

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of )  
 )  
Complaints Against Various Licensees Regarding ) NAL/Acct. No. 200532080003  
Their Broadcast of the Fox Television Network ) File No. EB-03-IH-0162<sup>1</sup>  
Program "Married By America" On April 7, 2003 )

To: The Secretary  
The Chief, Investigations and Hearings Division, Enforcement Division

**OPPOSITION TO NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Warwick Communications, Inc., the licensee of KFXK(TV), Longview, Texas, and White Knight Broadcasting of Natchez License Corp., the licensee of WNTZ(TV), Natchez, Mississippi, (collectively, "White Knight") hereby file this Opposition to the above-captioned Notice of Apparent Liability for Forfeiture ("NAL").<sup>2</sup> For the reasons stated below and in the Opposition to Notice of Apparent Liability for Forfeiture filed by the Fox Broadcasting Company and the Fox affiliates (the "Joint Opposition"),<sup>3</sup> White Knight requests that the Commission rescind the NAL.

Neither of White Knight's stations received any viewer complaints for airing the April 7, 2003 episode of "Married By America," or for that matter, any of the prior six episodes. Having no reason to suspect that the April 7, 2003 episode would be any different from the prior

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<sup>1</sup> Attachment A lists the FCC Registration Numbers, Facility Identification Numbers, and NAL account numbers for the Fox affiliate stations that are responding in this pleading.

<sup>2</sup> At White Knight's request, FCC staff extended the filing deadline until December 3, 2004. See Request for Extension of Time (November 4, 2004).

<sup>3</sup> White Knight has joined the Joint Opposition but is filing separately to emphasize factors particular to its stations or not addressed in that pleading.

episodes, and having no opportunity to review the episode in question,<sup>4</sup> White Knight cannot fairly be charged with violating the Commission's indecency regulations.

Such a conclusion is consistent with the Commission's recent *Super Bowl NAL* decision.<sup>5</sup> In that case, the Commission declined to assess forfeitures on CBS network affiliates, because they "were not involved in the selection, planning or approval" of allegedly indecent material and could not have reasonably anticipated the network's provision of such material.<sup>6</sup> Because those factors are also relevant here, the Commission's decision to include the Fox network affiliates in the NAL is arbitrary and capricious. The fact that the Commission in the *Super Bowl NAL* warned licensees to take reasonable precautions in the future is not relevant.<sup>7</sup> That decision was issued almost a year-and-a-half after the stations had already aired the April 7, 2003 "Married by America" episode, and accordingly, the decision could not have provided any guidance or warning to the stations.

Additionally, neither of the stations at issue has ever been fined for an indecency violation, and accordingly, leniency is warranted.<sup>8</sup> Moreover, procedurally, the Commission did not issue either of the stations a letter of inquiry regarding the allegedly indecent broadcast, and

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<sup>4</sup> See generally, Joint Opposition.

<sup>5</sup> See *In re Complaints Against Various Television Licensees Concerning Their February 1, 2004, Broadcast of the Super Bowl XXXVIII Halftime Show*, File No. EB-04-IH-0011, Notice of Apparent Liability for Forfeiture (September 22, 2004) ("*Super Bowl NAL*").

<sup>6</sup> *Id.* at ¶ 25; see also Statement of Chairman Powell, *Super Bowl NAL* ("[F]undamental fairness dictates that in this instance we not sanction those affiliates . . . . Past half time productions have generally reflected the family-friendly character of the event.").

<sup>7</sup> See *Super Bowl NAL*, at ¶ 25.

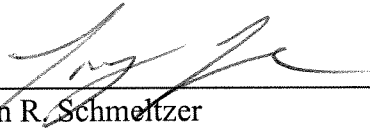
<sup>8</sup> See, e.g., *WLDI, Inc. Licensee of Station WCOM(FM), Bayamon, Puerto Rico*, 16 FCC Rcd 9571, at ¶ 14 (2001) (history of compliance is a mitigating factor in establishing a forfeiture amount); *Liability of WVGO License Limited Partnership Former Licensee, WBZU(FM), Richmond, Virginia for a Forfeiture*, 12 FCC Rcd 5918, at ¶ 5 (1997) (same).

the stations unfairly have had no prior opportunity to respond or notice that they were under investigation.

### **Conclusion**

For the reasons stated above and those provided in the Joint Opposition, the Commission should rescind the NAL in its entirety. In the alternative, in light of the circumstances discussed above, the Commission should rescind the forfeiture with respect to the White Knight Fox affiliate stations.

Respectfully submitted,



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December 3, 2004

**ATTACHMENT A**

<b>Licensee Name and Mailing Address</b>	<b>FRN No.</b>	<b>NAL Acct. No.</b>	<b>Station Call Sign and Community of License</b>	<b>Facility ID No.</b>	<b>Time of Broadcast (Local Time)</b>	<b>Proposed Forfeiture Amount</b>	<b>Fox Station or Fox Affiliate</b>
Warwick Communications, Inc., 700 St. Johns Street, Suite 301, Lafayette, LA 70501	4973897	200432080398	KFXX, Longview, TX	70917	8-9 p.m.	\$7,000	Fox Affiliate
White Knight Broadcasting of Natchez License Corp., 700 St. John St., Suite 301, Lafayette, LA 70501	4973913	200432080403	WNTZ, Natchez, MS	16539	8-9 p.m.	\$7,000	Fox Affiliate