

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC**

In the Matter of)
)
Phase II Distribution of the 1999,)
2000, 2001, 2002, 2003, 2004, 2005)
2006, 2007, 2008 and 2009)
Satellite Royalty Funds)
)

**Docket No. 2012-7
CRB CD 2000-2009;
2008-5 CRB CD 1999-2000
(Phase II)**

WRITTEN DIRECT STATEMENT OF THE SETTLING DEVOTIONAL CLAIMANTS

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May 9, 2014

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC**

In the Matter of)	
Phase II Distribution of the 1999,)	Docket No. 2012-7
2000, 2001, 2002, 2003, 2004, 2005)	CRB CD 2000-2009;
2006, 2007, 2008 and 2009)	2008-5 CRB CD 1999-2000
Satellite Royalty Funds)	(Phase II)

**WRITTEN DIRECT STATEMENT OF THE SETTLING DEVOTIONAL
CLAIMANTS**

Pursuant to 17 U.S.C. § 803(b)(6), section 37 C.F.R. § 351.4, the rules of the Copyright Royalty Judges (the “Judges” or the “Board”), and the Judges’ September 23, 2013, Notice of Participants, Commencement of Voluntary Negotiation Period, and Case Scheduling Order, the Settling Devotional Claimants (“SDC”)¹ hereby submit their Written Direct Statement in connection with the above-referenced proceeding to determine the Phase II distribution of the 2004 through 2009 satellite royalty funds attributable to syndicated devotional programming.

¹ The term, “Settling Devotional Claimants” or “SDC” as used herein includes the following claimants: Amazing Facts, Inc., American Religious Town Hall, Inc., Catholic Communications Corporation, Christian Television Network, Inc., The Christian Broadcasting Network, Inc., Coral Ridge Ministries Media, Inc., Cottonwood Christian Center, Crenshaw Christian Center, Crystal Cathedral Ministries, Inc., Evangelical Lutheran Church In America, Faith For Today, Inc., Family Worship Center Church, Inc. (D/B/A Jimmy Swaggart Ministries), In Touch Ministries, Inc., It Is Written, John Hagee Ministries, Inc. (aka Global Evangelism Television), Joyce Meyer Ministries, Inc. (FIK/A Life In The Word, Inc.), Kerry Shook Ministries (aka Fellowship of the Woodlands), Lakewood Church (aka Joel Osteen Ministries), Liberty Broadcasting Network, Inc., Messianic Vision, Inc., New Psalmist Baptist Church, Oral Roberts Evangelistic Association, Inc., RBC Ministries, Reginald B. Cherry Ministries, Rhema Bible Church (aka Kenneth Hagin Ministries), Ron Phillips Ministries, Speak The Word Church International, St. Ann's Media, The Potter's House Of Dallas, Inc. (d/b/a T.D. Jakes Ministries), Word of God Fellowship, Inc., d/b/a Daystar Television Network, Billy Graham Evangelistic Association, and Zola Levitt Ministries.

INTRODUCTORY COMMENTS

Since filing its January 3, 2014, Amended Notice of Settlements and Controversies, the SDC has settled with claimants Word of God Fellowship, Inc., d/b/a Daystar Television Network and Billy Graham Evangelistic Association on a confidential basis. Therefore, the only remaining controversy in this proceeding in the Devotional Category is with Independent Producers Group (“IPG”), as putative agent for several devotional claimants. The entitlement of all devotional claimants represented by IPG derives from claims filed by IPG under the names of Worldwide Subsidy Group (“WSG”) and IPG.

During the 1999 Phase II Cable Distribution Proceeding, the SDC has challenged the validity of certain devotional claimants that IPG purports to represent. A Preliminary Hearing to address these challenges took place on May 5 and 6, 2014, and the parties are awaiting a determination from the Judges. Although the SDC does not have a final list of IPG’s purported claimants and programming in this proceeding because IPG recently filed a Motion to File its Third Amended More Specific Statement of Claims, based on the information provided to the SDC in IPG’s previously filed Statements of Claims and the SDC’s challenges in the 1999 proceeding, the SDC anticipate raising challenges to certain IPG claims in this proceeding.

SUMMARY OF THE SDC TESTIMONY

I. Testimony of Direct Witnesses

A. Testimony of Toby Berlin

Toby Berlin, President and Founder of School of Toby, Inc., a media consulting business, has an extensive career providing consulting services in the cable and satellite industries. She previously served as Vice President of Programming Acquisitions at DIRECTV.

Ms. Berlin will discuss significance of program ratings from a business perspective when cable and satellite television companies made programming decisions during the 1999-2009 timeframe. She will also discuss business incentives for targeting religious programming, appealing to Spanish subscribers, and incorporating children's programming.

B. Testimony of Erkan Erdem, Ph.D

Erkan Erdem is a Senior Manager at KPMG LLP in the Economic and Valuation Services practice. Dr. Erdem has a Ph.D. in Economics from the Pennsylvania State University. Prior to joining KPMG, he worked as an antitrust economist for Bates White, LLC and an economist for IMPAQ International, research consulting firms. Dr. Erdem has an impressive background providing expert analyses on economic and statistical matters.

Dr. Erdem will propose and discuss the most appropriate methodologies for measuring the relative market value of a program and the allocation of devotional royalties among the SDC and IPG claimants within a zone of reasonableness.

C. Testimony of John S. Sanders

John S. Sanders is a principal in the firm of Bond & Pecaro, Inc. Prior to joining Bond & Pecaro, Mr. Sanders was Manager, Appraisal Group, with Frazier, Gross & Kadlec, Inc. Mr. Sanders has been involved actively in both fair market valuations and asset appraisals of more than 2,500 television, radio, hardline and wireless cable, radio common carrier, newspaper and related communications businesses. He regularly provides expert testimony in local, state, and federal courts, as well as in arbitration and regulatory proceedings.

Mr. Sanders will provide a summary of the SDC claimants and programs in this proceeding. He will also discuss the appropriate methodology for determining a relative market

value for the SDC and IPG programming and the allocation of shares among the valid royalty claimants (when the valid claimants have been determined).

Respectfully submitted,

Handwritten signature of Clifford M. Harrington in black ink, written in a cursive style.

Clifford M. Harrington (D.C. Bar No. 218107)

Matthew J. MacLean (D.C. Bar No. 479257)

Victoria N. Lynch (D.C. Bar No. 1001445)

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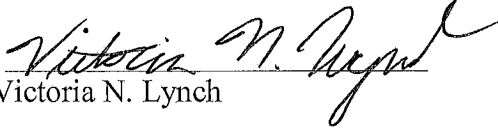
Counsel for Settling Devotional Claimants

May 9, 2014

CERTIFICATE OF SERVICE

I, Victoria N. Lynch, hereby certify that a copy of the foregoing "WRITTEN DIRECT STATEMENT OF THE SETTLING DEVOTIONAL CLAIMANTS" was sent overnight delivery via Federal Express, and sent electronically, this 9th day of May, 2014 to the following:

<p>INDEPENDENT PRODUCERS GROUP Brian D. Boydston Pick & Boydston, LLP 10786 Le Conte Avenue Los Angeles, CA 90024</p>	<p>PROGRAM SUPPLIERS Gregory O. Olaniran Lucy Holmes Plovnick Mitchell Silberberg & Knupp LLP 1818 N Street, NW 8th Floor Washington, DC 20036</p>
<p>JOINT SPORTS CLAIMANTS Robert Alan Garrett Stephen K. Marsh James R. Wood Tara L. Williamson Arnold & Porter LLP 555 Twelfth Street, NW Washington, DC 20004-1206</p>	


Victoria N. Lynch

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of

Phase II Distribution of the 1999, 2000, 2001,
2002, 2003, 2004, 2005, 2006, 2007, 2008
and 2009 Satellite Royalty Funds

Docket Nos. 2012-7 CRB SD 2000-2009;
2008-5 CRB SD 1999-2000 (Phase II)

In the Matter of

Phase II Distribution of the 2004, 2005, 2006,
2007, 2008 and 2009 Cable Royalty Funds

Docket Nos. 2012-6 CRB CD 2004-2009
(Phase II)

Testimony of Toby Berlin

Testimony of Toby Berlin

My name is Toby Berlin and I am testifying on behalf of the Settling Devotional Claimants ("SDC") in these proceedings.¹ I have been requested to provide testimony on the procedures employed by satellite and cable television companies to make programming decisions in the 1999-2009 time frame.

I. Professional Background: Work and Education History

I am the President and Founder of School of Toby, Inc., a media consulting business, which was founded in 2013. I provide consulting expertise in the cable, satellite, multichannel video programming distributor ("MVPD"), over-the-top ("OTT") industries.² My services include high level negotiations, strategic planning, business development, financial and contractual support. I advise media companies on organizational structure, packaging, pricing, cost reduction, revenue growth, subscriber acquisition and retention, contract database, compliance, contract negotiations and strategies and crisis management. My clients include

¹ The Settling Devotional Claimants are comprised of the following entities: Amazing Facts, Inc., American Religious Town Hall, Inc., Catholic Communications Corporation, Christian Television Network, Inc., The Christian Broadcasting Network, Inc., Coral Ridge Ministries Media, Inc., Cottonwood Christian Center, Crenshaw Christian Center, Crystal Cathedral Ministries, Inc., Evangelical Lutheran Church In America, Faith For Today, Inc., Family Worship Center Church, Inc. (D/B/A Jimmy Swaggart Ministries), International Fellowship of Christians & Jews, Inc., In Touch Ministries, Inc., It Is Written, John Hagee Ministries, Inc. (aka Global Evangelism Television), Joyce Meyer Ministries, Inc. (FIK/A Life In The Word, Inc.), Kerry Shook Ministries (aka Fellowship of the Woodlands), Lakewood Church (aka Joel Osteen Ministries), Liberty Broadcasting Network, Inc., Messianic Vision, Inc., New Psalmist Baptist Church, Oral Roberts Evangelistic Association, Inc., RBC Ministries, Reginald B. Cherry Ministries, Rhema Bible Church (aka Kenneth Hagin Ministries), Ron Phillips Ministries, Speak The Word Church International, St. Ann's Media, The Potter's House Of Dallas, Inc. (d/b/a T.D. Jakes Ministries), Word of God Fellowship, Inc., d/b/a Daystar Television Network, Billy Graham Evangelistic Association, and Zola Levitt Ministries.

² MVPD generally refers to cable and satellite television companies. OTT refers to television viewers who bypass traditional over-the air, cable, and satellite-delivered programming by using the Internet.

multiple research firms that educate large institutional investors about the media industry. In addition, I am a consultant to the Sony team that's creating a digital MVPD for the PlayStation.

Prior to starting School of Toby, I was a Vice President of Programming Acquisitions at DIRECTV. I was a member of the executive team that grew the business from 3.5 million subscribers to over 20 million subscribers between 1998 and 2013. I managed sourcing and negotiations for programming acquisitions for the DIRECTV service across numerous categories including all New Networks, Spanish-language and International Programming, Shopping Channels, Adult Programming, Airborne,³ and Music packages. I formerly oversaw Pay-per-View Sports, Events and Retransmission Consents/Must Carry. I graduated from the University of Miami in Coral Gables and hold a law degree from Southwestern University of Law in Los Angeles. My Bio is attached as Exhibit 1.

II. Satellite Television Marketing Strategy

When I started, DIRECTV did not have the ability to carry local broadcast stations. In 1999, the Satellite Home Viewer Improvement Act was passed by Congress and DIRECTV was afforded a statutory right to launch local stations across the U.S. That right has been subsequently extended by Congress through the Satellite Home Viewer Extension and Reauthorization Act in 2004 and by the Satellite Television Extension and Localism Act in 2010. I was the executive in charge of launching all the local stations and had oversight responsibility for those deals through 2007. In total, I launched 143 DMAs (Nielsen's Designated Market Areas) consisting of approximately 2,100 local stations.

When satellite operators like DIRECTV and DISH started operations, they competed against entrenched cable company competitors; therefore, to gain subscribers, it was particularly important for the satellite companies to develop program offerings that would be most attractive to gaining potential subscribers and retaining those who became subscribers. Quite simply, more popular programs, as measured by viewing patterns, were more valuable and those with smaller audiences were less valuable. In this regard, DIRECTV carefully analyzed the ratings of cable program because we wanted to be sure that we offered programs that were competitive with the most popular offerings on cable systems, as measured by Nielsen audience ratings.

³ The Airborne service allowed viewers to watch DIRECTV programming on the following airlines: Continental/United, Jet Blue and Frontier.

In order to compete effectively against cable, one of the successful marketing tactics we deployed was to target “niche” demographics. Among the “niches” were sports, women, religion, foreign language and children. We knew our superior sports products attracted men, and we had a great line-up of networks to attract women (e.g, Food, HGTV, Lifetime, WE, audio music). Each of these networks carried specific programs that achieved strong ratings. We realized early on that religion was a very strong niche and decided to aggregate religious programming to satisfy that niche based upon programs that would likely be the most popular in the context of the socioeconomic characteristics of a particular DMA.

I would add that this approach was no different from the tactic developed by cable operators over the same time period. Both industries, satellite and cable, recognize the importance of niche audiences for content, and plan to deliver such programming packages so that they can attract and retain paying subscribers.

III. Serving DMAs and Channel Selection

I will now describe DIRECTV’s process for commencing service in new DMAs, how stations were selected for carriage and the decision process to determine if we would carry the stations’ signal out of market. Because we had to follow a “carry one, carry all” local stations rule, and because there were business limitations preventing us from launching all DMAs, we had to choose channels carefully to ensure that they carried programming that would be popular and attract subscribers.

A. Local-Into-Local Service

Upon receiving the right to launch local stations, DIRECTV appointed a “local-into-local” marketing team. Among its duties was to choose the DMAs and the order in which they would be launched. For each DMA, the team’s research took into account the number of DIRECTV subscribers, the competition (cable only at that time) and its penetration, the topography (because satellite did better in flat, rural areas), the number of multi-dwelling units and cable’s penetration in those units. At the time, we sold mostly at retail outlets, so we also looked for DMAs with a strong DIRECTV retail presence. Finally, at that time, we did not own many of the companies that did our installation, so we tended to focus on DMAs where we owned the installation companies and customer service call centers.

From a satellite transmission perspective, instead of using a national signal to distribute local stations throughout the entire U.S. (which would have been a waste of bandwidth,) DIRECTV developed a spot beam technology that enabled it to have smaller satellite beams throughout the U.S. This technology allowed DIRECTV to tailor channel and program offerings from DMA to DMA. This became an important reason why DIRECTV carried quite a few stations out of market.

I must emphasize how important it was to obtain the right to carry local channels. The feeling among DIRECTV management was that we would be unable to meaningfully compete against cable if we could not carry local content. At the time, DIRECTV subscribers wanting to see local channels were either using a lifeline cable service⁴ or an over the air antenna. Neither of these options was a good or easy solution for the subscriber, and both placed DIRECTV at a severe marketing disadvantage.

B. Factors Driving Subscribers to DIRECTV

There were several significant factors reasons that drove customers to become DIRECTV subscribers. The first was NFL Sunday Ticket. The second was to ability of West Coast subscribers' to receive East Coast signals. Access to East Coast signals was the first time a West Coast subscriber had the ability to time shift a network. The third involved subscribers that were "unserved" by a local station. These subscribers could elect to receive a "distant network signal" of a broadcast network as an alternative. Access to network channels in unserved areas was a big plus for DIRECTV, as well as other satellite service providers.

When DIRECTV launched in 1994, it was expensive to become a DIRECTV subscriber. It could cost \$1,000 just to set up service. By comparison, cable set up fees were relatively cheap. However, once DIRECTV was authorized to distribute local channels, DIRECTV was able to drop costly installation fees, thereby making the company a formidable competitor to cable. While at the beginning of DIRECTV in 1994, our subscribers tended to be more affluent, once we were able to stop charging for installation and were able to offer local channels, our subscriber base became more diverse and, over time, more closely paralleled cable.

⁴ A "lifeline" cable service is the lowest tier in a cable system's pricing package, and typically consists only of local stations available over-the-air.

The process for launching local channels in a DMA was mandated by the FCC. It began with an affirmative notice to stations in each DMA, at which point a station could either elect “must carry” or “retransmission consent.” “Must carry” means exactly what it says – DIRECTV was obligated to carry that station as long as it delivered a quality signal to our head-end. “Retransmission consent” meant that DIRECTV had to enter into a negotiation to pay that station license fees in order to carry it.

Up until that time, except for people receiving signals via home antennas (i.e. over the air), only cable subscribers could receive local stations. And the cable system operators never paid for carriage. In fact, stations willingly offered their stations’ signals for free so they could have enough “eyeballs” to sell advertising. All of this changed when DIRECTV and Dish decided to launch local channels. Because we had to initiate service in so many markets in a short period of time, it was decided that we would pay a nominal fee to each station for the right to carry their signal. The way stations were paid was an amount per subscriber per month. So, if a station is being paid \$0.25, it means \$0.25 per subscriber per month.

C. Competing with Cable

Once we determined what stations we would carry in each market, we performed another study. Since we were utilizing spot beam technology, the marketing group would perform a study showing the station line-up in each DMA that was launched and covered by the same spot beam satellite against a cable line-up in the same DMA. For example, Los Angeles and San Diego were covered by the same satellite. If there was a station in Los Angeles that we wanted to carry in San Diego, either because cable was carrying it and we wanted to compete, or because cable was not carrying it and we thought it would bolster our line-up and attractiveness to subscribers, we would then carry it and pay out of market royalty fees (compulsory royalty fees). In other words, we wanted our line-up to at least match our cable competitors, or be better than our cable competitor.

D. Importance of Program Ratings

In deciding whether or not to carry that station on an out of market basis, we would look at ratings, just like our cable competitors. Our marketing and business analytics departments would supply a list of stations in a DMA with their Nielsen ratings. If a station had high ratings, and cable had it or we believed it would bolster our line-up because it had high ratings, we would

carry the station out of market and pay copyright royalties. Ratings were the single most significant factor that the business team considered when evaluating new programming acquisition opportunities. The Nielsen ratings and other audience measurement tools play a pivotal role in determining the true value of a signal and its constituent programs. This is consistent with the very simple paradigm that satellite operators value programs that people watch and do not value programs that people do not watch. Based on my years of experience in the subscription television industry, I would say other satellite service providers and cable operators all viewed ratings as principal measure of value within a defined genre of programming.

One reason ratings are crucial is because it is difficult to discontinue a channel after a commitment has been made to include it. Once a decision was made to carry a station out of market, DIRECTV rarely, if ever, pulled it from the DMA, unless that DMA became “served,” or if that network’s station launched in the DMA. The reason we never pulled a station once launched is that every station had some loyal constituency, usually a niche audience. However small it might be, we never wanted to have subscribers retaliate by “churning” off the platform, or discontinuing service. So, it was a common practice of DIRECTV that once a station’s carriage commenced, the signal rarely went dark, or was pulled off the air.⁵

As one of the top Programming Acquisitions executives at DIRECTV and the person in charge of launching the local programming, I was the executive responsible for the local carriage decisions. My goal was to have the most popular programming and to make our subscribers happy so they would stay for a long time. In addition, I wanted a strong line-up to market to potential new subscribers whether they were already cable subscribers or simply using an over-the-air antenna to get their favorite stations.

III. Religious Programming

DIRECTV always understood that religious viewers were an important niche that needed to be courted and secured. In the late 1990s, DIRECTV targeted the devotional programming

⁵ The practice was challenged in 2012, when DIRECTV was forced to pull down all of the Viacom networks in a bitter dispute over programming fees. Consistent with my earlier comments, a fee increase initially demanded by Viacom was not justified by the ratings for its channels and programs. DIRECTV was willing to “go dark” on Viacom programming until the fees were reduced.

audience with several specific pay-per-view program (“PPV”) offerings. At the time, DIRECTV shared a satellite orbital slot with a company called USSB. USSB had exclusive rights to HBO, Showtime and MTV. DIRECTV had everything else. This created a disparity in DIRECTV’s PPV revenues, because USSB was afforded the exclusive rights to all of the PPV boxing matches (solely distributed by HBO and Showtime). Because of this, DIRECTV experimented with alternative PPV products that it might not normally seem a typical PPV show. Prime example of the targeted, niche PPV offering were the Easter and Christmas pageants from the Crystal Cathedral. Crystal Cathedral, whose Hour of Power program has a loyal following, staged extravagant pageants during the most important religious seasons. The programs had respectable “buys,”⁶ which let us know that our subscribers enjoyed this type of programs. The Crystal Cathedral programs were an important bridge to a valuable niche audience that helped DIRECTV grow and sustain growth during a very formative period.

Launching local channels also allowed DIRECTV to distribute a large quantity of religious programming that it did not have access to prior to launching local channels. Carriage of broadcast channels, particularly those that telecast large amounts of religious programming, was met with enthusiasm from our subscriber base. Our positive experience with religious programs also encouraged DIRECTV to produce its own specialty devotional programs, such as church services from the University of Notre Dame⁷ as well as a televised series entitled “Songs of Praise”. The latter show featured well-known performers singing popular religious songs and featured choirs from around the country, including from the Crystal Cathedral, Brooklyn Tabernacle, St. Olaf, and Coral Ridge, among others. One of these specials even garnered over 2 million viewers and strengthened DIRECTV’s position as a proud supporter of family-friendly programming.

⁶ The “buy” rate for a pay-per-view program serves a similar function to Nielsen ratings because it quantifies the popularity of a program.

⁷ I also helped DIRECTV launch a special platform called “Public Interest Obligations” or PIO channels. The FCC mandated that DIRECTV take 4% of its capacity (about 10 channels) for non-commercial channels. Many religious channels applied for the PIO channel spots. I was able to negotiate carriage deals with some of them, thereby continuing to serve our important religious subscriber niche.

IV. Other Niche Areas

A. Spanish Language Subscribers

Another area over which I had oversight was DIRECTV's Spanish language platform, formerly known as Para Todos and now known as DIRECTV Mas. Our satellite competitor had launched a Spanish language platform, and we knew it was very popular. We thought we could improve upon the Spanish line-up and in 2000 we launched our version of a Spanish platform. Unfortunately, our competitor had the largest Mexican network on an exclusive basis, but I was able to "own" the Puerto Rican, Cuban and Dominican markets by virtue of exclusive deals with networks from those countries. According to research, we understood that the Hispanic market was an active consumer of religious programming, particularly religious programming from their home country. To that end, I handled distribution deals for the following Spanish language religious networks: EWTN Red Global Catolica, Enlace Christian TV and Almavision..


B. Children Programming

Another area that I had oversaw was children's programming. As children's viewership habits largely depended on parental involvement, we knew that children's programming was a big driver for new subscribers, as well as a great marketing tool to introduce new programming packages. Some of the more popular children's programming was originated by PBS and Discovery. I also launched some of the "new" entrants to the children's programming market – PBS Kids, Baby First TV (English and Spanish), Vme (a Spanish language network geared towards children), Discovery Familia (Spanish network geared towards families). These eventually became widely distributed by other pay TV operators as well.

DECLARATION OF TOBY BERLIN

I declare under penalty of perjury that the foregoing testimony is true and correct and of my personal knowledge.

Dated: May 9, 2014



Toby Berlin

EXHIBIT 1

Toby Berlin Bio

In her current role, Toby Berlin provides consulting expertise in the Cable/Satellite/MVPD universe including, high level negotiations, strategic planning, business development, financial and contractual support. She also advises on organizational structure, packaging, pricing, cost reduction, revenue growth, subscriber acquisition and retention, contract database, compliance, contractual negotiations and strategies and crisis management. She serves as the Cable/Satellite/Retransmission Consent Advisor for multiple research firms to educate large institutional investors on industry. In addition, Berlin is a consultant to the SONY team that's developing a digital general network distribution product for the Playstation and advises on essential successful media distribution strategies and sales, marketing and operations best practices. She has created the roadmap for news-based cable network for expansion into airlines, hotels, motels and office buildings as well as crafted a successful negotiation strategy for cable networks seeking to extend contractual relationship with distributors.

In her previous role, Berlin was responsible for aspects of programming acquisitions for the DIRECTV service including all networks available on DIRECTV's Spanish-language package DIRECTV en Español, DIRECTV's WorldDirect international programming packages, shopping channels, adult programming, DIRECTV's airborne platforms on Continental, JetBlue and Frontier airlines, as well as the Sonic Tap music channels available on the DIRECTV platform.

As a contract specialist, Berlin contributed millions of dollars to the bottom line from programmers' contractual non-compliance.

After the passing of the Satellite Home Viewer Improvement Act of 1999 (SHVIA), which gave DIRECTV the rights to broadcast local channels across the United States, she led the efforts to bring these channels to homes across the country. Berlin negotiated the local into local rights for DIRECTV, and successfully launched the broadcast of local channels in over 143 DMAs since January 2000.

In 2006, she conceived, developed and directed the execution team for DIRECTV's Titanium package. This upscale service gives VIP subscribers access to every channel and every Pay Per View event and movie broadcast on the DIRECTV service for a single yearly fee, and debuted to a chorus of positive publicity singling out the platform's uniqueness and exclusivity.

Berlin was also the president emeritus and founder of the Women's Leadership Exchange at DIRECTV. This internal group enhanced the experiences of female employees at DIRECTV through monthly seminars with industry executives, networking sessions, Toastmasters club, a mentoring program, a working mothers group, and quarterly newsletters. The WLE currently operates in Los Angeles, Denver and New York.

Berlin is equally adept at handling Sponsorship deals. As founding organizing committee member for DIRECTV's annual Beach Bowl and VIP "After Party" aligned with Super Bowl she negotiated network and product sponsorships, celebrity, athlete and entertainer participation. 2013 performers included Mark Cuban and Justin Timberlake. The event had been held for six years and is televised throughout U.S. and is one of the most anticipated events of the Super Bowl weekend.

Prior to her work at DIRECTV, she served as executive director of The Learning Annex, where she was responsible for the creation of a monthly catalog of over 250 classes featuring top best-selling authors and personalities.

Berlin holds a bachelor's degree from the University of Miami in Coral Gables, Fla. and a law degree from Southwestern University of Law in Los Angeles. Berlin lives with her family in Santa Monica, Calif., where she is active in the community and in 2010, served as a board member for the Santa Monica Pier.

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DIRECT TESTIMONY OF ERKAN ERDEM

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Counsel for Settling Devotional Claimants

May 9, 2014

TESTIMONY OF ERKAN ERDEM, Ph.D.

May 9, 2014

I. Qualifications

I, Erkan Erdem, am a Senior Manager at KPMG LLP (“KPMG”) in the Economic and Valuation Services (EVS) practice. The economists and statisticians of the EVS practice provide expert analyses on economic and statistical matters to a variety of clients.

I received a Bachelor of Science in Mathematics and Bachelor of Arts in Economics from Koç University in Istanbul, Turkey in 2000. I subsequently earned a Ph.D. in Economics from The Pennsylvania State University in 2006. Between 2006 and 2010, I worked as an antitrust economist for Bates White, LLC, an economic consulting firm where I prepared expert reports on mergers and acquisitions, monopolization disputes, market power and concentration issues, and cartels. From 2010 to 2013, I worked as an economist at IMPAQ International, a research and consulting firm. In that role, I led large projects for federal agencies such as the Centers for Medicare & Medicaid Services (CMS). Since joining KPMG in September of 2013, I have been involved in projects for the New York State Department of Health and Maryland Health Services Cost Review Commission (HSCRC). For the last two years, I have been teaching graduate-level econometrics at University of Maryland as an Adjunct Professor in the Masters in Applied Economics program. My research has been published in peer-reviewed economic journals. I have also presented my work and research findings at numerous conferences to a wide range of audiences. I have also testified in a prior proceeding before the Copyright Royalty Board.

My curriculum vitae with detailed information on my publications, project work, and conference presentations is attached as Exhibit 1. This report is based upon information made available to me. I worked with a team of economists and analysts at KPMG who worked under my guidance during the preparation of my report. I reserve the right to supplement this report should additional information be made available in the future.

II. Royalty Allocation Process Overview

The purpose of this proceeding, known as Phase II, is to determine the allocation of satellite royalty funds between two categories of claimants represented by Settling Devotional Claimants (SDC) and Independent Producers Group (IPG) in the Devotional category. The funds that are relevant for this proceeding are collected for satellite retransmissions covering 1999-2009. It is my understanding that all parties agree to the allocation of funds in Phase I, which allocates funds between eight different categories of programming (e.g., Devotional, Sports, Program Suppliers, etc).¹

It is my understanding that per Section 119 of the Copyright Act these royalty payments are made by Satellite Operators (SOs) when they retransmit copyrighted works included in their broadcast television signals outside the program's original, local broadcast area.² This is permitted by Section 119 of the Copyright Act and royalties are deposited semiannually based on the SOs' annual gross revenues from their subscribers in the relevant markets. The owners of the copyrighted works are required to file claims every July to receive a share of the royalties collected in the previous calendar year. Because royalty deposits are not directly tied to individual programs, the Judges of the Copyright Royalty Board are charged with the allocation of and distribution of royalties among the claimants. As I detail in the sections below, the guiding precedent is to measure the "relative market value" of programs to allocate shares of royalties among programs within the "zone of reasonableness."³

III. Materials Considered

I have obtained, reviewed, and used the following documents and data files during the preparation of this testimony:

- Satellite Statement of Accounts for 1999-2009 from Cable Data Corporation.
- Programming data for WGN, both for the local market and the distant market (via satellite), for 1999-2009 from Tribune Media Services.
- Programming data for 1999 from Tribune Media Services.

¹ Phase I Parties' Notice of Settlement and Motion for Further Distribution, In the Matter of the 2004-2009 Cable Royalty Funds.

² Final Determination of Distributions Phase II, In re Distribution of Cable Royalty Funds 2000-2003.

³ *Ibid.*

- Nielsen distant viewing data (estimated hours of viewing) for 1999.⁴
- Nielsen Reports on Devotional Programs for February sweeps of 1999-2003, February, May, July, and November for 2004-2008, and March, May, July, and November for 2009.
- Rebuttal Testimony of Alan G. Whitt, In the Matter of Phase II Distribution of the 2000, 2001, 2002, and 2003 Cable Royalty Funds.
- Amended Testimony of William J. Brown, In the Matter of Phase II Distribution of the 2000, 2001, 2002, and 2003 Cable Royalty Funds
- Written Direct Statement of MPAA-Represented Program Suppliers, In the Matter of Distribution of the 2000, 2001, 2002, and 2003 Cable Royalty Funds.
- Testimony of Jeffrey S. Gray, Amended August 20, 2012, In the Matter of Distribution of the 2000, 2001, 2002, and 2003 Cable Royalty Funds.
- Written Direct Statement of Settling Devotional Claimants, In the Matter of Phase II Distribution of the 1998 and 1999 Cable Royalty Funds.
- Distribution Order, In the Matter of Distribution of the 2000-2003 Cable Royalty Funds.
- Final Determination of Distributions Phase II, In re Distribution of Cable Royalty Funds 2000-2003.
- Final Distribution Order, In the Matter of Distribution of the 2004 and 2005 Cable Royalty Funds.
- List of primary programs represented by SDC for 1999-2009.
- Stipulation of the Parties on the Issues of Program Categorization and Scope of Claims, In the Matter of 1990-1992 Cable Royalty Distribution Proceeding.

IV. Devotional Category and Relevant Programs

The Devotional category is comprised of syndicated programs of a primarily religious theme, not limited to those produced by or for religious institutions.⁵ It is my understanding that the copyrighted works that are included in Phase 2 of the proceeding are represented by

⁴ Described in detail in the Direct Testimony of Marsha E. Kessler, In the Matter of Distribution of the 2000, 2001, 2002, and 2003 Cable Royalty Funds, and the Direct Testimony of Alan Whitt, In the Matter of Phase II Distribution of the 1998 and 1999 Cable Royalty Funds.

⁵ Stipulation of the Parties on the Issues of Program Categorization and Scope of Claims, In the Matter of 1990-1992 Cable Royalty Distribution Proceeding.

SDC and IPG. Exhibit 2 is a list of the primary program titles claimed by SDC that appear prominently in the source material (Nielsen ratings data) that my analysis focused on. As an economist, I have been asked to propose the most appropriate methodology for the allocation of royalties for SDC and IPG claimants as part of the Phase II proceedings with a “zone of reasonableness” as stipulated by prior orders of the CRB, and its predecessor panels, which have been subject to appellate court review. In this testimony, I provide a detailed methodology to help the Judges of this court allocate royalty funds for the devotional category between SDC and IPG claimants. However, the *application* of the methodology to determine the shares for SDC and IPG requires the list of program titles claimed by IPG, which I have not been provided with.

To provide some background information, I reviewed the Nielsen Reports on Devotional Programs, a detailed analysis of viewing statistics of syndicated devotional programs studied for each of the four “sweep periods” during the 1999-2009 period. In each report, the ratings for a substantial number of programs claimed by SDC are measured. I provide the details of this summary analysis in Exhibit 3. Exhibit 3 will be updated once I receive a list of the programs claimed by IPG.

The Nielsen sweep reports are available four times a year for 1999-2009. The reports rank devotional programs that qualify for inclusion in the report for each sweep period. The criteria for Reporting Standards for programs (program reportability) are set forth in each report, and provide as follows:

“A. Program Reportability:

1. Syndicated devotional programs must meet the following requirements in order to qualify for inclusion herein:

- Program must be taped or on film and available for telecast on a market by market basis.*
- Program must have been telecast in at least five NSI markets on reportable commercial TV stations and scheduled at the same time and day in at least two of the four weeks.*

2. Additional Considerations:

- *Programs with both black and white and color versions were combined where the program titles were the same.*
- *Foreign language syndicated programs are not included herein.”⁶*

Similarly, the reports include criteria for station reportability for each sweep period as:

“Reportable stations are those which qualifies for reporting in the corresponding VIP for the market. Reporting standards are shown in Section III of the VIP and in the Local Reference Supplement. In addition:

- 1. A station must have telecast the devotional program once during the four measurement weeks (at least three different days for Monday - Friday programs.) Program reportability (see A-1. above) must be met prior to station inclusion.*
- 2. A station qualifying for a “Mini-Series” must have telecast the syndicated program two or more times during any week of the measurement. The telecasts need not have been scheduled at the same air time.*
- 3. Non-commercial stations are excluded.”*

These reports are a very useful guide to understanding what the viewers of religious programming really “value” (see tables R-7 of above-referenced Nielsen Reports). It should be noted that the number of programs included in the ranking is not constant over time. For example, there are 54 programs listed in the rankings for the February 2004 sweep period, but only 33 programs for the November 2009 sweep period. SDC claimed 7-18 programs between 1999 and 2009. In many of the sweep periods, out of 29 available, at least one SDC claimant was missing from the Nielsen ratings. This is relevant because any allocation based on the Nielsen rankings or ratings will be exclusive of the programs that were not included in the rankings. I discuss this issue further in later sections.

V. The Value of a Program: Relative Market Value

It is clear that the current mechanism that determines how the SOs compensate copyrighted program owners does not represent a “free” market in which buyers and sellers exchange goods at mutually agreeable prices. If the SOs could negotiate these prices with the program owners, the price they pay would be based on the “value” the program generates for

⁶ See, for example, the Nielsen Report on Devotional Programs for February 2004, pages A-B.

the SO. As Dr. Gray discussed in his testimony, this is also known as the “fair market value” of a given program.⁷ This standard has been discussed extensively by the Judges based on the following definition from Dr. Gray: “The price at which the right to transmit a program carried on a distant broadcast signal would change hands between a willing buyer (a SO) and a willing seller (a copyright owner), neither being under any compulsion to buy or sell.”⁸ It is my understanding that the Judges agree that “viewership can be a reasonable and directly measurable metric for calculating relative market value” and that, for Phase II purposes, “viewership is the initial and predominant heuristic that a hypothetical CSO would consider.”⁹ However, it is also my understanding that Judges are “reluctant to rely *solely* on viewership data merely because the marginal bundling adjustments are not readily measurable” in a Phase II proceeding.¹⁰

The SOs sell bundles of channels to their subscribers with the purpose of attracting a wide range of viewers. That is, subscribers cannot pick and choose the channels they are interested in. Instead, they can select from a small list of “bundles” (ranging from “basic” channels to “premium” channels) which come with channels and programs a subscriber is interested in together with those the subscriber has no interest in watching. For this reason, the SOs carry a wide range of TV channels covering program types such as sports, movies, TV shows, religious programs, and many more. Finally, it is worth summarizing the basic relationships between parties that constitute this “market.” TV stations put together (and purchase) menus of programs and other content that would appeal to their audience. Based on the demographic makeup of a given TV station’s audience, third parties (e.g., companies, organizations) purchase commercial time from the TV stations to market their goods and services. Then, considering the appeal of the TV station, SOs enter into agreements with TV stations to carry their signal on their menu of TV stations. Subscribers decide which SO bundles to choose from given the prices and content available to them in their local market. Even though subscribers appear to interact only with the SOs, their decisions (indirectly) depend on

⁷ Testimony of Jeffrey S. Gray, Ph.D., May 30, 2012, In the Matter of Distribution of the 2000, 2001, 2002, and 2003 Cable Royalty Funds.

⁸ Final Determination of Distributions Phase II, In re Distribution of Cable Royalty Funds 2000-2003, at 22-27.

⁹ Final Determination of Distributions Phase II, In re Distribution of Cable Royalty Funds 2000-2003, at 37.

¹⁰ *Ibid.*

actions taken by individual TV stations as well. Subscribers' decisions in return affect how SOs and TV stations act. That is, if a program on a given TV station is very "popular", this program will (1) increase the value (and price) of commercials around the program for the third parties, (2) increase the attractiveness (and price) of the TV station for the SOs, and (3) increase the number of subscriptions for SOs with this TV station in their bundles. On the other hand, the opposite is true for a program that is not "popular." Hence, the relative market value of a program is highly correlated with the demand from the consumers whose decisions affect both SOs and TV stations.

The way the SOs operate may offer a few "candidate" methodologies to determine the relative market value of a program: (1) program volume measured as numbers of programs or hours of programming, (2) number of subscribers, and (3) actual viewing patterns. However, from an economic point of view, the correct methodology for allocating royalties is the one that is based on actual viewing patterns. I discuss in more detail below why actual viewership rather than hours of programming or number of distant subscribers is a more reliable method of allocating royalties.

Volume is not a reliable methodology to measure relative market value

The other methods may provide insights in this matter, but are not what determines the relative market value of a program. A methodology based on volume is not a reliable method because viewers and SOs may value a 30-minute program more than they value a 90-minute program.¹¹ This "utility" or satisfaction one receives from a choice made, such as watching a program is not necessarily determined by the length of the program. Given that the "quality" of the content and the time slot when a show is broadcast (e.g., prime time vs. 3:00 AM in the morning) are significant drivers of "demand", and that the demand for a program will certainly be a determinant of the relative market value of the program, a determination of relative market value cannot be based on total hours or total number of programs.

¹¹ This is also discussed by Dr. Gray in his testimony (amended August 20, 2012) In the Matter of Distribution of the 2000, 2001, 2002, and 2003 Cable Royalty Funds.

Number of subscribers is not a reliable methodology to measure relative market value

The methodology based on the number of subscribers is not a reliable method, either. As argued in prior proceedings, SOs are profit maximizing entities that construct bundles (or packages) of channels to attract and retain subscribers. Accordingly, the revenues of an SO can be attributed to different types of programming that drive subscriptions to the bundle. This is consistent with the Bortz Surveys conducted to measure the relative market value of different types of programming from a SO's perspective.¹² Hence, the Bortz Surveys are relevant for Phase I of the proceedings which determine the shares of the eight types of programming. However, Phase II of the proceedings deals with different programs that belong to the same category (e.g., Devotional) which are similar (or homogeneous). Because the effect of one religious program over another on the decision to subscribe is minimal and does not exert significant influence on the total number of subscribers, a method of allocating royalties amongst the devotional programs based on subscribers is not a reasonable allocation method.

To demonstrate why the method of using total subscribers is not reliable using a simple example, assume in a hypothetical world that all claimants in the Devotional category are broadcast on the same channel provided nationally by all SOs.¹³ Because all programs are made available to the same (number of) subscribers, a methodology based on number of subscribers would not be able to offer meaningful percentages to allocate royalties among the programs. The only option based on number of subscribers would be to equally distribute the royalties among the programs which would completely ignore how viewers "value" each show. In other words, the methodology would not be based on the notion of "relative market value" at all.

Cable Data Corporation (CDC) collects and analyzes information on Statements of Accounts (SOAs) that satellite providers file with the Licensing Division of the Copyright Office.¹⁴ The reports from the CDC provide the number of satellite subscribers together with total

¹² This can be explained using the following two hypothetical surveys. The first survey asks every subscriber the most important type of programming he/she would like to have in the bundle. The second survey asks every subscriber to provide percentages for each type of programming he/she would like to have in the bundle. The results from both surveys can be used to calculate shares for each category of programming.

¹³ It does not matter in how many markets the channel is retransmitted.

¹⁴ I obtained and reviewed these reports covering 1999-2009 for satellite transmissions.

royalty fees generated for each channel. Based on the same arguments above, the methodology based on subscribers would not be a reliable allocation methodology, either.

There are additional reasons why a subscription-based methodology is not reliable. First, subscription is simply offering a list of channels to the potential viewers, and subscribers pay a price to have *access* to these channels over a certain period of time. In practice, each subscriber is interested in watching a small share of the available channels and programs even though he/she pays the price set for the “bundle.” As an example, consider a community where grocery store A sells brand X coffee and grocery store B sells brand Y coffee. Coffee brands X and Y sell for the same price. Assume now that grocery store A has thousands of customers per month attracted to grocery store A’s selection of European cheeses, 10 of whom also purchase brand X coffee. Store B, on the other hand, has only a few hundred customers per month all of whom purchase Brand Y coffee. A claim that brand X has a higher relative market value based on the number of customers who patronize store A would clearly miss the mark in this situation. Brand Y coffee clearly has higher “relative market value” - both for the consumers and the grocery store - than brand X coffee given that it is the preferred brand (with higher demand and sales) in this community. The determination of “relative market value” does not depend on how many customers walk through the doors of (or have access to) the grocery store.

To illustrate further, consider a channel with a copyrighted program, Program Z, which is retransmitted via satellite. Assume that Program Z, broadcast on a particular day and time, has thousands of viewers. Now, consider replacing Program Z with another copyrighted program, Program W, while keeping all other programs on the channel unchanged. Assume that there are no subscribers who watch Program W. The theory suggests that Program Z has higher “relative market value” than Program W because (1) higher demand for commercials around Program Z will increase revenues for the channel,¹⁵ (2) it will increase negotiating power of the channel with the SOs as well as how much the SOs pay the channel to carry the signal, (3) the

¹⁵ It is plausible that organizations that consider paying the channel for such commercials also are profit-maximizing entities, and that their rationale for purchasing commercial time is related to the actual or expected viewership of the program.

SOs will have no incentive to carry a signal with Program W which no subscriber chooses to watch.

Actual viewing patterns provide a reliable methodology to measure relative market value

What matters in determining the value of particular programs in Phase II is the actual viewing patterns of the subscribers. The concept of relative market value of a copyrighted program retransmitted on satellite is no different from the relative market value of a program in the local market. What matters from the channel's and SO's point of view is the "demand" for the program which is best measured by viewership. If the viewers do not "value" a particular show, one would expect that show not to survive when profit-maximizing firms are involved. We commonly hear about TV shows that are cancelled after a few episodes because the "ratings" were very low.

Nielsen is a well-known organization that conducts national research and publishes information on program ratings. This information, which is reliable and relevant to determine the relative market value of programs, is frequently used by profit-maximizing sellers and purchasers of advertisement time. The viewing pattern of households is clearly the most important factor driving the decisions in the television industry. The Nielsen Diary data is collected during one-week periods over four "sweep" months every year (February, May, July, and November). During these months, Nielsen mails seven-day diaries to homes to measure what was watched on each TV set and these data are then aggregated into Nielsen's database.¹⁶ It is my understanding that the viewership data from Nielsen has been used in previous proceedings and deemed the most important factor in determining the allocation of royalties in Phase II. As I argue above, this is consistent with the notion of relative market value in economic theory.

VI. Analysis of WGN data

WGN America (WGNA) is a cable and satellite channel which is the distant signal of WGN in Chicago, Illinois. WGNA is widely available in many markets and in millions of

¹⁶ Direct Testimony of Paul B. Lindstrom, In the Matter of Distribution of the 2000, 2001, 2002, 2003 Cable Royalty Funds.

households in the US, and is known as a superstation. From an economic point of view, WGN/WGNA is an “outlier” (an observation or record that is very different from the other observations) which requires detailed investigation and analysis. Exhibit 4 shows the 10 channels with the largest number of subscribers in each year between 1999 and 2009 calculated from CDC satellite SOAs. In 2004, for example, WGN had 34,834,012 subscribers in the US. The channel with the second largest number of distant subscribers was WNYW with 1,708,069 (about 5 percent of WGN subscribers).

It is my understanding that a program is compensable by the SOs only when it is broadcast at the same time in the distant market as the local market. Also, SOs must retransmit a station’s signal in its entirety (including advertisements) without alteration for the program to be compensable.¹⁷ To investigate how often the religious programming on WGNA is the same as WGN, I analyze the programming data for WGN and WGNA over the period 1999-2009. Specifically, I compare the program title - at any given day and time – on WGNA and WGN, and count the number of times program titles from WGNA and WGN match. Then, using the number of times the program titles match as the numerator and the total number of programs on WGNA as the denominator in every year, I calculate the percentage of times WGN and WGNA broadcast the same (religious) program at the same time and day. During the 1999-2009 time frame, I find that only a small share of the religious programming on WGNA was also broadcast on WGN at the same time. Exhibit 5 shows that the percentage of times WGNA and WGN broadcast the same religious program at the same time and day is between 3.95 percent (in 2009) and 15.81 percent (in 2000) during the 1999-2009 time frame. Hence, the majority of the religious programming on WGNA was not compensable.

VII. Royalty Allocation for the Devotional Category

The average ratings provided in the Nielsen Reports on Devotional Programming (also known as Nielsen Diary Data) constitute the primary data source to allocate royalties. These tables, known as Households and Persons Ranking Tables (R-7), provide a ranking of devotional

¹⁷ Final Determination of Distributions Phase II, In re Distribution of Cable Royalty Funds 2000-2003, Footnote 29.

programming sorted by average rating defined as the percentage of households that viewed the program during the sweep periods, on average.¹⁸

These ratings are reliable measures for determining relative market value, but they are not specifically calculated for programs retransmitted by satellite. However, unless a program is appealing predominantly to local tastes and culture (e.g., local church), there is no reason to believe that ratings in the local market are significantly different from ratings in the distant markets, on average. In the absence of any satellite ratings data and given that Nielsen ratings include households with both cable and satellite service, Nielsen ratings can be used as a reasonable proxy for satellite ratings. In addition, I have no reason to believe that the viewing preferences of satellite subscribers differ systematically from cable subscribers. To provide statistical evidence for the relationship between distant viewership and local ratings, I merge the following data sources: (i) 1999 Nielsen distant viewership data for the 6 sweep months (known as household viewing hours (HHVH) data), (ii) 1999 Nielsen rating table (R-7) for ranked programs, and (iii) 1999 CDC Statement of Accounts with subscription information. To create a measure of “distant ratings”, I divide the average number of households tuned in for the program in 1999 by the number of distant subscribers for the channels that broadcast the program. This estimate provides a comparable measure to the local ratings in the Nielsen Diary data for the distant markets.¹⁹

Exhibit 6 provides a scatterplot of the derived “distant rating” measure and the local rating for the programs claimed by IPG and SDC in 1999 cable proceedings. The correlation coefficient between the two variables is 0.9 and is statistically significant, which indicates a strong positive relationship between local ratings and distant viewership calculated as a percentage of distant subscribers. A regression analysis of local ratings on distant ratings also provides a positive and statistically significant coefficient as well as a very high R-squared (0.77). These findings allow me to use the local ratings as a measure of satellite transmission ratings in the royalty allocation methodology below.

¹⁸ The numerator is the number of households tuned in to the channel with the specific program and the denominator is the number of households with access to the channel with the specific program (i.e., coverage).

¹⁹ Note that this measure is not necessarily the equivalent of Nielsen local rating for the distant markets, but a comparable (i.e., on the *same scale*) measure that divides viewership data by the population size.

There are two other issues with the Nielsen ratings which require further analyses. First, there are a few shows that are included in the rankings, but whose ratings are too small to report (i.e., missing). These shows, which have average ratings of less than 0.1 percent, have a rating of “LT.” Second, as discussed above and in Exhibit 2, not all devotional programs are included in the Nielsen rankings due to the program and station reportability standards set by Nielsen or because they were not ranked due to low ratings. The steps of the methodology, which incorporate the above-mentioned two issues, are as follows:

Step 1: To impute the missing rating information (those with “LT”) for a few shows claimed by SDC and IPG, calculate the ratings information using the values provided in the “Market Audience Estimates for Devotional Programs” section of the Nielsen reports.²⁰ This allows me to improve the coverage of my allocation estimates.

Step 2: Using the programs listed on Nielsen reports, calculate the total ratings for SDC and IPG programs in each year as:

$$Total_Rtg_t^k = \sum_{i=1}^{N_t^k} AR_{it}^k \quad k = SDC, IPG \text{ and } t = 1999 - 2009 \quad (1)$$

where AR_{it}^k is the average rating of program i in year t and claimant k (SDC or IPG) and N_t^k is the number of programs in year t and claimant k . The total rating measure above captures the percentage of U.S. households tuned in to any of the programs claimed by SDC and IPG in a given year.

Step 3: Adjust the total rating measure from equation (1) to account for claimed program titles (for both SDC and IPG) that are not included in Nielsen ratings. With additional information and assumptions, equation (1) can be replaced by:

$$Total_Rtg_t^k = N_t^k * Ave_Rtg_t^k + Adjustment_t^k \quad k = SDC, IPG \text{ and } t = 1999 - 2009 \quad (2)$$

²⁰ The total numbers of households that view the program on each channel are available in column 13 of these reports. The total number of households that view the program divided by the number of total households in the Nielsen sweeps (i.e., projected coverage in the market area) would produce the average rating.

where $Adjustment_t^k$ broadly represents the total ratings for program titles that are not observed in the Nielsen reports for year t and claimant k . This step is necessary to account for all claimed programs in the royalty allocation methodology. It is logical to assume that the share of royalties for a given party (SDC or IPG) should increase with the number of claimed programs. Even though the programs that are not available in the Nielsen reports (i.e., programs that are excluded due to reportability standards or low ratings) are expected to have low ratings, the royalty allocation shares can be improved with additional information.

Step 4: To incorporate the number of subscribers into the calculations, estimate the number of viewers by multiplying the total ratings by the number of subscribers for channels the relevant SDC and IPG programs are broadcast on:

$$Viewer_t^k = Subscriber_t^k * Tot_Rtg_t^k \quad k = SDC, IPG \text{ and } t = 1999 - 2009 \quad (3)$$

Step 5: Using the estimate of distant viewers, calculate the share of royalties, for example, for SDC by:

$$Share_t^{SDC} = \frac{Viewer_t^{SDC}}{Viewer_t^{SDC} + Viewer_t^{IPG}} \quad t = 1999 - 2009 \quad (4)$$

Based on my analysis of WGN and WGNA programming detailed above, I adjust the royalty allocation methodology. The main reason is that only a small percentage of religious programming on WGNA is compensable. This issue with WGN was previously noted by the judges of this court in Phase 1 proceedings:²¹

“WGN-A was the most widely carried distant signal by cable systems during 2004 and 2005, SP PFF at ¶343, and a full 90% of the devotional programming contained on the WGN-A signal was non-compensable under the section 111 license.”²²

The Final Distribution Order, after summarizing experts’ testimonies on the need for a downward adjustment to Devotional Claimants, also states:

²¹ Final Distribution Order, In the Matter of Distribution of the 2004 and 2005 Cable Royalty Funds, page 16.

²² *Ibid.*, page 43.

"The Judges determine that, given the widespread carriage of WGN-A among the cable systems measured by Bortz, and the predominant volume of non-compensable devotional programming contained on that signal, the Bortz results likely significantly overstate the relative value of devotional programming during the 2004-2005 period."²³

Based on these analyses and observations, the number of distant subscribers (in Step 5 of the share allocation methodology outlined above) for WGN should be adjusted by applying the percentage of compensable programming on WGNA (Exhibit 5) for each year to the number of distant subscribers of WGN (ranging from 3.95 percent in 2009 to 15.81 percent in 2000). That is, the number of distant subscribers for WGN should be scaled down by the percentage of compensable religious programming on WGNA.

After receiving the list of program titles from IPG, I will implement the methodology outlined above and present the shares for SDC and IPG for the 2004-2009 satellite royalty allocations. Thank you for the opportunity to present the methodology in this testimony. I hope it will be useful in the proceedings.

²³ *Ibid.*, page 43-44.

VIII. Declaration of Erkan Erdem

I declare under penalty of perjury that the foregoing testimony is true and correct, and of my personal knowledge.

Executed on May 9, 2014



Erkan Erdem

Exhibit 1. Curriculum Vitae



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Function and Specialization

Dr. Erkan Erdem is a Senior Manager in KPMG's Economic and Valuation Services (EVS) practice. Dr. Erdem has eight years of research and consulting experience. He provides economic services to KPMG's clients and teaches econometrics at University of Maryland's Masters in Applied Economics program.

Representative Clients

- Maryland Health Services Cost Review Commission (HSCRC)
- New York State Department of Health
- CMS, CMMI
- Administration on Aging

Professional Associations

AEA, APHA, ASA, and AcademyHealth

Languages

English, Turkish

Education, Licenses & Certifications

- PhD in economics from The Pennsylvania State University
- BS in mathematics and BA in economics from Koç University, Istanbul

Programming Skills

- Matlab, STATA, Gauss, SAS, and C
- Tableau

Background

Dr. Erdem is an expert in program evaluation, policy analysis, statistical modeling, econometrics, and data analytics. He has extensive experience with Medicare payment systems and health care claims data. He teaches graduate-level econometrics at University of Maryland as an Adjunct Professor. Prior to joining KPMG, Dr. Erdem was a Senior Research Associate at IMPAQ International, where he led federal government projects. Prior to IMPAQ, he worked as an Economist at Bates White where he prepared expert reports on mergers and acquisitions, monopolization disputes, market power and concentration issues, and cartels. He has worked closely with clients including leading law firms, Fortune 500 companies, and government agencies on a number of projects.

Testifying Experience

- In the Matter of Phase II Distribution of the 1998 and 1999 Cable Royalty Funds, Docket No. 2008-1 CRB CD 1998-1999 (Phase II) (Copyright Royalty Board).

Professional and Industry Experience

- Population-based analysis of healthcare utilization using Medicaid and all-payer claims databases for New York State Department of Health. Analyzed cost and quality of care measures at the provider- and county-level to assess the needs of the population in a "value" based approach.
- Led the technical efforts in the Comparative Effectiveness Research (CER) Public Use Data Pilot Project for the Centers for Medicaid & Medicare Services (CMS) to create de-identified Public Use files (PUFs) using Medicare claims data. Led a team of economists and statisticians to generate samples of Medicare beneficiaries, link and process enrollment and claims data sets, and apply various statistical disclosure limitation techniques to prepare analytic files that meet HIPAA standards.
- Led the design of the methodology for the calculation of baseline and benchmark Medicare Fee-for-Service (FFS) expenditures in the Comprehensive End-Stage Renal Disease (ESRD) Care (CEC) Initiative for the Center for Medicare & Medicaid Innovation (CMMI). Reviewed and synthesized payment models in the Medicare Shared Savings Program (SSP) and Pioneer Accountable Care Organization (ACO) Model as part of the task.
- Conducted monitoring and evaluation of the Bundled Payments for Care Improvement Initiative (BPCI) for CMMI with a focus on services provided around the acute care hospital stay (i.e., episode of care). Statistically identified diagnoses with a potential to generate savings and designed various cost and utilization measures to assess the performance of the

initiative compared to appropriate benchmarks.

- Conducted a rapid-cycle evaluation of the Community-based Care Transitions Project (CCTP) for CMS to assess the impact of the program on continuity of care and outcomes, including readmissions, emergency visits, medication errors, costs, and patient satisfaction.
- Led the project for a simulation-based cost-benefit analysis of school-based influenza vaccination programs for a private biopharmaceutical company.
- Conducted the process evaluation of the Chronic Disease Self-Management Program (CDSMP) for the Administration on Aging (AoA) and analyzing the determinants of completion rates using participant-level data.
- Evaluated the performance of over 1,000 hospitals in the U.S. in the National Content Developer Project for CMS. The data elements cover patient safety culture, measurement of health care processes and outcomes, infection control, procedures, medications, nursing practices, communication.
- Investigated the response rates in the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey using a predictive regression model and reported the findings to CMS with recommendations for future surveys.
- Provided analyses for the liability and the damages experts for AMD Inc. in the exclusionary conduct litigation of Intel Corp. (AMD Inc. vs. Intel Corporation).
- Estimated damages to
 - Novell, Inc. in the Microsoft monopolization litigation (In re Microsoft Corp. Antitrust Litigation).
 - Purchasers in the price-fixing litigation of global rubber chemicals manufacturers (In re Rubber Chemicals Antitrust Litigation).
 - Purchasers of hypodermic products in a foreclosure litigation involving a major medical supplies company.
- Analyzed the competitive effects of a merger in the
 - Oil refining industry in the U.S.
 - Liquor distribution industry in the U.S.
- Developed a methodology and a simulation model to estimate damages in Section II (i.e., monopolization) cases.
- Provided economic analyses related to the calculation of water price in an international arbitration case.
- Analyzed market power of Shell Trading Gas & Power Company in proceedings before the Federal Energy Regulatory Commission (FERC).
- Conducted a review of the econometric modeling in the Enron bankruptcy litigation.

Publications and Research Papers

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- Erdem, E. and Sergio Prada. "Creation of Public Use Files: Lessons Learned from the Comparative Effectiveness Research Public Use Files Data Pilot Project." Joint Statistical Meeting Proceedings, Government Statistics Section. Alexandria, VA: American Statistical Association, pp. 4095-4109,

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- Erdem, E. and James Tybout. "Trade Policy and Industrial Sector Responses: Using Evolutionary Models to Interpret the Evidence." *Brookings Trade Forum 2003*, pp. 1-43.
- Erdem, E. "An Empirical Model of Investment Behavior in Dynamic Oligopolies." Working Paper, 2005.
- Erdem, E. "Strategic Investment and Endogenous Entry." Working Paper, 2003.

Conference Presentations

- Erdem, E. "From Participant to Completer: Understanding Completion Rates among Older Adults in the Chronic Disease Self- management Program." American Public Health Association Annual Meeting, Boston, MA, November 2013.
- Erdem, E., Singh, A., and Borton, J. "Aggregate Level Public Use Files with High Data Confidentiality and Analytic Utility for Descriptive Analyses from Medicare Claims Data." Joint Statistical Meetings, Montreal, QC, August 2013.
- Erdem, E. "Medicare Public Use Files for Research, Training, and Innovation." Panel Chair. AcademyHealth 2013 Annual Research Meeting, Baltimore, MD, June 2013.
- Erdem, E. "Chronic Conditions and U.S. Health Care." American Public Health Association Annual Meeting, San Francisco, CA, October 2012.
- Erdem, E. "Getting the DIRT [Data for Innovation, Research, and Transparency] on Medicare and Medicaid Public Use Files." AcademyHealth 2012 Annual Research Meeting, Orlando, FL, June 2012.
- Erdem, E. "An Introduction to Medicare Claims Public Use Files (PUFs)." AcademyHealth Methods Webinar Series, July 26 and August 9, 2011.
- Erdem, E. "Creation of Public Use Files: Lessons Learned from the Comparative Effectiveness Research Public Use Files Data Pilot Project."
 - American Evaluation Association Meeting, Anaheim, CA, November 2011.
 - Joint Statistical Meetings, Miami Beach, FL, August 2011.
- Erdem, E. "CMS Public Use Files for Comparative Effectiveness Research", AcademyHealth Annual Research Meeting Innovation Center, Seattle, WA, June 2011.
- Erdem, E. "New CMS Data Sets: CMS 2008 BSA Inpatient Claims PUF." Health 2.0 Developer Challenge Code-a-thon, Washington, DC, February 2011.

Exhibit 2. SDC Program Titles by Year

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
SDC											
In Touch 60	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y
Hour of Power / Robert Schuller	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
In Touch 30	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y
Dr. D. James Kennedy	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
700 Club	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Oral Roberts	Y	Y	Y								
Jimmy Swaggart				Y				Y	Y	Y	Y
Life in the Word		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Day of Discovery		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Life in the Word Daily		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
It Is Written		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
American Religious Town Hall		Y	Y	Y	Y		Y	Y	Y	Y	Y
Ever Increasing Faith		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
John Hagee - Cornerstone Hour		Y	Y	Y	Y		Y	Y	Y	Y	Y
John Hagee Today		Y	Y	Y	Y		Y	Y	Y	Y	Y
Joel Osteen									Y	Y	Y
Lakewood Church									Y	Y	Y
Potters House - TD Jakes									Y	Y	Y
Davey and Goliath		Y	Y	Y	Y				Y	Y	Y
SDC total programs	6	15	15	15	14	10	13	14	18	16	18

Exhibit 3. SDC Program Titles in Nielsen Reports

Year	Month	SDC				
		Programs Claimed	Programs Available in Nielsen Reports	% of Programs Available in Nielsen Reports	Average Nielsen Ranking	Average Nielsen Rating
1999	FEB	6	6	100%	15.2	0.62
2000	FEB	15	14	93%	17.9	0.48
2001	FEB	15	14	93%	17.7	0.41
2002	FEB	15	13	87%	15.0	0.44
2003	FEB	14	13	93%	16.8	0.41
2004	FEB	10	9	90%	16.7	0.38
	MAY	10	9	90%	14.1	0.34
	JULY	10	9	90%	12.7	0.37
	NOV	10	8	80%	15.8	0.36
2005	FEB	13	11	85%	16.9	0.34
	MAY	13	11	85%	14.8	0.35
	JULY	13	11	85%	15.3	0.31
	NOV	13	11	85%	19.6	0.33
2006	FEB	14	11	79%	17.8	0.37
	MAY	14	11	79%	14.3	0.38
	JULY	14	11	79%	13.2	0.36
	NOV	14	10	71%	15.2	0.38
2007	FEB	18	13	72%	16.2	0.46
	MAY	18	13	72%	16.4	0.41
	JULY	18	12	67%	11.8	0.42
	NOV	18	11	61%	11.6	0.45
2008	FEB	16	10	63%	11.8	0.45
	MAY	16	13	81%	14.4	0.44
	JULY	16	10	63%	11.5	0.37
	NOV	16	8	50%	10.6	0.44
2009	MAR	18	10	56%	11.2	0.36
	MAY	18	10	56%	11.5	0.37
	JULY	18	11	61%	10.9	0.28
	NOV	18	11	61%	11.6	0.33

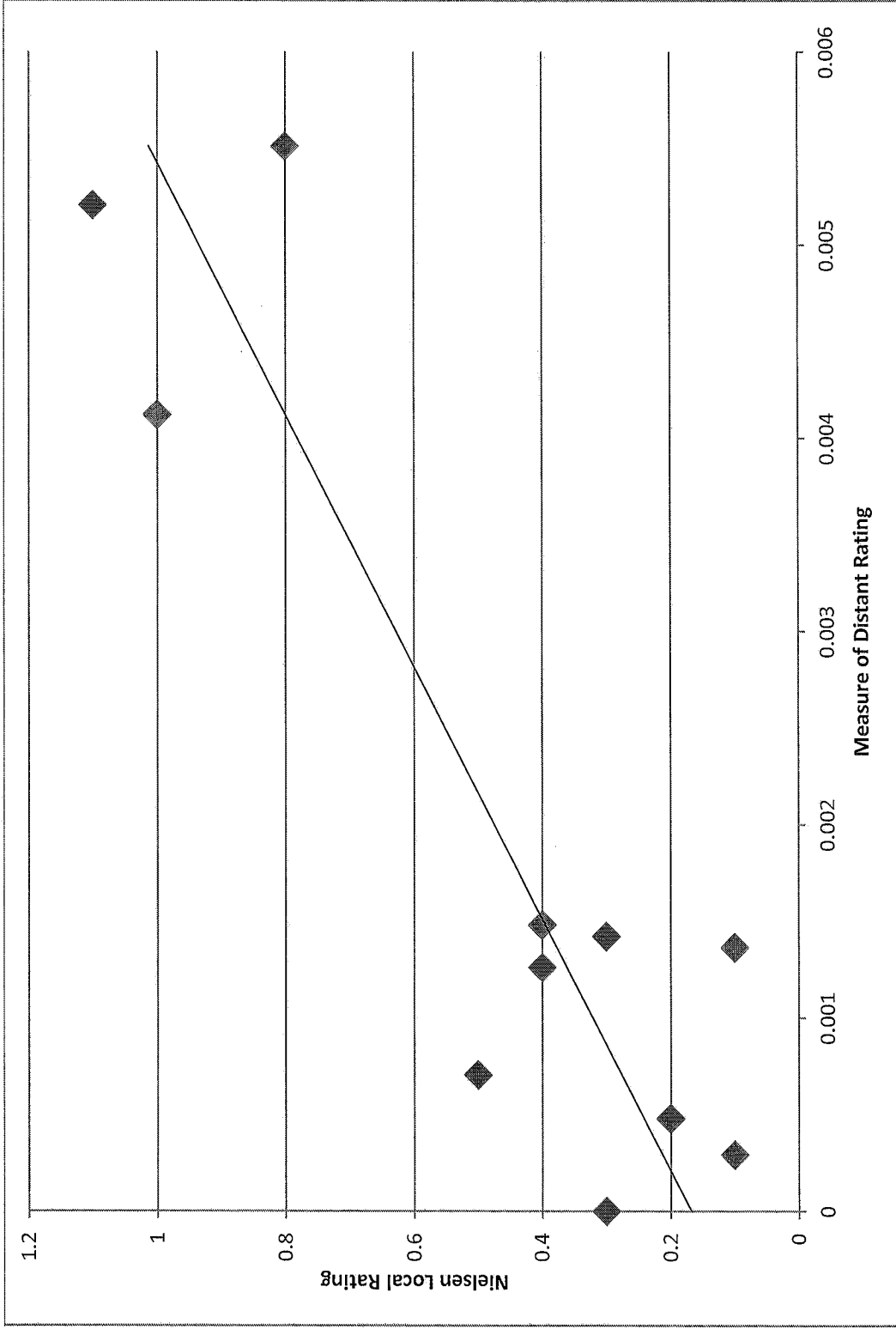
Exhibit 4. Top 10 Channels by Number of Satellite Subscribers

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Subscribers	8,312,122	9,981,866	12,036,060	13,897,465	15,426,767	34,834,012	19,808,538	20,438,109	21,231,305	21,346,452	21,576,641
Channel	[WGN]	[WGN]	[WGN]	[WGN]	[WGN]	[WGN]	[WGN]	[WGN]	[WGN]	[WGN]	[WGN]
Subscribers	1,836,999	3,501,623	4,656,541	2,195,833	1,957,830	1,708,069	1,413,052	1,093,181	1,563,168	1,595,566	1,729,147
Channel	[KABC]	[PBSF]	[PBSF]	[WNYW]	[WNYW]	[WNYW]	[WNYW]	[WNYW]	[WPIX]	[WPIX]	[WPIX]
Subscribers	1,830,906	1,999,234	2,227,775	1,945,437	1,699,864	1,469,176	1,216,719	922,380	765,408	701,522	597,096
Channel	[WNBC]	[WNBC]	[WNYW]	[WNBC]	[WABC]	[WABC]	[WABC]	[WABC]	[WNYW]	[WNYW]	[WNYW]
Subscribers	1,384,311	1,983,852	2,076,052	1,926,029	1,683,084	1,442,376	1,171,188	906,042	641,745	589,198	505,915
Channel	[WABC]	[WNYW]	[WNBC]	[WABC]	[WNBC]	[WNBC]	[WNBC]	[KTTV]	[KTTV]	[WABC]	[KTLA]
Subscribers	1,319,591	1,869,575	2,011,913	1,831,223	1,629,881	1,403,828	1,150,502	884,166	639,077	579,481	504,988
Channel	[KNBC]	[WABC]	[WABC]	[WCBS]	[KTTV]	[KTTV]	[WCBS]	[WNBC]	[WABC]	[KTTV]	[WCBS]
Subscribers	1,233,297	1,767,157	1,913,200	1,788,636	1,603,820	1,399,519	1,131,733	874,878	627,150	578,626	504,488
Channel	[WCBS]	[WCBS]	[WCBS]	[KTTV]	[WCBS]	[WCBS]	[KTTV]	[WCBS]	[WNBC]	[WNBC]	[WNBC]
Subscribers	1,203,075	1,653,862	1,801,082	1,485,073	1,336,369	1,389,653	884,525	745,520	620,273	577,470	504,185
Channel	[WNYW]	[KTTV]	[KTTV]	[KABC]	[KABC]	[WPIX]	[KABC]	[KABC]	[WCBS]	[WCBS]	[WABC]
Subscribers	1,011,839	1,638,535	1,557,440	1,450,005	1,284,712	1,175,717	848,869	715,456	565,576	527,225	490,923
Channel	[KTLA]	[KABC]	[KABC]	[KNBC]	[KNBC]	[KTLA]	[KCBS]	[KCBS]	[KABC]	[KTLA]	[KTTV]
Subscribers	967,077	1,436,483	1,554,040	1,419,650	1,263,718	1,130,515	848,251	711,069	557,645	511,099	433,884
Channel	[KCBS]	[KNBC]	[KNBC]	[KCBS]	[KCBS]	[KWGN]	[KNBC]	[KNBC]	[KTLA]	[KABC]	[KABC]
Subscribers	842,874	1,382,769	1,496,655	956,504	788,926	1,125,579	638,593	474,483	556,054	500,722	428,651
Channel	[WPIX]	[KCBS]	[KCBS]	[WPIX]	[WPIX]	[KABC]	[WSFL]	[WPIX]	[KCBS]	[KCBS]	[KCBS]

Exhibit 5. Compensable Religious Programming on WGNA

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Number of Programs on WGNA	1,057	974	925	1,075	954	1,041	1,061	1,032	1,113	1,265	1,265
Number of Programs on WGN	156	154	120	106	105	104	104	133	117	74	50
Percentage of Compensable Programming	14.76%	15.81%	12.97%	9.86%	11.01%	9.99%	9.80%	12.89%	10.51%	5.85%	3.95%

Exhibit 6. Correlation between Local and Distant Ratings



Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC

In the Matter of)
)
)

Phase II Distribution of the 1999,)
2000, 2001, 2002, 2003, 2004,)
2005, 2006, 2007, 2008 and 2009)
Satellite Royalty Funds)

Docket No. 2012-7
CRB CD 2000-2009;
2008-5 CRB SD 1999-2000
(Phase II)

Testimony of John S. Sanders

Testimony of John S. Sanders

My name is John S. Sanders and I am testifying on behalf of the Settling Devotional Claimants ("SDC") in this proceeding.¹ I have been requested to make a fair determination of the *relative fair market values* of particular devotional television programs claimed by the parties in the 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 and 2009 Phase II Satellite Royalty Distribution Proceeding. For the purposes of this analysis, "fair market value" is defined as the price in cash or cash equivalents between a willing buyer and a willing seller, both being fully informed and neither being under compulsion. Relative fair market value is a similar concept, but is expressed as a percentage rather than a dollar amount. The purpose of this analysis is to divide reasonably the royalty pool between SDC and Independent Producers Group ("IPG").²

¹ The Settling Devotional Claimants are comprised of the following entities: Amazing Facts, Inc., American Religious Town Hall, Inc., Catholic Communications Corporation, Christian Television Network, Inc., The Christian Broadcasting Network, Inc., Coral Ridge Ministries Media, Inc., Cottonwood Christian Center, Crenshaw Christian Center, Crystal Cathedral Ministries, Inc., Evangelical Lutheran Church In America, Faith For Today, Inc., Family Worship Center Church, Inc. (D/B/A Jimmy Swaggart Ministries), In Touch Ministries, Inc., It Is Written, John Hagee Ministries, Inc. (aka Global Evangelism Television), Joyce Meyer Ministries, Inc. (FIK/A Life In The Word, Inc.), Kerry Shook Ministries (aka Fellowship of the Woodlands), Lakewood Church (aka Joel Osteen Ministries), Liberty Broadcasting Network, Inc., Messianic Vision, Inc., New Psalmist Baptist Church, Oral Roberts Evangelistic Association, Inc., RBC Ministries, Reginald B. Cherry Ministries, Rhema Bible Church (aka Kenneth Hagin Ministries), Ron Phillips Ministries, Speak The Word Church International, St. Ann's Media, The Potter's House Of Dallas, Inc. (d/b/a T.D. Jakes Ministries), World Fellowship of God, Inc., d/b/a Daystar Television Network, Billy Graham Evangelistic Association, and Zola Levitt Ministries.

² The distribution of programming royalties for distant signals distributed on cable television and satellite systems is based upon a two phase process. In Phase I, the royalty pool is allocated to six broad program categories: program suppliers, joint sports claimants, commercial television claimants, public television claimants (in certain years), devotional claimants (the subject of this analysis), and music claimants. In Phase II, the contents of each pool are then divided among each of the constituent programming claimants. In other words, the Phase I procedure divides

I understand that IPG is still formulating its claimants in each year. As recently as this week, IPG served on the SDC a revised notice of claimants in this proceeding. The titles of all IPG-represented programs have not yet been disclosed. I also understand that in the 1999 Phase II Cable Royalty Distribution Proceeding in the Devotional Category, challenges have been made to certain program producers and programs that IPG claims to represent, and that these challenges are under consideration by the Copyright Royalty Judges. A calculation of the relative fair market values of the IPG and SDC devotional television programs cannot be made until I have a definitive list of the IPG programs. As a consequence, my testimony at this time will focus on methodology and the information I will consider in making a determination of the relative fair market value of the IPG and SDC programs.

I. Professional Background - *Work and Education History*

I have been a Principal at the Washington, DC-based firm Bond & Pecaro, Inc. since 1986. Bond & Pecaro, Inc. specializes in the appraisal of communications and media assets. Prior to that, I was a manager with Frazier, Gross & Kadlec, Inc., where I worked from 1983 to 1986. Frazier, Gross & Kadlec, Inc. also specialized in the valuation of media and communication assets.

During my career, I have actively participated in the appraisal of more than 3,000 communications and media businesses. Much of my work has been focused on the television and cable industries and the appraisal of intangible assets such as customer and subscriber-based assets, syndicated and feature film television programming, advertiser relationships, and customer lists.

the royalty pool into reasonably homogenous categories, whereas the Phase II procedure allocates the contents of that category based upon the programming it contains.

I graduated from Dickinson College with a B.A. Cum Laude (Honors) and a double major in International Studies and Economics. I received an M.B.A. from the Colgate Darden Graduate School of Business at the University of Virginia. I also hold the Accredited Senior Appraiser ("ASA") designation in the specialty of business valuation from the American Society of Appraisers. Additional information on my background is provided in Appendix A.

Since 1983, I have worked on a regular basis for media companies such as Adelphia, Cable One, CBS, Comcast, Fox, Nexstar, Sinclair, Time Warner and many others to perform economic and valuation analyses. These analyses are employed for a variety of purposes including, but not limited to, financial and tax reporting, mergers and acquisitions, financing, litigation support, music rights fees and fixed asset management. I have also filed testimony in the 1998-1999 Cable Royalty Distribution Proceeding (Dkt. No. 2008-1 CRB CD 1998-1999 (Phase II)) in the devotional claimant category on behalf of the SDC.

II. Primary Materials Considered

In order to establish a comparative assessment of the relative fair market values of IPG and SDC programming, I reviewed the decision of the Copyright Royalty Judges in the 2000-2003 Phase II Cable Royalty Distribution Proceeding and the 2004-2005 Phase I Cable Royalty Distribution Proceeding. I also reviewed the 2000-2003 written direct case testimony of witnesses for SDC and the Motion Picture Association of America-represented Program Suppliers ("MPAA"). The witnesses for SDC were Dr. William Brown and Alan Whitt, and for MPAA were Marsha Kessler, Paul Lindstrom, Jonda Martin, Kelvin Patterson, and Dr. Jeffrey Gray. I also reviewed the transcripts of their testimony. In addition, I have reviewed the direct cases and written testimony in the 1999 Phase II Cable Royalty Distribution Proceeding. I have also

reviewed expert reports prepared in connection with this matter by Erkan Erdem, Ph.D. (“Dr. Erdem”) and Toby Berlin (“Ms. Berlin”). Furthermore, I had access to and considered Satellite Statement of Accounts prepared by Cable Data Corporation; programming data from Tribune Media Services, Nielsen Media Research (“Nielsen”) Reports on Devotional Programs (“RODP”).

Appendix B is a summary listing of SDC claimants in this proceeding and the years in which they have made claims. Each of the SDC claimants, through their representatives, sent an email confirming the SDC programs. A listing of their program titles is included in Appendix C.

III. Relevance of Audience Measurements for Establishing Relative Fair Market Values for SDC and IPG Programming

Over the course of nearly thirty years providing valuation assessments in connection with media and communications, I have looked at a wide range of industry criteria for assessing program valuation. For the purpose of providing testimony to assist in addressing the task of the Copyright Royalty Judges (“CRJs”) in the instant proceeding, namely to allocate shares of compulsory royalties collected by the Copyright Office from cable systems for the retransmission of the SDC devotional programs and IPG-represented devotional programs on broadcast signals on a distant basis, I based on my testimony on my professional experience in valuing content, on the CRJs 2000-2003 Phase II Final Determination and the expert reports of Mr. Erdem and Ms. Berlin. To allocate reasonably the available funds between SDC and IPG in this proceeding, it is my opinion that audience measurements relying on surveys conducted by Nielsen, together with data from the Copyright Office records, compiled by CDC, are the best available tools to determine shares.

One of the reasons that satellite operators value devotional programming as a category is that it appeals to a class of potential subscribers who are not necessarily captured by other

programming, like sports or movies, for instance. The programs claimed within the category of devotional programming are directed predominantly to a Christian audience, and can therefore be thought of as homogenous in terms of the subscriber base to which they are likely to appeal. In my opinion, where programs are homogenous, the most salient factor to distinguish them in terms of subscribership is the size of the viewing audience. A religious program with a larger audience is more likely to attract and retain more subscribers for the satellite system operator, and is therefore of proportionately higher value. Nielsen ratings data is the currency of the broadcast, satellite and cable industries, and it is generally regarded as the most reliable available measure of audience size.

I reviewed the testimony of Ms. Berlin, which was prepared in connection with this satellite royalty proceeding. Ms. Berlin's testimony validates the foregoing and demonstrates the importance of ratings data to determine the relative value of certain programs when satellite television companies are developing their channel offerings.

IV. Role of Viewing Broadcast Signals in the Satellite Television Industry

The signals covered by this proceeding represent a small component of the program offerings of satellite television companies to their subscribers. Nevertheless, television signals have been essential to attract and keep satellite subscribers. By 1999, as Ms. Berlin explains, satellite television companies, active competitors to cable, first gained the ability to carry local programs, which greatly expanded the competitive strength of these operations. Between 1999 and 2009, satellite television operators expanded service greatly, with broadcast signals playing a meaningful role in that expansion. Even as they too reached tens of millions of paying subscribers, satellite operators, like their cable competitors, determined that it is still beneficial

to retransmit broadcast signals, principally because enough subscribers watched the programs on the channels and the operators were concerned that dropping of signals could adversely affect the appeal of satellite services to subscribers.

In the context of this proceeding, satellite operators pay on a compulsory basis for the right to carry the entire broadcast day of a distant over-the-air television channel. As such, while satellite operators give consideration to specific programs on a local television channel in making a decision as to whether or not to carry it, there are no transactions involving specific programs.

For this reason, there is no "free market" for the purchase of the rights to copyrighted broadcast programs. If there were, it would be a relatively simple matter to sum up the amounts paid by satellite operators in individual arms-length transactions for programs received from broadcast signals in order to determine the relative fair market value of programming provided by particular groups of claimants.

Such an approach is not possible because transaction data regarding broadcast programs carried over satellite is not available. It is necessary for an appraiser to develop an alternative methodology to determine the relative fair market value of devotional programs carried over broadcast signals. Fortunately, ratings data is available from widely accepted organizations like Nielsen. Local viewing data is routinely employed in the broadcasting and pay television industries to facilitate a multitude of practical decisions, ranging from pricing advertising and determining the cost of syndicated programs to establishing the value of a pay television network and measuring the payback on a capital investment. As the CRB determined in the 2000-2003 case, local viewing data, when measured with distant signal subscribership information, can be a

surrogate for viewing of content on a distant basis. Except for special studies ordered by the Motion Picture Association of America (“MPAA”) in other royalty cases, there is no readily accessible information about viewership in such a specialized market.

A notable exception to the requirement that cable and satellite operators retransmit broadcast programming precisely as telecast locally must be mentioned. The exception is WGN America (“WGNA”), the most widely carried “superstation,” whose local signal is WGN-TV, Chicago, Illinois. By virtue of widespread carriage on DirecTV, DISH, and thousands of cable systems across the country and its manner of delivery, WGNA has established a practice of substituting for some of its local programming at the satellite uplink, thereby creating a different programming package for pay television operators and their subscribers than is available to TV viewers of WGN in Chicago. This disparity has a devotional program corollary, because WGNA substitutes a substantial number of devotional programs for certain local fare. As a result, while religious programming constitutes an important core of WGNA broadcast day, and serves a particularly important niche audience, the bulk of religious programming carried by WGNA is not compensable under the compulsory licensing rules.

V. Nielsen Reports on Devotional Programs

In its data reporting on viewing of religious television programming, Nielsen produces a quarterly report called Report on Devotional Programs (previously defined as “RODP”). These reports select a substantial, but not exhaustive, list of religious programs and provide detailed data on the viewing of the programs both in local markets and nationally.

Nielsen imposes restrictions on the devotional programs and stations that are included in the quarterly RODPs. These include the following:

- a. The program must be taped or on film and available on a market-by-market basis.
- b. It must be broadcast in at least five Nielsen Station Index (“NSI”) markets.
- c. It must be scheduled on a reportable commercial television station.
- d. It must at the same time and day in at least two of the four weeks.
- e. A station qualifying for a “mini-series” must air at least two times per week.
- f. Foreign language syndicated programs are excluded.
- g. A station must have telecast the devotional program on at least three different days for Monday through Friday programs.

There are certain programs in the devotional category which, while they may be quite popular and generate significant audience ratings, do not appear in the RODPs because they do not meet the reporting criteria. Examples might be Christmas and Easter specials, Spanish-language programming, or monthly specials. Consequently, any determination of the relative fair value of the distant signal programming related to the Phase II devotional parties may be subject to adjustment to reflect the audiences attributable to these programs.

VI. Relative Valuation Methodology

In order to develop relative fair market values for devotional programming, the SDC retained Erkan Erdem, Ph.D. of KPMG to assess the Nielsen rating data and the CDC distant viewing data. The report of Dr. Erdem, attached to the SDC direct case, provides the details of his methodological analysis. I fully endorse his approach, which relies on a sophisticated assessment of local viewing and distant subscribership as principal tools for allocating shares. To the extent the methodology relies upon ratings derived from Nielsen’s RODPs, adjustments should be made when more complete information about claimed, qualified programming is

available. Further, as Dr. Erdem explains, special handling of WGNA devotional programming is required due to the limited amount of compensable, retransmitted devotional content as a percentage of all available religious programming on WGNA.

VII. Conclusions

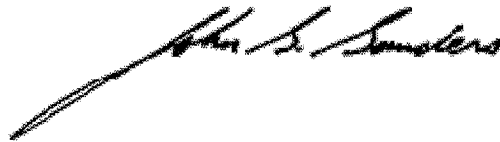
Because IPG has not yet disclosed the titles of its claimed programs and just this week served notice on the SDC, suggesting that it intended to modify its claimant and program catalog, I cannot make an ultimate calculation of shares at this time. However, when all the IPG programs that are compensable are known, an application of the methodology described in Dr. Erdem's testimony, including appropriate adjustments for additional content, can be made.

Based upon actual practices in the broadcasting and pay television industries, it is clear that any methodology must reflect the popularity of the two groups of devotional programming. Nielsen and distant subscriber data are the key tools to measure each compensable program's popularity and, hence, its value. This methodological approach comports with the procedures that are actually employed by broadcasters and satellite companies to make programming decisions.

DECLARATION OF JOHN S. SANDERS

I declare under penalty of perjury that the foregoing testimony is true and correct and of my personal knowledge.

Executed: May 9, 2014

A handwritten signature in black ink, appearing to read "John S. Sanders", is written above a horizontal line.

John S. Sanders

Appendix A

Qualifications of John S. Sanders

PROFESSIONAL EXPERIENCE AND QUALIFICATIONS

JOHN S. SANDERS

John S. Sanders has over 30 years of experience in media and communications finance. He is a principal in and founder of the firm of Bond & Pecaro, Inc., a Washington based consulting firm specializing in valuations, asset appraisals, and related financial services for the communications industry since 1986.

Mr. Sanders has been actively involved in both fair market valuations and asset appraisals of over 3,000 communications and media businesses. He has been qualified as an expert in valuation matters regarding communications assets in venues including U.S. District Court for the District of Columbia, U.S. Bankruptcy Court for the Southern District of New York, the Court of Chancery of the State of Delaware, and the American Arbitration Association.

He is a member of the American Society of Appraisers and is an Accredited Senior Appraiser ("ASA") in the specialty of business valuation.

Mr. Sanders received a B.A. Cum Laude in Economics and International Studies (Honors) from Dickinson College. He also holds a Master's Degree in Business Administration from the University of Virginia in Charlottesville, Virginia.

John S. Sanders

Speaking Engagements, Publications, and Expert Testimony

Speaking Engagements

1. Cellular Telecommunications Industry Association, "Finding the Money Tree: Sources of Cellular Financing," First Annual Convention, Washington, D.C., May 29, 1985. Speech on effective business plan preparation and financing an acquisition.
2. National Association of Broadcasters, Radio Acquisition Seminar, Chicago, Illinois, October 25, 1985. Full day panel participation focusing on market evaluation, business valuation, and acquisition strategy.
3. National Association of Broadcasters, Radio Station Acquisition Seminar, New York, New York, November 1, 1985. Full day panel participation focusing on market evaluation, business valuation, and acquisition strategy.
4. National Association of Broadcasters, Small Market Radio Acquisition Seminar, Atlanta, Georgia, February 28, 1986. Full day panel participation focusing on market evaluation, business valuation, and acquisition strategy.
5. Cellular Telecommunications Industry Association, "An Acquisitive Industry: Mergers and Acquisitions in the Cellular Industry," Winter Meeting and Exposition, Phoenix, Arizona, January 21, 1987. Panel discussion on business valuation techniques and specific value trends in telecommunications.
6. FCC Week and BOC Week Washington Seminar, "Techniques for Valuing Cellular Franchises in Rural Service Areas," Presentation at conference entitled Business Opportunities in Rural Telecommunications: The Next Frontier, Washington, D.C., May 29, 1987.
7. Harrison, Bond & Pecaro Private Briefing on Media Financial Issues, Presentation on television network affiliation agreement valuation, Watergate Hotel, Washington D.C., December 14, 1987.
8. Cellular Telecommunications Industry Association, "Strong Signals From Wall Street," 1988 Winter Meeting and Exposition, San Diego, California, January 25, 1988. Speaker on panel on how the financial community views cellular.

John S. Sanders

Speaking Engagements, Continued

9. FCC Week and BOC Week Washington Seminar, "Market Analysis in Rural Service Area Cellular Telecommunications Systems," Presentation at conference on rural telecommunications issues, Washington, D.C., March 22, 1988.
10. Broadcast Financial Management Association, "The Impact of Proposed Tax Code Changes on Broadcast and Cable Values," 28th Annual Conference, New Orleans, Louisiana, April 18, 1988.
11. Phillips Publishing, Inc. Washington Seminar, "Valuation of Mobile Telecommunications Companies," Conference on buying, selling, and investing in mobile telecommunications, Washington, D.C., June 9, 1988.
12. Cable Television Property and Sales Tax Group, "Methods of Valuation in Property Taxes," Chicago, Illinois, September 27, 1988.
13. Telocator Spring Convention, Moderator, Panel entitled "Optimizing an Acquisition: Tax & Depreciation Issues," Orlando, Florida, May 1989.
14. Telocator 41st Annual Convention & Exposition, "Tax and Financial Reporting Issues in Acquisitions," Washington, D.C., October 7, 1989.
15. Telocator Spring International Convention, Moderator, Panel entitled, "The Financial Future of Cellular Telecommunications," San Diego, California, March 23, 1991.
16. Mobile Communications North America Exposition, Moderator and Speaker, Panel entitled "Site Acquisition and Management," Toronto, Canada, April 25, 1991.
17. Mobile Communications Marketplace, Moderator and Speaker, Panel entitled "Investment Outlook for Mobile Communications," Anaheim, California, October 23, 1991.
18. The Future of Paging, Moderator and Speaker, Panel entitled "Financing for Paging Growth," Washington, D.C., April 3, 1992.
19. Mobile Communications Marketplace, Moderator and Speaker, Panel entitled "Tax Issues in the 1990s," San Francisco, California, September 24, 1992.

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Speaking Engagements, Continued

20. The Future of Paging II, Moderator and Speaker, Panel entitled "Dollars and Sense: The Financial Future of Paging," Washington, D.C., June 25, 1993.
21. National Association of Broadcasters, Speaker, Panel entitled "Broadcasters and Taxation: New Benefits...and New Liabilities?" Las Vegas, Nevada, March 22, 1994.
22. Personal Communications Industry Association PCS Summit, Speaker, Panel entitled "Service Requirements for PCS: A Financial Perspective," Arlington, Virginia, June 24, 1994
23. Mobile Communications Marketplace, Speaker, Panel entitled, "Facts and Figures: Forecasting the Future of PCS," Seattle, Washington, September 22, 1994.
24. National Association of Broadcasters, Speaker, Panel Entitled "Buying and Selling Broadcast Stations in a Changing Regulatory Environment", Las Vegas, Nevada, April 12, 1995.
25. National Association of Broadcasters, Panel Entitled "Tax Reform School - The Impact of Proposed Tax Reforms of Broadcasting Station Values", Las Vegas, Nevada, April 6, 1998.
26. National Association of Broadcasters, Broadcasting Conference for the Americas, Panel Entitled "Station Valuation Techniques and Trends", Miami, Florida, August 26, 1999.
27. National Association of Broadcasters, 1999 Radio Show, Panel Entitled "Investing in Latin America", Orlando, Florida, September 1, 1999.
28. National Association of Broadcasters, Broadcasting Conference for the Americas, Panel Entitled "Buying and Selling a Station in Broadcasting", Miami, Florida, August 16, 2000.
29. National Association of Broadcasters, Broadcasting Conference for the Americas, Moderator of Panel Entitled "Investing Partners - Looking Beyond Boundaries", Miami, Florida, July 25, 2001.
30. Web Hosting Expo, Moderator of Panel Entitled "Venture Capital Looks at Web Hosting", Washington, DC, August 21, 2001.

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Speaking Engagements, Continued

31. National Association of Broadcasters, Presentation Entitled "Broadcasting Valuation in an International Environment", Las Vegas, Nevada, April 7, 2002.
32. United States Telecom Association, Presentation Entitled "Telecommunications Valuation in an International Environment," Briefing to Egypt Telecom Delegation, September 23, 2002.
33. Broadcast and Cable Financial Management Association, Presentation Entitled "What's It Worth? Media and Communications Valuation Techniques and Trends in Mid-2004," Atlanta, Georgia, May 16, 2004.
32. National Association of Broadcasters, Ownership Forum, Las Vegas, Nevada, April 15, 2007.
33. National Association of Broadcasters, Ownership Forum, Las Vegas, Nevada, April 13, 2008.
34. Minority Media & Telecom Council, Financial and Procurement Forum, Washington, DC, July 21, 2009.
35. Media Financial Management Association, Moderator and Presenter on Newspaper Valuation Panel, Presentation on Public and Private Values of Newspaper Companies, Nashville, Tennessee, May 24, 2010.
36. Media Financial Management Association, Moderator and Presenter on Newspaper Valuation Panel, Presentation on Public and Private Values of Newspaper Companies, Atlanta, Georgia, May 16, 2011.
37. Media Financial Management Association, Moderator and Presenter on Newspaper-Broadcast Cross-Ownership, Presentation on Attrition of FCC-Permitted Newspaper-Television Cross-Ownership entities, Las Vegas, Nevada, May 22, 2012.
38. Media Financial Management Association, Moderator and Presenter on Newspaper Mergers, Acquisitions and Valuation Panel, Presentation on Valuation Trends and Merger Activity, Las Vegas, Nevada, May 23, 2012.
39. Media Financial Management Association, Presenter on FCC's Broadcast Incentive Auction Panel, Presentation of Spectrum Economics and Auction Strategies, New Orleans, Louisiana, May 20, 2013.

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Speaking Engagements, Continued

40. Media Financial Management Association, Moderator and Presenter on Newspaper Mergers, Acquisitions and Valuation Panel, Presentation on Valuation Trends and Merger Activity, New Orleans, Louisiana, May 21, 2013.

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Publications

1. "Cellular Financing for Smaller Players," Telocator, February, 1986.
2. "Valuing Cellular Systems: Techniques and Trends," Telocator, December, 1986.
3. "The Amortization of Intangible Assets: Overview and Current Issues," Handout at Tax Panel, Broadcast Financial Management Association, Boston, Massachusetts, April 27, 1987.
4. "Making the Most of an Acquisition," Telocator, May 1987 Telocator Convention Issue.
5. "A Tale of Two RSAs: Entrepreneurial Opportunities in RSA Cellular Markets," Cellular Business, December 1987.
6. "What's a TV Network Affiliation Worth?" Broadcasting, December 21, 1987.
7. "Cellular's Future and the Laws of Economic Power," Communications, April 1988 International Mobile Communications Expo Issue.
8. "Broadcast Fixed Asset Tax Lives Under Reconsideration," Broadcast Financial Journal, April-May 1988.
9. "Subscriber Management: The Key to Maximizing SMR System Value," SMR Newsletter, June 1990.
10. "Site Lease Management: Steps to Economic Advantage," SMR Newsletter, October 1990.
11. "Legislative and Tax Update," Open Channels, November 1991.
12. "Update on Amortization of Intangible Assets," Broadcast/Cable Financial Journal, February-March 1992.
13. "Changes in Broadcast Station Values Resulting From the 1993 Omnibus Budget Reconciliation Act," Co-authored chapter with Timothy S. Pecaro in 1993 TAX ACT - What It Means, National Association of Broadcasters, 1994.
14. "Inversión en televisión en el ámbito interamericano," TV y Video LatinoAmerica, April 2000.

John S. Sanders

Publications, Continued

15. Co-Editor, The Television Industry: Market-By-Market Review, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, AND 2014 Editions. 450 page reference volume containing detailed market data and projections for over 200 television markets.
16. With Harmeet K. Dhillon, "The New Gold Rush? Wireless opportunities for colleges and universities through EBS broadcast spectrum leases", University Business, October 2007.
17. "Financial and Accounting Considerations for Acquisitions," Chapter in Understanding Broadcast and Cable Finance, Chicago: Broadcast and Cable Financial Management Association, 2008.
18. "How Stations Can Reclaim Their Value," TVNewsCheck, www.tvnewscheck.com, July 15, 2009.
19. "Kill TV-Newspaper Crossownership Rule, Now," TVNewsCheck, www.tvnewscheck.com, June 27, 2012.
20. "The Good, The Bad, and the Opportunity: The tables are turning as investors purchase newspaper properties and reposition their operations for profitability," The Financial Manager, September/October 2012.
21. "Newspapers Round a Bend," The Financial Manager, November-December, 2013.
22. "Current Valuation Issues: Opportunities and Pitfalls on the Road to the Television Spectrum Auction," Bond & Pecaro, Inc., White Paper, December 2013.

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Expert Testimony and Sponsored Exhibits

1. Radio Telephone Systems, Inc. v. Metronet, Inc., American Arbitration Association, AAA #11 119 00070 91. Testimony regarding changes in the financial condition of a radio paging business.
2. All City Communications Co. v. Industrial and Commercial Communications Services, Inc., Milwaukee County, Wisconsin Circuit Court, 91-CV-003745. Testimony regarding the value of radio paging systems.
3. Capobianchi v. Foster, U.S. District Court, District of Columbia, 89-0936 NHJ-PJA. Testimony regarding the fair market value of a cellular telephone system and related economic issues.
4. O. R. Estman, Inc. d/b/a Satellite Paging v. Tel-Air Communications, Inc., et. al., U.S. District Court, District of New Jersey, 91-5273(HCL). Testimony regarding the economics of the radio paging industry.
5. Cellular Information Systems, Inc., C.I.S. Operating Company-1, Inc., et. al., Debtors, U. S. Bankruptcy Court, Southern District of New York, Case Nos. 92 B 45024 through 92 B 45037 (BRL) (Jointly Administered). Testimony regarding the value of cellular telephone systems in five metropolitan markets and three rural service areas, and related economic issues.
6. Application of Vertical Broadcasting, Inc., Town Board, Southampton, New York, May 31, 1996. Testimony regarding the future of the communications industry and other issues related to the construction of a 360' multi-user communications tower.
7. US Mobilcom, Inc., et. al. v. Jean Warren, et. al, U.S. District Court, Western District of Oklahoma, CIV-94-1582-M. Testimony regarding the value of a nationwide 220 MHz mobile radio license and related economic issues.
8. Western States Wireless, Ltd. vs. Gerald Stevens-Kittner, U.S. District Court, Eastern District of Virginia, Civil Action No. 96-1513-A. Testimony regarding the value of applications for Instructional Television Fixed Service ("ITFS") and related economic issues.
9. GenCel, Inc., MCT Cellular, Inc. and SCC Cellular Telephone Corporation v. Contel Cellular, Inc., SS Superior Court, Hillsborough County, State of New Hampshire, Northern District Case No. 96-E-126. Testimony regarding the value of a cellular telephone system and related economic issues.

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Expert Testimony and Sponsored Exhibits, Continued

10. In re: Personal Communications Services World Corporation, Debtor, United States Bankruptcy Court for the District of Nevada, Bankruptcy No. 99 BK-N-31344. Testimony regarding the value of a specialized competitive local exchange carrier and related economic issues.
11. AirTouch Paging, Inc. vs. US West Communications, Inc., United States District Court for the District of Colorado, Civil Action No. 99-WM-12. Testimony regarding valuation and related economic issues in the paging industry.
12. Interstate Cellular Holdings, Inc. vs. Radiofone, Inc., American Arbitration Association, Philadelphia, Pennsylvania, Case No. 14 Y 181 00138 00 F. Testimony regarding the value of a cellular telephone system and related economic issues.
13. In re: WebLink Wireless, Inc., Debtor, United States Bankruptcy Court for the Northern District of Texas, Dallas Division, Bankruptcy No. 01-34275-SAF-11. Testimony regarding the liquidation of value of wireless messaging and related telecommunications equipment.
14. In re: United States Cellular Operating Company, Court of Chancery of the State of Delaware in and for New Castle County, Civil Action No. 18976 NC. Testimony regarding the value of two cellular telephone systems.
15. Paul L. Kozel, et al v. Kent S. Foster and Concho Cellular Telephone Company, Inc., American Arbitration Association, AAA #16 168 00391 02 and #70 168 00390 02. Testimony regarding the value of a cellular telephone system and related economic issues.
16. WideOpenWest, LLC. Board of Assessment Appeals. Jefferson County, Colorado. Schedule# 976855. Docket# 40405. Testimony regarding the state of the broadband industry and the value of cable television, Internet, and telephony assets.
17. In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities: TRS Fund Size and Payment Formula, Federal Communications Commission, CC Docket 98-67, May 12, 2005. Comments on the appropriateness of calculations regarding the Video Relay Service ("VRS") provider reimbursement rate and related qualitative factors.

John S. Sanders

Expert Testimony and Sponsored Exhibits, Continued

18. Broadcast Music, Inc. vs. Weigel Broadcasting Co., United States District Court, Southern District of New York, No. 04 Civ. 09205 (LLS). Testimony regarding economic factors in the television industry and calculation of music rights fees.
19. Alltel Communications of Michigan RSAs, Inc. vs Cass Cellular Limited Partnership (AAA Case No 54 494 00212 10). Expert report and deposition in connection with a dispute between partners in a cellular telephone system regarding system values, revenue recognition practices, and related economic issues.
20. In the Matter of Phase II Distribution of the 1999 Cable Royalty Funds, Copyright Royalty Judges, Washington, DC, Docket No 2008-1 CRB CD 199 (Phase II). Testimony regarding the relative fair market values of certain programs in the devotional category.

Appendix B

Listing of Settling Devotional Claimants Including Years of Claims

SDC Claimants and Claim Years – Satellite

SDC CLAIMANTS	Satellite 1999	Satellite 2000	Satellite 2001	Satellite 2002	Satellite 2003	Satellite 2004	Satellite 2005	Satellite 2006	Satellite 2007	Satellite 2008	Satellite 2009
Amazing Facts, Inc.		X	X	X	X	X	X	X	X	X	X
American Religious Town Hall, Inc.			X	X	X			X	X	X	X
Billy Graham Evangelistic Association						X		X	X	X	
Catholic Communications Corporation											X
Christian Television Network, Inc. (Christian Television Corporation)				X	X			X	X	X	X
The Christian Broadcasting Network, Inc.	X	X	X	X	X	X	X	X	X	X	X
Coral Ridge Ministries Media, Inc.	X	X	X	X	X	X	X	X	X	X	X
Cottonwood Christian Center		X	X	X	X	X	X	X	X	X	X
Crenshaw Christian Center		X	X	X	X	X	X	X	X	X	X
Crystal Cathedral Ministries, Inc.	X	X	X	X	X	X	X	X	X	X	X
Evangelical Lutheran Church in America		X	X	X	X	X	X	X	X	X	X
Faith for Today, Inc.		X	X	X	X	X	X	X	X	X	X
Family Worship Center Church, Inc. dba Jimmy Swaggart Ministries				X				X	X	X	X
In Touch Ministries, Inc.	X	X	X	X	X	X	X	X	X	X	X
It Is Written		X	X	X	X	X	X	X	X	X	X
John Hagee Ministries, Inc. (aka Global Evangelism Television)		X	X	X	X	X	X	X	X	X	X
Joyce Meyer Ministries, Inc. (aka Life In the Word, Inc.)		X	X	X	X	X	X	X	X	X	X
Kerry Shook Ministries (aka Fellowship of the Woodlands)											X
Lakewood Church (aka Joel Osteen Ministries)								X	X	X	X
Liberty Broadcasting Network, Inc.											X
Messianic Vision, Inc.										X	X
New Psalmist Baptist Church											X
Oral Roberts Evangelistic Association, Inc.	X	X	X	X	X	X	X	X	X	X	X
RBC Ministries		X	X	X	X	X	X	X	X	X	X
Reginald B. Cherry Ministries								X			
Rhema Bible Church (aka Kenneth Hagin Ministries)		X	X	X	X	X	X	X	X	X	X
Ron Phillips Ministries								X	X	X	X

SDC Claimants and Claim Years – Satellite

SDC CLAIMANTS	Satellite 1999	Satellite 2000	Satellite 2001	Satellite 2002	Satellite 2003	Satellite 2004	Satellite 2005	Satellite 2006	Satellite 2007	Satellite 2008	Satellite 2009
Speak the Word Church International		X	X	X	X		X	X	X	X	
St. Ann's Media											X
The Potters House of Dallas, Inc., dba T.D. Jakes Ministries									X	X	X
Word of God Fellowship, Inc. dba Daystar Television Network								X	X	X	X
Zola Levitt Ministries										X	X

Appendix C

Listing of Program Titles Claimed By Settling Devotional Claimants

SDC Program Titles – Satellite

SDC PROGRAM TITLES (SATELLITE)

Amazing Facts, Inc.

Amazing Facts Presents

New Revelation, A

American Religious Town Hall, Inc.

American Religious Town Hall, aka Religious Town Hall

Billy Graham Evangelistic Association

Billy Graham (aka Billy Graham Special)

Billy Graham Television Specials

Franklin Graham

Ruth Bell Graham

Catholic Communications Corporation

Chalice of Salvation

Real to Reel

Christian Television Network, Inc. (Christian Television Corporation)

All Over the World

Becky's Barn

Bloodstream

Bridges

Christian Fitness

Coffee Club

Herman & Sharron (aka Its Time for Herman & Sharron)

Homekeepers

Joy Junction

Set Free (aka Set Free If You Want to Be)

Times of Refreshing

You & Me(aka America's Prayer Meeting)

The Christian Broadcasting Network, Inc.

The 700 Club (aka 700 Club)

Christian World News

Living the Life

Miracles: Touched By the Hand of God (aka CBN Miracles)

Miracles II - All Things Are Possible (aka Miracles II)

One Cubed (aka 1 Cubed)

Spunky's First Christmas

Spunky's Camping Adventure

Spunky's Circus Adventure

Micah's Christmas Treasure

Straight Talk

Alabaster's Song

SDC Program Titles – Satellite

<i>Superbook</i>
<i>Superlibro</i>
<i>Vida Dura</i>
<i>Flying House</i>
<i>Respuestas</i>
<i>Turning Point International</i>
<i>Mundo Cristiano</i>
<i>Agua Viva</i>
<i>Storyteller Café</i>
<i>The Easter Promise</i>
<i>Rescatados del Infierno</i>
<i>The Witness</i>
Coral Ridge Ministries Media, Inc.
<i>The Coral Ridge Hour (aka Dr. James Kennedy; Coral Ridge Hour; Coral Ridge Hour, The; The Coral Ridge Hour with Dr. D. James Kennedy; Coral Ridge Ministries; Coral Ridge Ministry; Coral Ridge; The Coral Ridge Report; Coral Ridge Presbyterian Church; D. James Scrooge and Marley</i>
<i>What If Jesus Had Never Been Born?</i>
<i>Who is This Jesus? (aka Who is This Jesus: Is He Risen?)</i>
Cottonwood Christian Center
<i>Answers with Bayless Conley</i>
<i>Bayless Conley</i>
<i>Cottonwood Christian Center</i>
Crenshaw Christian Center
<i>Crenshaw (aka Frederick K.C. Price; Fred Price)</i>
<i>Ever Increasing Faith</i>
Crystal Cathedral Ministries, Inc.
<i>Hour of Power (aka Robert Schuller)</i>
<i>Christmas Eve at Crystal Cathedral</i>
<i>Crystal Cathedral</i>
Evangelical Lutheran Church in America
<i>Davey and Goliath (aks Davey and Goliath's Snowboard Christmas; Davey and Goliath "Happy Easter")</i>
<i>Oh Davey!</i>
<i>Native Nations: Standing Together for Civil Rights</i>
<i>Introducing Jesus of Nazareth</i>
<i>Hunger No More</i>
<i>Joy to the World</i>
<i>Mosaic</i>
<i>This Holy Night</i>
<i>Uganda: Ready to Forgive</i>
Faith For Today, Inc.

SDC Program Titles – Satellite

<i>The Evidence</i>
<i>Faith for Today</i>
<i>Lifestyle Magazine</i>
<i>McDougall, MD</i>
Family Worship Center Church, Inc., dba Jimmy Swaggart Ministries
<i>Jimmy Swaggart</i>
<i>Jimmy Swaggart Telecast</i>
In Touch Ministries, Inc.
<i>In Touch 30 with Dr. Charles Stanley (aka In Touch with Charles Stanley; In Touch 30; In Touch (30); Charles Stanley; Dr. Charles Stanley; In Touch Ministries;</i>
<i>In Touch 60 with Dr. Charles Stanley (aka In Touch with Charles Stanley; In Touch 60; In Touch (60); Charles Stanley; Dr. Charles Stanley; In Touch Ministries;</i>
<i>En Contacto (aka En Contacto con Dr. Charles Stanley; En Contacto Charles Stanley; En Contacto 30; En Contacto (30); Charles Stanley; Dr. Charles Stanley;</i>
It Is Written
<i>It Is Written</i>
John Hagee Ministries, Inc. (aka Global Evangelism Television)
<i>John Hagee Today</i>
<i>Cornerstone, aka Cornerstone Church</i>
<i>Cornerstone with Pastor John Hagee</i>
<i>The Difference</i>
<i>The Difference with Pastor Matt Hagee</i>
Joyce Meyer Ministries, Inc. fka Life In the Word, Inc.
<i>Life in the Word</i>
<i>Life in the Word Daily</i>
<i>Enjoying Everyday Life</i>
<i>Joyce Meyer</i>
<i>Joyce Meyer: Enjoying Enjoying Everday Life</i>
Kerry Shook Ministries, aka Fellowship of the Woodlands
<i>Kerry Shook Ministries (aka Pastor Kerry Shook)</i>
Lakewood Church (aka Joel Osteen Ministries)
<i>Joel Osteen (aka John Osteen)</i>
<i>Lakewood Church</i>
<i>Marcos Witt</i>
Liberty Broadcasting Network, Inc.
<i>Old Time Gospel Hour</i>
Messianic Vision, Inc.
<i>Messianic Vision</i>

SDC Program Titles – Satellite

<i>Sid Roth's It's Supernatural & Messianic Vision (aka It's Supernatural)</i>
New Psalmist Baptist Church
<i>Empowering Disciples</i>
<i>New Psalmist Baptist Church</i>
Oral Roberts Evangelistic Association, Inc.
<i>Chronicles of Faith</i>
<i>Hour of Healing</i>
<i>Miracles Now</i>
<i>Make Your Day Count</i>
<i>The place for Miracles</i>
RBC Ministries
<i>Day of Discovery</i>
Reginald B. Cherry Ministries
<i>Reginald B. Cherry</i>
<i>The Doctor and the Word</i>
Rhema Bible Church (aka Kenneth Hagin Ministries)
<i>Kenneth Hagin (aka Kenneth Hagin Jr.)</i>
<i>Rhema Praise</i>
<i>Rhema Today</i>
Ron Phillips Ministries
<i>Abba's House</i>
<i>Central Baptist Church</i>
<i>Central Message</i>
<i>Ron Phillips Ministries (aka Ron Phillips)</i>
Speak the Word Church International
<i>The Exalted Word</i>
<i>Randy Morrison</i>
<i>Speak the Word</i>
St. Ann's Media
<i>The Daily Mass</i>
<i>Holy Sacrifice of the Mass</i>
<i>The Mass</i>
<i>Mass on TV</i>
The Potters House of Dallas, Inc., dba T.D. Jakes Ministries
<i>Potter's House, The (aka TD Jakes)</i>
<i>Potter's Touch, The</i>
Word of God Fellowship, Inc. dba Daystar Television Network

SDC Program Titles – Satellite

<i>Celebration</i>
<i>Check the Sound</i>
<i>Joni Table Talk (aka Joni; Joni Lamb)</i>
<i>Marcus Lamb/Empowered by the Spirit</i>
<i>Gospel Music Showcase</i>
Zola Levitt Ministries
<i>Zola Levitt</i>
<i>Zola Levitt Presents</i>