

Committee on Rules and Legislation

Oakland, California

Re: A REPORT AND RECOMMENDATION REGARDING KTOP's NEW PROGRAMMING AND PRODUCTION GUIDELINES

Chairperson Spees and Members of the Committee:

On April 1, 1997, the Mayor and Council adopted the KTOP Management and Operational Study and Four-Year Strategic Plan. Since that time, staff has researched and developed new Policies and Procedures governing KTOP's Programming and Productions. A combination of telephone interviews and site visits were conducted to access standard practices within the field. The following cities were contacted: Berkeley, CA; Chino, CA; Denver, CO; Germantown, TN; Los Angeles, CA; Richmond, CA; San Diego, CA; San Francisco, CA; Santa Monica, CA; Tampa, FL and Tucson, AZ. Additionally, KTOP developed guidelines for corporate and business underwriting. This report outlines the new guidelines that more accurately reflect KTOP's current and future operational needs and Oakland's rich community diversity.

## **BACKGROUND**

On January 29, 1991, City Council adopted the following Programming Priorities that have been in effect since that time:

The following KTOP Programming Category Priorities were adopted, in order of priority: "In the event of an emergency, KTOP will be available as needed, and emergency information shall have priority over all programming.

A. Coverage of governmental agency meetings:

1. City Council Meetings

2. Other City government meetings. Meetings of regional, state, and federal agencies dealing with topics pertaining directly to the City of Oakland.

B. The dissemination of information generated by the programs, services, and functions of City departments and other non-educational governmental agencies.

C. Coverage of programs, forums, and conferences on issues directly

affecting the citizens of Oakland.

**KTOP incorporated the following guidelines into staff's operating procedures:**

1. Programming shall be non-editorial
2. Programming shall be non-political
3. Programming shall be neutral
4. Programming shall be non-commercial
5. Programming shall be non-discriminatory
6. Programming shall be non-religious and non-sectarian
7. Live meeting coverage is a priority
8. Acquired or pre-produced programming shall be of the highest quality

At the April 1, 1997 Council Meeting, the Mayor and City Council adopted the following new Mission Statement unanimously:

KTOP's mission is to provide quality programming that seeks to mobilize the Oakland community toward civic participation, promotes civic pride and showcases the cultural diversity that makes our city a unique and exciting place to live and work.

This mission is accomplished by providing coverage of City Council, Council Committee, and other City Agency meetings, and broadcasting original and acquired programming that connects and engages viewers with their city government, fellow citizens and the world at large.

The Mayor and City Council also adopted KTOP's Four Year Strategic Plan with the goal of "Making KTOP the preeminent government access channel nationwide by 2001."

The proposed new Programming and Production Guidelines attempt to more adequately fulfill the aforementioned adopted Mission Statement.

**New Programming Priorities (listed in order of priority)**

To make the deliberations of legislative and advisory bodies or

commissions accessible to residents through gavel-to-gavel coverage of government meetings

To provide emergency information

To serve the public information dissemination needs of City Departments and city sponsored public agencies

To promote economic development, employment, cultural and recreational opportunities available in Oakland

To serve the needs of Oakland's diverse communities which are traditionally underserved by other available television channels

To enrich, educate, and inform citizens and serve the board public interest needs of Oakland viewers

To make available issue and contact information that will encourage dialogue between cable viewers and city officials or citizens regarding matters of local concern

### **ACQUIRED PROGRAMMING SOURCES**

In meeting programming objectives as outlined in Programming Priorities, KTOP will seek high quality programs obtained from outside sources, which will supplement KTOP's productions. These programs will come from a variety of available sources including:

Programming made available through other city agencies and departments, other municipalities, state and federal agencies

Programming available through non-profit public information and education organizations

Programming available through distributors and production companies

Programming made available through independent producers

### **ACQUIRED PROGRAMMING CRITERIA**

All programming materials obtained from outside sources will be screened for suitability by staff using the following criteria:

Subject matter of local interest or ties into local program(s) or event(s)

Information oriented content, factual, and verifiable

High production values and without technical flaws

Artistically or culturally stimulating

Historically significant

## **PROHIBITED PROGRAMMING**

Commercially produced programming (with the exception of public information or public service materials), or programming that does not comply with KTOP guidelines and City Council objectives is prohibited. Religious or partisan political programming is prohibited. Programming that is abusive, libelous, defaming, obscene, pornographic or otherwise in violation of any law. Declared candidate for public office may be refused program air time if their appearance in a program may be construed as electioneering unless they appear in a forum in which all candidates are given an opportunity to participate.

## **EDITORIAL POLICY**

In an effort to promote dialogue and encourage civic participation, KTOP may, at times, present works that have a strong point-of-view. KTOP will make every effort to notify viewers with the following statement: "The views expressed in the following/preceding programs are those of the producers and not necessarily those of KTOP or the City of Oakland." Further, KTOP will make its best efforts to find programming that gives an opposing point-of-view so that viewers receive balanced information on a particular issue. KTOP reserves the final right of broadcast to any acquired or produced materials.

KTOP reserves full editorial discretion regarding programming telecast on the channel, including without limitation the right to accept or reject any proposed programming and to approve the content of, and retain creative control over, all programs that it produces or co-produces. KTOP does not constitute public access and is not a public forum.

## **REBROADCAST POLICY**

Weekly and semi-monthly Legislative Meetings (Council Meetings, Council Committee Meetings, Public Ethics Commission and Planning Commission) shall be rebroadcast within seven days of their original meeting date.

Monthly, bi-monthly or quarterly Legislative Meetings (Oakland Base Reuse Authority (OBRA), City/Port of Oakland Liaison Committee, Landmarks Preservation Board and council of Seven Chairs) shall be rebroadcast within two weeks of their original broadcast date.

### **PROGRAMMING SERVICE INTERRUPTION**

City of Oakland Legislative Meetings and Chartered Boards and Commissions that experience service interruption shall be rebroadcast within 48 hours of resumed service.

KTOP original productions that experience service interruption shall be rebroadcast in their usual time slot during the following week's schedule.

### **PRODUCTION PRIORITIES**

City Agencies and Departments, City Council and Commission members, County, State and Federal government Agencies and Departments, as appropriate, and local non-profit agencies are encouraged to submit program proposals or requests for production services. The public is also encouraged to suggest production ideas. Generally, productions are for live to tape studio interview programs. Other productions include live, location tapings of performances, lectures, and community events. Occasionally, KTOP will produce a documentary about a particular subject of importance to Oakland residents.

All requests for interview programs and documentary or studio productions must be submitted to the KTOP (STATION MANAGER) Production Advisory Group made up of the City Clerk, KTOP Station Manager, KTOP Operation Manager, and three (3) community representatives. Requests will be prioritized using the following criteria:

Relevance to City issues and concerns

Timeliness and proper completion of production request

Appropriateness of the material for production

Availability of staff and resources to complete the project in a high quality manner within the time frame and budget available.

An assessment of the expertise of staff available to produce the project or projects.

The community benefit derived through the program

KTOP and the City of Oakland maintain all copyrights for production in which it has a 100% financial investment. For production in which KTOP and the City have 50% financial interest, KTOP shall be listed as a co-copyright holder. If a program or series is totally underwritten by an entity other than KTOP and the City of Oakland, the funding entity owns the copyright and KTOP shall retain the right to air the production. KTOP may enter into co-production agreements with approved underwriters.

#### PRODUCTION REQUEST PROCEDURE

Production requests must be received in writing at least four weeks prior to the quarterly KTOP Production Committee Meeting. Requesting entity is required to provide a liaison to work with KTOP staff on pre-production and production of the program. Request forms must be typed and include the following information:

Sponsoring City Agency, Department, or non-profit organization's name and phone number to expedite pre-production queries if needed

Date, Time of Production (beginning and ending)

Location (including street address)

Facility /location on-site contact person and phone number

Description of the event and activities

Participants names, titles and contract numbers

Information on how final production meets KTOP's Production Priorities and the intended use of competed work

To be considered for production, the proposed project should not duplicate existing KTOP productions. Missing information will result in return of form and removal from consideration list until correctly completed form is resubmitted. Submitters are responsible for the accuracy of information provided. Changes in date, time, location or production parameters may result in the cancellation of production due to staffing, equipment or scheduling conflicts.

Requests that are finalized for production will be required to sign a KTOP Production Agreement. (Please see Attachment.)

## **PRODUCTION PROHIBITIONS**

Production of commercial programming, or programming that does not meet KTOP guidelines and City Council objectives is prohibited.

Endorsements of privately sponsored products or services, lottery announcements, and political announcements not endorsed by Oakland City Council are also prohibited. Production of religious or partisan political programming is prohibited. Productions using obscene, defamatory, libelous, or slanderous language, actions, and/or materials, or advocating discrimination against any group are prohibited.

## **CANCELLATION POLICY**

KTOP reserves the right to terminate or cancel any production, with two weeks notice. Reasons may include, but not be limited to:

1. Production Contract violation(s).
2. Elected Officials and Candidates for Public Office policy violation(s).
3. Does not comply with KTOP Programming and Production Guidelines
4. An annual assessment of the need and relevance of such programming.
5. Violates any City, County, State or Federal regulations.

## **ELECTED OFFICIALS AND CANDIDATES FOR PUBLIC OFFICE**

KTOP is not intended as a mechanism to build support for chartered elected officials, other elected officials (BART, AC Transit, EDMUD) or individual candidates for public offices (including incumbents) will be aired after said individuals file Nomination Papers preceding an election (primary and general) in which the individual is a candidate. Exclusion can be as early as 113 days prior to a primary election but not later than 88 days prior to a Primary Election. (For any office where the incumbent fails to file the nomination period is extended five days to the 83rd day.) All qualifying candidates for the General Election are excluded from appearances through the General Election date. Candidate running in Special or Recall Elections will be subject to exclusion from appearances as governed by the filing dates specified according to the California Election code.

Exception may be made for public debates with other candidates for a given office, for statements made in the regular course of public meetings or press conferences, or incidental appearances in connection with official

business. Candidates may not expressly advocate for election to office or passage of a measure. Expressive words of advocacy include: "vote for," "elect," "support," "cast your ballot," "vote against," "defeat and reject," or otherwise refer to a clearly identified candidate or measure.

Elected officials may be granted not more than 30(thirty) minutes per week of regularly scheduled air-time, as available, and not for campaign purposes. Additional coverage may be granted for statements made in the regular course of public meetings or press conferences or for public debates with the candidates for a given office.

The Mayor, Council Members of their staff shall have the opportunity to make weekly announcements, not to exceed five minutes in length, to be aired immediately after the weekly City Council meetings. Announcements shall be limited to upcoming district or citywide events, activities, or public meetings. Announcements may not expressly advocate for election to office or passage of a measure. Expressive words of advocacy include: "vote for," "elect," "support," "cast your ballot," "vote against," "defeat and reject," or otherwise refer to a clearly identified candidate or measure.

## **PUBLIC SERVICE ANNOUNCEMENTS GUIDELINES**

KTOP accepts scripts for public service announcements or (on) BETA,  $\frac{3}{4}$ ", SVHS or VHS format video taped public service announcements from City Agencies and Departments, City sponsored community events, County, State and Federal governments and agencies, and non-profit agencies promoting public education, public welfare, and cultural enrichments. KTOP reserves the right to edit length of announcements and to select appropriate text formats for announcements.

KTOP will post scripted announcements on Information Access electronic bulletin board. Submission of pre-produced PSA's will be aired as airtime allows. KTOP usually runs public service announcements during station breaks between regularly scheduled programs and during special segments of programs such as meeting breaks. Submission of PSA materials does not guarantee airtime.

## **PUBLIC SERVICE ANNOUNCEMENT CRITERIA**

Announcements must be received in writing at least two weeks prior to the requested air dates. All information must include an approved sponsor contact name and phone number to expedite follow up queries if needed. Submitters are responsible for the accuracy of information included in announcement.

## **PUBLIC SERVICE ANNOUNCEMENT PROHIBITIONS**

Material which directly solicits funds, religious announcements, advertising or announcements relating to political campaigns are prohibited. However, promotion of non-profit agency fundraising events is permitted.

Endorsements of privately sponsored products or services, lottery announcements, and political announcements not endorsed by Oakland City Council are also prohibited. If an announcement is deemed inappropriate for air, the sponsoring agency may submit the material to the KTOP Production Advisory Group for reconsideration.

## **UNDERWRITING GUIDELINES**

In keeping with its goal to encourage community participation and promote civic pride, KTOP will seek to involve the corporate citizens of Oakland in the support of the production of programming which is informative, educational and culturally diverse through the creation of underwriting opportunities. These opportunities will be non-commercial in nature, and will not endorse a particular person, belief, organization, product or platform. Furthermore, these opportunities will comply with all Council approved resolutions and ordinances. Conforming to the industry standard governing credit content, underwriting acknowledgements will fully and accurately disclose to viewers funding participants as well as production and consulting staff. Pre-existing/prepackaged underwriting acknowledgments will be reviewed to ensure that the elements of a particular credit taken as a whole are not deemed to be in conflict with these guidelines.

All underwriting shall be solicited and received with the express and written understanding that no such gift will serve (or be construed in any way to imply) a quid pro quo arrangement for securing contracts or any other action by any City agency. No individuals soliciting contributions shall decide any City contracts.

Pursuant to conflict of interest Board rulings all written solicitations will include the following language:

Please be assured that no gift or sponsorship will serve as a quid pro quo for securing any contract or beneficial action by the City or this agency, and that the recipients/solicitors of these funds are not the same individuals who decide any City contracts. Please let us know if there are any undisclosed issues, contracts, or business dealings with the City, which might make your company inappropriate to sponsor City television or present a possible conflict of interest.

When the Mayor and Council adopted the FY' 1997-99 Budget, the authorized on FTE for one-year as a Fundraising and Marketing Specialist position for KTOP. This position must be self-sustaining within a year in order to continue. As a result of these efforts, KTOP will begin to generate revenue. KTOP staff will be working directly with the Budget and Finance Agency to create a sub-fund to capture revenues generated by this Fundraising and Marketing Specialist. Over time, these additional revenues will also aid in providing the additional resources required to implement KTOP's Strategic Plan approved by the Mayor and council in April 1997.

### **Underwriter Name or Logo**

It is incumbent upon KTOP to preserve the unique quality of its non-commercial airtime. However, the City Council, KTOP and corporations recognize program underwriting as a valuable and effective market communication tool. Each underwriter will be identified in video by name and or/logo. If a logo by itself does not adequately disclose the identity of a funder then the funder's name should be stated in audio or video graphics.

Standard or existing logotypes, or logograms may be used to identify and underwriter. These include the symbols, emblems, or typefaces commonly used by a corporation or organization to identify itself. Logos that contain product images, slogans, or other content beyond the name of the company may be used, but will be evaluated in accordance with other considerations.

The identification of the funder in video, whether by text or logo, must be accomplished independently of the appearance of the funder's name or logo on a product displayed on the screen. In addition, the identity of the funder must be readily apparent, and must not be obscured by any additional identifying information such as product depiction.

For purposes of giving a funder's name, terms such as "Corporation," "Inc.," etc. need not be used. For example, Acme need not be identified as "Acme Corporation." In addition, if the funding comes from a bona fide operating division or subsidiary of a corporation, that division or subsidiary may be identified by its logo or name as above. It is not necessary to identify the Parent Corporation, but it is permissible to do so; e.g., a credit may be given to Lincoln-Mercury or to the Lincoln-Mercury Division of the Ford Motor Company.

## **Association with Program Content**

KTOP encourages the use of credits, which make an association between the underwriter and the content of the program. Viewer response to such credits is believed to be very positive, helping to create a positive reception of the underwriting company. Examples of such credits include:

"The spirit of exploration and discovery has helped make Fireman's Fund a leading insurer for over a century. The following program [adventure or travel log show] celebrates that spirit as it takes you on the adventure of a lifetime."

"Major funding for We the People is provided by Merrill Lynch, in celebration of the bicentennial of the U.S. Constitution, which provided the foundation for American freedom and liberty."

## **Products**

To help identify a funder, one specific product or brand name item may be mentioned in audio and depicted in video. In addition, up to three generic product lines or target markets for a company's products may be mentioned in audio and identified by means of text or generic symbols in video (e.g., "maker of the VAX-111 computer [specific product] and other computer for business, government, an personal use [target markets].")

In order to maintain the non-commercial appearance of the underwriting credit, product depicted in video should not be shown in use or in operation (e.g. pair of shoes is acceptable; a person wearing the shoes is not). However, a minimal or incidental amount of operation or motion may be permissible, subject to the application of the following criteria by KTOP and the review panel:

The operation or motion may not be used to demonstrate the performance characteristics of a product

The operation of motion depicted must not be gratuitous

The motion or operation associated with generic symbols of products or services, including animated treatments, will generally be judged less strictly than motion or operation associated with specific, identifiable products. For example, an airliner shown flying but remaining motionless relative to the frame of the picture would be an acceptable depiction of product in motion

Packaged goods (such as food) may not be shown out of the package or container

### **User Action**

Directives which verbally or typographically get the viewer to call, buy, see, think, consider, try, compare, etc., are not permitted.

### **Comparatives**

Statements which verbally or typographically compare the product or service to anything else (e.g., the best, biggest, most, least, only, first, etc.) are not permitted.

### **Qualitatives**

Statements which verbally or typographically involve subjective evaluation of quality (e.g., fine, great, creamy, speedy, etc.) are not permitted. However, certain statements of demonstrable quantitative fact are permitted (e.g., serving two million clients with \$3 billion in assets).

### **Underwriter Location**

It is permissible to cite location, telephone number information and web site addresses. In the alternative, it may be generic reference to the area served (e.g., "serving the south," or "with stores throughout the Bay Area").

### **Slogans and Corporate Positioning Statements**

Slogans, or corporate "positioning" statements that are used to identify a company are acceptable so long as they do not include any explicit, specific, or blatant call to action ("bring your car to us"); superlative description of qualitative claim about the company, its products, or its services ("the most intelligent car ever built"); direct comparison with other companies, or with other companies' products or services ("when a Cadillac just isn't good enough"); price or value information ("only \$160 down," "affordable"); inducements to buy, sell, rent, or lease ("six months free service when you buy"); or endorsements ("recommended by 4 out of 5 dentists"). Example of an acceptable slogan:

"Union Bank: The Business Bank"

"MCI Communications for the next 100 years"

"Merrill Lynch is bullish on America."

A number of corporations have developed slogans, specifically for non-commercial use, which underscore the partnership with viewers that is exemplified through underwriting.

An example of credits that incorporated such a slogan is:

"Major funding for this program is provided by the American Red Cross. Community education and disaster preparation help us to help each other in time of need."

In cases where a credit does not clearly violate the above standards, but is nonetheless questionable, KTOP will consider two other factors that may mitigate the promotional effect of a slogan:

The extent to which the slogan is an established part of a corporate identity system

The extent to which the slogan avoids specific product promotion

**Corporate Mascots, or Symbols.**

Mascots and other symbolic figures that have been developed as a corporate (rather than product) symbol and are used to identify the company are acceptable in either "live video" or animation. An example would be the Merrill-Lynch bull. Mascots or other symbolic figures that are used solely for product identification are not acceptable (such as Tony the Tiger for Kellogg's Frosted Flakes), unless they happen to appear on a specific product that is depicted.

Only one corporate mascot or symbolic figure may be used in a credit, and it must be accompanied by the company's name or corporate logo. In some instances, more than one mascot may be permitted if the standard depiction of a corporate logo. In some instances, more than one mascot may be permitted if the standard depiction of a corporate mascot always involves two or more figures such as the Budweiser Clydesdales). The mascot or other symbolic figure must not make any movements other than incidental ones (e.g., the Exxon tiger could twitch its tail but could not be depicted running) and may not make any sounds.

## **Use of People**

Actors/ Actresses or corporate spokespersons may appear in a credit. Further, for the purposes of identifying a funder, employees of a company may be shown in a credit, provided, however, that if employees are used, specific products may not be shown.

## Music, Voice-over and Other Audio Elements

Music including music used to identify a corporation (such as jingle music that may have been used in a company's advertising) may be used in an underwriting credit, so long as the overall effect preserves the non-commercial character of the announcement. In general, this means that music used in a credit must be in keeping with the tone and feel of the program on which the credit appears, and must not dominate the voice of the announcer.

Lyrics sung to the music are not acceptable.

Sounds of a company's product (such as a car engine running or the sound of an airplane taking off) and sound effects intended to evoke the impression of a product in use are not acceptable.

The voice and delivery of the announcer should be consistent with the tone of the program, and should not be fast-paced, shrill or breathless

### **Underwriting Credit Length**

Local underwriting credits for acquired programming are fifteen (15) seconds in length exclusive of any KTOP preamble. In many time periods, local "adjacency" credits may be up to thirty (30) seconds long exclusive of any preamble.

### **Government Agencies and Not-for-Profit Organizations**

Regional, state and federal agencies, and not-for-profit organizations may utilize local underwriting credits that contain promotional material.

### **RECOMMENDATION**

That the Committee on Rules and Legislation recommend approval of the new Programming, Production and Underwriting Guidelines to the full Council at the November 11, 1997 meeting.

Respectfully submitted,

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City Clerk

General Manager, KTOP

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