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VIA FACSIMILE

KOTA

Station Manager
518 St. Joseph Street
Rapid City, SD 57701

Dear Station Manager:

Recently, “South Dakota Campaign For Healthy Families” (“SDCFHF”), began running a political advertisement urging voters to oppose an upcoming South Dakota ballot question concerning a state law that would ban virtually all women from having legal abortions within the state. Shortly following the placement of this ad on your station, the law firm of Murphy, Goldammer & Prendergast, L.L. (“MGP”), on behalf of its client, VoteYesForLife.com, sent a letter alleging that the announcement sponsored and produced by SDCFHF was deceptive and misleading.

It is our position that the objections of the MGP and VoteYesForLife.com are unsupported in fact and law. First, the broadcast objected to is not a commercial advertisement-it is political speech, encouraging South Dakota voters to vote no on Referred Law 6, and therefore its content is not subject to FCC regulations concerning commercial speech. We note that the FCC notice cited in MGP's letter as the sole authority for its demand that you take the ad off the air is one issued in relation to a Federal Trade Commission publication. The FTC deals with commercial, not political advertising, and indeed, to our knowledge, the FTC has no authority over political advertisements.

Second, there is nothing false or misleading about the SDCFHF political advertisement. Rather, it is MGP's argument that is false, misleading and disingenuous. MGP's contention concerning the first objectionable clause “But should a woman who's the victim of rape or incest be left no option...” rests on its having taken the phrase out of context. In the aired piece, the language patently refers to the lack of availability of an option to terminate the woman's pregnancy, not to a lack of contraceptive options to prevent becoming pregnant in the first place. The available “options” cited by MGP in their effort to characterize the piece as false or misleading, is the option of Emergency Contraception -- a preventive contraceptive measure not a method of terminating a woman's pregnancy.

Additionally, MGP's claim of falsity concerning the phrase “What about the mother whose health would be seriously threatened...” is similarly baseless. First, we note that the allegation the statement is misleading is followed and supported by the contention that there are options for “mothers whose lives are threatened.” That is NOT what the ad says, and, since MGP quotes the “objectionable” phrase in the prior sentence, they should know that. It is indisputable that the only exception provided in South Dakota's otherwise blanket ban on abortions is for procedures performed to prevent the death of

the mother. It does not contain an exception where the health of the woman is jeopardized, nor does it permit abortions in cases of rape or incest unless the woman's life is at stake.

MGP's letter on behalf of VoteYesForLife.com appears to deliberately mischaracterize Referred Law 6 as containing an exception for women who have been raped. The letter suggests that because Referred Law 6 does not *also* outlaw contraception, including emergency contraception, the public should be misled into believing that Referred Law 6 has an exception to its abortion ban for women who have been raped.

While anti-abortion activists may want the public to believe that emergency contraception and for that matter birth control pills are a form of abortion (apparently so they can be outlawed next) they are not in fact abortifacients. Having access to Emergency Contraception is not the same as having access to abortion services. Emergency Contraception only works if taken within 72 hours of unprotected sex or birth control failure. If it is taken then, it significantly reduces the likelihood a woman will get pregnant. While women may have 72 hours get contraception -- under Referred Law 6 -- they will have zero hours to get an abortion if they later discover they need one.

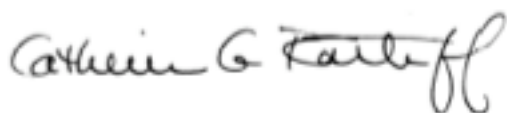
It should also be noted that by definition a woman who has been raped has been traumatized and her ability to obtain and use EC so quickly after an attack will necessarily be compromised.

Moreover, even if women still have the right to contraception, the truth is that South Dakota has done virtually everything it can to limit women's access to Emergency Contraception. South Dakota's legislature was one of the first in the country, in 1998, to enact a law permitting pharmacists to refuse to fill prescriptions for contraceptives. According to state law, if a woman is trying to fill a prescription for emergency contraception, her pharmacist may turn her down.

In the most recent legislative session in which the ban on virtually all abortions was passed, South Dakota legislators refused to ensure that children receive comprehensive sex education that would include information about abstinence and about such precautions as emergency contraception. Even more on point, the legislature that passed the ban on abortion defeated a bill that would have required health care facilities to provide oral and written information about emergency contraception to female rape survivors who come in as patients. So South Dakota legislators not only prohibit pregnant rape survivors from choosing abortion, they are also depriving them of essential information about the one contraceptive method that could prevent the pregnancy in the first place.

We urge you not to capitulate to threats and intimidation by acceding to MGP's demand. Licensees have an obligation to air all sides of political controversies. Neither a licensee nor the FCC ought be able to censor or limit political debate because opponents make baseless claims as to the contents of an advertisement.

Sincerely,



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