
146 WLNS	Y	Y	Y	Y
147 WLS	Y	Y	Y	Y
148 WLTN	Y	Y	Y	Y
149 WLVI	Y	Y	Y	Y
150 WMAR	Y	Y	Y	Y
151 WMDT	Y	Y	Y	Y
152 WMGT	Y	Y	Y	Y
153 WMUR	Y	Y	Y	Y
154 WNBC	Y	Y	Y	Y
155 WNCT	Y	Y	Y	Y
156 WNDS	Y	Y	Y	Y
157 WNEO	Y	Y	Y	Y
158 WNET	Y	Y	Y	Y
159 WNJS	Y	Y	Y	Y
160 WNPI	Y	Y	Y	Y
161 WNUV	Y	Y	Y	Y
162 WNBC	Y	Y	Y	Y
163 WNYW	Y	Y	Y	Y
164 WPBT	Y	Y	Y	Y
165 WPDE	Y	Y	Y	Y
166 WPGH	Y	Y	Y	Y
167 WPHL	Y	Y	Y	Y
168 WPIX	Y	Y	Y	Y
169 WPSG	Y	Y	Y	Y
170 WPTV	Y	Y	Y	Y
171 WPVI	Y	Y	Y	Y
172 WPXI	Y	Y	Y	Y
173 WPXX	Y	Y	Y	Y
174 WQEX	Y	Y	Y	Y

Present in:

Call	Whitt Ex. 1 (72 stations), from SDC Direct Statement	Kessler 1999 (180 stations), per written testimony in	SDC0001178 (64 stations)	Nielsen data (SDC0001191) (123 stations)
		1998-1999 Phase I		
175 WQPT	Y	Y	Y	Y
176 WRAL	Y	Y	Y	Y
177 WRIC	Y	Y	Y	Y
178 WRLH	Y	Y	Y	Y
179 WSB	Y	Y	Y	Y
180 WSBF	Y	Y	Y	Y
181 WSBK	Y	Y	Y	Y
182 WSEE	Y	Y	Y	Y
183 WSLS	Y	Y	Y	Y
184 WSPA	Y	Y	Y	Y
185 WSWB	Y	Y	Y	Y
186 WSYX	Y	Y	Y	Y
187 WTCE	Y	Y	Y	Y
188 WTCI	Y	Y	Y	Y
189 WTGS	Y	Y	Y	Y
190 WTHI	Y	Y	Y	Y
191 WTJP	Y	Y	Y	Y
192 WTMJ	Y	Y	Y	Y
193 WTRF	Y	Y	Y	Y
194 WTTW	Y	Y	Y	Y
195 WTVS	Y	Y	Y	Y
196 WTVY	Y	Y	Y	Y
197 WTXF	Y	Y	Y	Y
198 WUAB	Y	Y	Y	Y
199 WUNI	Y	Y	Y	Y
200 WUPL	Y	Y	Y	Y
201 WUSA	Y	Y	Y	Y
202 WUTB	Y	Y	Y	Y
203 WUXP	Y	Y	Y	Y
204 WVEC	Y	Y	Y	Y
205 WVTM	Y	Y	Y	Y
206 WVUE	Y	Y	Y	Y
207 WWBT	Y	Y	Y	Y
208 WWJ	Y	Y	Y	Y
209 WWLP	Y	Y	Y	Y
210 WWOR	Y	Y	Y	Y
211 WWPB	Y	Y	Y	Y
212 WWPLP	Y	Y	Y	Y
213 WXIA	Y	Y	Y	Y
214 WXII	Y	Y	Y	Y
215 WXIX	Y	Y	Y	Y
216 WYCC	Y	Y	Y	Y
217 WYES	Y	Y	Y	Y
218 WYIN	Y	Y	Y	Y

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of August, 2013, a copy of the foregoing was sent by electronic mail to the parties listed on the attached Service List.

  
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Brian D. Boydston, Esq.

**DEVOTIONAL CLAIMANTS:**

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