



**CBS CORPORATION**  
51 WEST 52 STREET  
NEW YORK, NEW YORK 10019-6188

(212) 975-4595  
FAX: (212) 975-2185

**HOWARD F. JAECKEL**  
VICE PRESIDENT, ASSOCIATE GENERAL COUNSEL

**BY FEDERAL EXPRESS**

Re: MUR 4946

Ladies and Gentlemen:

December 7, 1999

This is in response to a letter dated November 16, 1999, but not received by CBS Corporation ("CBS") until November 29, 1999, from John R. Velasquez, Jr., Acting Central Enforcement Docket Supervisor for the Commission. Mr. Velasquez enclosed with his letter a complaint filed by one Robert Vinson Brannum against CBS -- as well as ABC, NBC, CNN, and Fox News -- alleging that coverage provided by these news organizations of the 2000 presidential campaign constitute advocacy in favor of an unspecified candidate or candidates, and therefore illegal corporate campaign expenditures under the Federal Election Campaign Act.

These allegations are meritless on their face, since the Act expressly provides that

"[t]he term expenditure does not include --

Any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other political publication, unless the facilities are owned or controlled by any political party, political committee or candidate."

2 U.S.C. § 431(9)(A)(i). It is clear, therefore, that the news coverage to which Mr. Brannum objects does not fall within the purview of the Federal Elections Campaign Act. To the extent that Mr. Brannum asserts that such news coverage does not reflect a *bona fide* journalistic judgment as to the newsworthiness of the candidates to whom coverage has been afforded, but rather an attempt to promote those candidacies, he provides no factual or evidentiary support for those allegations whatsoever.

Moreover, if Mr. Brannum believes that the unnamed candidates whom he presumably favors have not received "reasonable access," "equal time," or fair coverage by CBS, he should file a complaint with the Federal Communications Commission, which has exclusive primary jurisdiction over such matters. See, e.g., *Writers Guild of America v. FCC*, 609 F.2d 355 (9<sup>th</sup> Cir. 1979); *Morrisseau v. Mt. Mansfield Television*, 380 F.

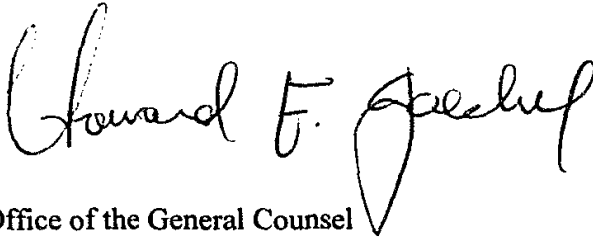
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Supp. 512 (D. Vt. 1974); *Gordon v. National Broadcasting Co.*, 287 F. Supp 452 (S.D.N.Y. 1968); *Ahmed v. Levi*, 414 F. Supp 597 (E.D. Pa. 1976).<sup>1</sup>

For these reasons, no further Commission action is warranted with respect to this matter.

Very truly yours,

A handwritten signature in cursive script, reading "Howard F. Gessner". The signature is written in dark ink and is positioned above the typed name and title.

Office of the General Counsel  
Federal Elections Commission  
Washington, DC 20463

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<sup>1</sup> Such a complaint would likewise be clearly without merit. *See*, 47 U.S.C. § 315 (a) (1)-(4); *see also Chisholm v. FCC*, 538 F.2d 349 (D.C. Cir.), cert. denied, 429 U.S. 890 (19776).

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