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May 17, 2007

 MERITAS LAW FIRMS WORLDWIDE

**VIA FEDERAL EXPRESS, FACSIMILE
AND ELECTRONIC MAIL**

Alvin F. Poussaint, M.D.
Susan Linn, Ed.D.
Campaign for a Commercial-Free Childhood
c/o Judge Baker Children's Center
53 Parker Hill Avenue
Boston, Massachusetts 02120-3225

Re: **BabyFirstTV**

Dear Dr. Poussaint and Dr. Linn:

This law firm represents BabyFirstTV. We understand that you, as members of the steering committee of Campaign for a Commercial-Free Childhood ("CCFC"), have embarked on a letter-writing campaign using a form letter in which you make defamatory statements about BabyFirst TV. The statements in your letters – sent to the CEOs of the ten leading cable companies (as announced on CCFC's website) – are categorically and demonstrably false and you know them to be false.¹

Indeed, it is CCFC that is actively deceiving the recipients of its letter in order to serve CCFC's own agenda, gain publicity for its cause, and deliberately disrupt BabyFirstTV's current and prospective business relationships with these cable operators. Such reckless and, frankly, unconscionable tactics are not without legal consequences.

You first state in your letter that "BabyFirstTV is the subject of a Federal Trade Commission complaint for false and deceptive marketing." *This statement is categorically false.* The Federal Trade Commission (the "FTC") has not filed any complaint against BabyFirstTV. Nor has it taken any action against BabyFirstTV. It was the CCFC – in a document self-servingly labeled a "complaint" – that asked the FTC to investigate and take

¹ Also posted on CCFC's website is its May 15, 2007 Press Release under the equally false and defamatory link "CCFC Urges Cable Companies to Tune Out BabyFirstTV: TV Station for Babies Actively Deceived Parents."

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action against BabyFirstTV for what CCFC alleged to be false and deceptive claims regarding BabyFirstTV's programming. In its "complaint and request for investigation," lodged with the FTC close to a year ago in June 2006, CCFC asked the FTC to take the following action against BabyFirstTV: "1) bring an action pursuant to 15 U.S.C. § 53 to obtain preliminary and permanent injunction against BabyFirstTV . . . ; 2) initiate an action under 15 U.S.C. § 45 to permanently prohibit BabyFirstTV . . . from making claims about the educational and developmental benefits of [its] programming; 3) require BabyFirstTV . . . to clearly and conspicuously disclose the American Academy of Pediatrics' recommendation of no screen time for children under age two on [its] website[], packaging and other forms of advertising; and 4) provide such other relief as the Commission finds appropriate." *The FTC has taken none of the action urged by CCFC.*

Next, your letter states that BabyFirstTV makes "false claims that its programming is educational for infants" and that BabyFirstTV "provides no research to support its acclaims." *These statements are also untrue.* BabyFirstTV makes no false claims whatsoever about its programming; indeed, any and all claims it makes about its programming are backed by overwhelming substantiation. And, although BabyFirstTV does not directly refer to this substantiation on its website or other promotional literature, the substantiation exists and is available to the public. In contrast to what CCFC has done its letter, in promoting its programming, BabyFirstTV does not present a biased, one-sided, and incomplete view of the available research and literature.

In addition to the robust substantiation supporting BabyFirstTV's claims, BabyFirstTV has an advisory board, comprised of esteemed and well-credentialed experts in the fields of child education and development and child psychology, which is actively involved in creating, developing, and approving BabyFirstTV's programming. *See* <http://www.babyfirsttv.com/faq.asp> (Who are the child development experts of BabyFirstTV?).

The research demonstrating that BabyFirstTV's programming is educational for infants includes, but is not limited to:

- "Viewing of educational programs like Dora the Explorer, Blue's Clues, Dragontales, Arthur and Clifford between six and 30 months of age was associated with accelerated growth, whereas overall television viewing (including adult programs) was associated with reduced vocabulary."² *The Effects of Electronic Media on Children Ages Zero to Six: A History of Research, Prepared for the Kaiser Family Foundation by the Center on Media and Child Health,*

² By definition, BabyFirstTV's programming is educational as all of its shows are dedicated to educational subject matter, such as vocabulary, language, numbers, counting, etc.

Children's Hospital, Boston ("Kaiser Study") at 9, citing Deborah L. Linebarger and Dale Walker, *Infants' and Toddlers' Television Viewing and Language Outcomes* (2005).

- "Educational TV viewing at two and three years of age predicted school readiness among low to moderate income children." Kaiser Study at 9, citing John C. Wright, Aletha C. Huston, Kimberlee C. Murphy, Michelle St. Peters, Marites Piñon, Ronda Scantlin, and Jennifer Kotler, *The Relationship of Early Television Viewing to School Readiness and Vocabulary of Children from Low-Income Families: The Early Window Project* (2000) ("The Early Window Project").
- "Preschoolers who viewed educational TV programs had higher grades and read more books in high school." Kaiser Study at 9, citing Daniel R. Anderson, Aletha C. Huston, Kelly L. Schmitt, Deborah L. Linebarger, John B. Wright, *Early Childhood Television Viewing and Adolescent Behavior* (2001) ("Early Childhood Television").
- Very young children have a "unique responsiveness to educational programming that has been linked to both immediate and long range educational benefits." Kaiser Study at 1, citing Anderson, Huston, et al., *Early Childhood Television* (2001); Wright, Huston, et al., *The Early Window Project* (2001).
- "Social Learning Theory predicts that children can learn new behaviors from television and other audio visual media." Kaiser Study at 2.
- "Children who regularly watched Blue's Clues, a curriculum-based interactive TV program for preschoolers, scored higher on standardized measures of problem solving and flexible thinking than children who did not watch Blue's Clues, even though both groups of children had scored equivalently on a pre-test prior to Blue's Clues exposure." Kaiser Study at 9, citing Anderson, Bryant, Wilder, Santomero (2000).
- "On the positive side of the ledger, there is evidence that thoughtfully designed television used at the appropriate developmental stage can be educational." Kaiser Study at 9.
- "Viewing child-audience informative programs between age 2 and 3 predicted high subsequent performance on all four measurements of academic skill [reading, math, receptive vocabulary, and school readiness] ... The result affirms the conclusion that the relations of television viewed to early academic skills

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depend primarily on the content of the programs viewed.” Wright, Huston, et al.,
The Early Window Project (2001).

The foregoing is by no means an exhaustive, but rather an illustrative, sampling of the available literature and research supportive of BabyFirstTV’s educational-based claims. For you to say that there is no such support is totally unfounded.

Your letter also states that “BabyFirstTV [falsely] claims that television is not harmful to babies.” The no screen time recommendation for children under age two which you advocate – a 1999 recommendation from the American Academy of Pediatrics – has been called into question. “The recommendation by the American Academy of Pediatrics (1999) urging parents to avoid television for children younger than 2 years old may be premature . . . The results reported here suggest that appropriate, curriculum-based educational programs may have beneficial associations with expressive language production and vocabulary. Linebarger and Walker, *Infants’ and Toddlers’ Television Viewing and Language Outcomes* (2005). You may also be aware of an even more recent article published in *Pediatrics* (The Official Journal of the American Academy of Pediatrics), entitled “A Systematic Review for the Effects of Television Viewing by Infants and Preschoolers.” This article determined that “[t]he findings suggest that educational television programs are successful in broadening young children’s knowledge, affecting their racial attitudes, and increasing their imaginativeness.”

While the *Pediatrics* article considers only the content of television programming for infants, BabyFirstTV affirmatively counsels parents about responsible TV viewing habits, including restricting the amount of the child’s television viewing time. BabyFirstTV’s website (with which you admittedly are familiar as it is cited in your letter) includes a Parent’s Guide (“Encouraging a Productive Co-Viewing Experience with Your Baby”). Among other advice, the Parent’s Guide recommends that parents “firmly limit the amount of time you allow your child to watch television” and, further, that parents “share in the child’s TV viewing experience.”

As the foregoing demonstrates, the statements in your letter are false and misleading. BabyFirstTV hereby demands that you immediately: 1) cease and desist from sending copies of your letter (or any other letters making similar false and defamatory statements) to any other third parties, including, but not limited to, cable operators; 2) post on CCFC’s website and send to each of the ten cable operators who received your letter a letter of retraction, along with a copy of this letter; and 3) remove all references to your letter and the accompanying press release from CCFC’s website. If, by 5:00 p.m. (Pacific time) on Friday, May 18, 2007, we do not receive written confirmation from you or your legal counsel that you agree to the foregoing, we have been authorized by BabyFirstTV to initiate legal action against CCFC, you personally, and other members of the steering committee who clearly have authorized your letter and endorsed the statements made therein. In addition to money damages for the harm caused to

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BabyFirstTV's reputation and prospective and existing business relationships, we reserve the right seek injunctive relief as well as punitive damages for this unlawful conduct.

This letter is written without waiver of our client's rights and remedies, at law and/or in equity, all of which are hereby expressly reserved.

Very truly yours,



Sean Riley
of CHRISTENSEN, GLASER, FINK, JACOBS,
WEIL & SHAPIRO, LLP

SR:kgw

cc: Patricia L. Glaser, Esq.
Mr. Guy Oranim
Ms. Sharon Rechter