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February 19, 2002

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**BY HAND**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, SW, Room TWB204  
Washington, D.C. 20554

**Re: Applications for Consent to the Transfer of  
Control of Telemundo Communications Group, Inc.  
File Nos. BTCCT-20011101ABK, et seq.**

***Ex Parte Communications***

Dear Mr. Caton:

Paxson Communications Corporation ("Paxson"), by its attorney and pursuant to Section 1.1206 of the Commission's rules, and the *Public Notice* (DA 01-2689) released November 16, 2001, hereby reports that on February 14 and 15, 2002, Lowell Paxson, Chairman of Paxson, and the undersigned met with the following FCC personnel:

- Susan Eid and Peter Tenhula, Legal Advisors to Chairman Michael Powell
- Commissioner Kevin Martin and his Legal Advisor, Catherine Bohigian
- Roy Stewart, Chief of the Mass Media Bureau, and Barbara Kreisman, Chief of the Video Services Division of the Bureau
- Susanna Zwerling, Legal Advisor to Commissioner Michael Copps

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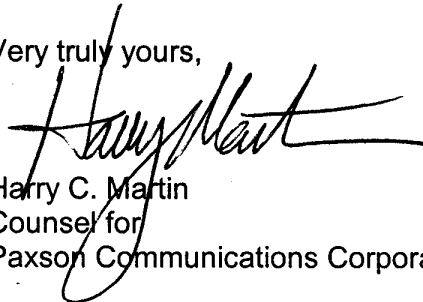
Mr. William F. Caton  
Acting Secretary  
February 19, 2002  
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- Kenneth Ferree, Chief of the Cable Services Bureau, and Barbara Kreisman, identified above
- Stacy Robinson, Legal Advisor to Commissioner Kathleen Abernathy

The subject matter of these meetings is outlined in the attached memorandum, which was distributed at the meetings.

An original and one copy of this letter are being filed with the Secretary's office and a copy is being provided to the Commission's copy contractor, Qualex International. Copies also are being served in accordance with the attached Certificate of Service.

Very truly yours,



Harry C. Martin  
Counsel for  
Paxson Communications Corporation

HCM:jpg

Enclosure

## DISCUSSION POINTS—NBC TELEMUNDO

### The Declaratory Ruling Raises Issues Only the FCC Can Address

1. Paxson has not come to the FCC asking for resolution of a private contractual dispute. The NBC conduct described in the Request for Declaratory Ruling raises serious issues about compliance with the FCC's ownership and attribution rules. This is misconduct reviewable, in the first instance, only by the FCC.

2. The Commission should first decide the issues presented in the Request for Declaratory Ruling, fashion appropriate relief and then separately rule on the petition to deny. A preliminary ruling in the declaratory ruling proceeding could moot the issues raised in the petition to deny and permit the Telemundo applications to be approved.

### Paxson and NBC Have a Multi-Faceted Relationship

3. NBC has a substantial role in the day-to-day operations of Paxson's television stations through a multiplicity of intertwining relationships. Through JSAs with Paxson's individual stations and marketing agreements with those stations and Pax TV, NBC controls a substantial portion of Paxson's revenues. NBC has a 32 percent non-voting stock interest in Paxson. NBC has the right to convert its non-voting stock to voting and to acquire Bud Paxson's super-voting control block, thereby allowing it to acquire control of Paxson. Under agreements signed in 1999, NBC asserts the right to review and approve Paxson budgets and to name members to Paxson's board of directors. The agreements also afford NBC some approval rights with respect to debt and all equity financings, veto Paxson station sales in top-20 markets, control executive compensation above \$400,000 per year, and determine how Paxson will use its

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stations' DTV spectrum on a national or regional basis.

4. These rights were granted because the 1999 agreements recognized NBC as a partner who would eventually have a controlling interest in the company. The Telemundo transaction threatens to block that path to control, although the 1999 agreements prohibit Paxson and NBC from taking any actions that would interfere with NBC's ultimate acquisition of control. That matter is before an arbitration panel now. If the Telemundo transaction interferes with the Paxson transaction, and if NBC's relationship with Paxson is not terminated or changed, NBC will have too much in the way of control over Paxson, and will continue to enjoy all of the rights of a partner and future owner even though it no longer would have a realistic prospect of becoming the controlling owner.

#### NBC's Conduct Is the Issue

5. NBC claims the right to appoint three directors to Paxson's board of directors and, consistent with that asserted right, appointed three of its own executive employees to Paxson's board. The record shows that NBC manipulated these directors to serve its interests. Thus, NBC itself has had representation on Paxson's board, contrary to the attribution rule. NBC can be expected to name more NBC executives to board positions unless the FCC requires reformation of the agreements.

6. NBC asserts the right to line-item veto authority over Paxson's budgets. With control over a substantial portion of Paxson's revenues, NBC should not have authority to approve Paxson budgets as well. This combination of rights removes NBC from the category of passive investors shielded from attribution under the EDP rule and impinges on Paxson's control prerogatives. If the FCC does not take remedial action, there is nothing to stop NBC from reasserting its budget-approval rights and taking control of day-to-day financial decision making..

7. NBC used its employee-directors, its contractual debt-approval authority and its asserted right to approve Paxson budgets to attempt to block Paxson corporate refinancings. NBC executive Brandon Burgess, a member of the Paxson board of directors, acted on NBC's behalf in seeking important contract concessions from Paxson in return for NBC's consideration of a further financing. NBC's CFO asserted that a board resolution approving a \$200 million refinancing was invalid even though the sole NBC-named Paxson director had voted in favor of the resolution, thereby mooted any such objection. When disagreements developed regarding Paxson's authority to adopt the refinancing plan, NBC, through its general counsel, attempted to assert control over Paxson's budgeting. NBC's general counsel suggested changes to the minutes of a Paxson board meeting to eliminate language which reflected that the three NBC directors present had abstained from voting on a financing resolution because they had not yet received orders from NBC management.

FCC Relief Is Required and Will Have Far-Reaching Consequences

8. Merely admonishing NBC for these encroachments will not be enough. The agreements between NBC and Paxson were designed to accommodate NBC's eventual assumption of control of the company. Under them, NBC has broad rights which were intended to let it become involved, to the extent permitted under the FCC's rules, in Paxson corporate affairs while the parties waited for anticipated changes in the 35 percent national cap. These broad rights were not intended to be put into NBC's hands on a long-term basis, and certainly not in the hands of an aggressive and hostile partner with no opportunity to acquire control of Paxson. The record shows that NBC has used these rights to interfere with Paxson's corporate prerogatives; indeed, using the agreements reached in 1999 to accommodate a partner and future controlling owner, NBC has reached for control of Paxson. Leaving the agreements in place will

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give NBC carte blanche to continue its attack on Paxson's independence as a licensee. If the Telemundo transfers are approved without remedial action first being taken in response to Paxson's Request for Declaratory Ruling, NBC's assertions of control will continue indefinitely, with Paxson's ability to resist diminished by NBC's control over a substantial portion of its revenues. The Commission should therefore require NBC to divest its interest in Paxson or, alternatively, require substantial modifications to the 1999 agreements.

## CERTIFICATE OF SERVICE

I, Joan P. George, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that a true copy of the attached letter was sent this 19<sup>th</sup> day of February, 2002, by hand where indicated and by first-class mail postage prepaid to the following:

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Chief, Video Services Division  
Federal Communications Commission  
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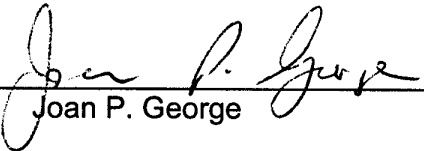
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Fund, Inc.

  
Joan P. George

\* By hand