

In the
**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

FOX TELEVISION STATIONS, INC.)	
and)	
CBS BROADCASTING INC.,)	
)	
Petitioners,)	
)	
v.)	No. 06-1760-AG
)	
FEDERAL COMMUNICATIONS)	
COMMISSION and UNITED STATES)	
OF AMERICA,)	
)	
Respondents.)	

MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO INTERVENE

Pursuant to 28 U.S.C. §2348, Rule 15(d) of the Federal Rules of Appellate Procedure, and Local Rule 27(a)(1)(B), the Center for the Creative Community, Inc. d.b.a. Center for Creative Voices in Media, Inc. (“Center”) respectfully submits this Memorandum in support of this motion for leave to intervene in the above captioned matter.

Petitioners in this case seek a review of an *Order* of the Federal Communications Commission (“*Order*”). The *Order* found that various broadcast television programs contained indecent or profane material. *In the Matter of Complaints Regarding Various Television Broadcasts Between February 2, 2002 and March 8, 2005*, Notices of Apparent Liability and Memorandum Opinion and Order, 21 FCCRcd 2664 (2006).

The Center is a nonprofit tax-exempt Virginia corporation. The members of its Board of Advisors include writers, producers, actors, authors, and other creative professionals (“Members”). See www.creativevoices.us. The Center and the Members’ interests would be immediately and

directly affected by an action to affirm, modify, or set aside the Order. As a result, under 28 U.S.C. § 2348, the Center and the Members are entitled to intervene in this Court’s review of the Order.

The Center represents the interests of the Members and other artists who create and provide artistic content to broadcast programs. The *Order* has already constrained these artists, and unless it is reversed, it will continue to do so. The *Order* purports to give “substantial guidance to broadcasters and the public about the types of programming that are impermissible under our indecency standard.” In response, broadcast licensees have imposed new limits on the nature of programming that artists can create. Moreover, to the extent that the Order is impermissibly vague and confusing, broadcasters’ uncertainty has, understandably, induced them to err on the side of imposing greater restrictions on artists than are actually necessary under the Communications Act.

The Members are also viewers and listeners of television and radio, albeit with a heightened interest in observing and building upon the work of other artists in their industry. The *Order* impermissibly interferes with their rights to have access to diverse sources of information, as is guaranteed by the Communications Act, *Office of Communication of the United Church of Christ v. FCC*, 359 F.2d 994 (D.C. Cir. 1966), and the First Amendment. *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969).

For the foregoing reasons, this Court should grant the Network Affiliates’ Motion for Leave to Intervene and grant all such relief that the Court deems proper.

Respectfully submitted,

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