



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

**SENSITIVE**

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
) MUR 5540  
CBS Broadcasting, Inc., )  
Kerry-Edwards 2004, Inc., and )  
Robert Farmer, in his official )  
capacity as treasurer )

In the Matter of )  
) MUR 5545  
Dan Rather, CBS News, )  
CBS, and Viacom, Inc. )

In the Matter of )  
) MUR 5562  
Sinclair Broadcast Group, Inc. )

In the Matter of )  
) MUR 5570  
Sinclair Broadcast Group, Inc., )  
Mark Hyman, and Frederick G. Smith )

**STATEMENT FOR THE RECORD OF  
COMMISSIONER ELLEN L. WEINTRAUB**

I agreed with the General Counsel's conclusions and voted to approve the recommendations. I believe it important to emphasize that the press exemption shields press entities from investigations into alleged coordination. This agency cannot and should not attempt to arbitrate claims of media bias or breaches of journalistic ethics.<sup>1</sup>

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<sup>1</sup> It is unclear to me why commissioners who argue so persuasively in one statement that "the press exemption protects each respondent, specifically against the claims of bias, professional irresponsibility, or suspect motivations raised in the complaints" would then issue a separate statement assuming all those claims to be true.

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It is not the role of the Federal Election Commission to determine whether a news story issued by a press entity is legitimate, responsible, or verified. When faced with allegations against the press, the FEC need only determine whether the press entity is owned or controlled by a party or candidate and whether the press entity was acting as a press entity in disseminating the story or commentary at issue. *Reader's Digest Ass'n, Inc. v. FEC*, 509 F. Supp. 1210, 1214-15 (S.D.N.Y. 1981). That is the absolute limit of the FEC's investigative reach into a press entity's activities. "No inquiry may be addressed to sources of information, research, motivation, connection with the campaign, etc. Indeed all such investigation is permanently barred by the statute unless it is shown that the press exemption is not applicable." *Id.*

Whether particular broadcasts were fair, balanced, or accurate is irrelevant given the applicability of the press exemption. Whether the media entities communicated with political parties or candidates before the airing of the broadcasts is similarly irrelevant. Indeed, it is difficult to fathom how journalists could cover campaigns if they had to worry that communicating with campaign workers could trigger a government investigation into supposed improper coordination. Merely investigating such allegations would intrude upon Constitutional guarantees of freedom of the press.

Ellen L. Weintraub  
Ellen L. Weintraub, Commissioner

7/12/05  
Date