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# DAILY NEWS

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May 29, 2001

**VIA FACSIMILE**

James J. Brown  
Deputy Chief  
Video Services Division  
Mass Media Bureau, Federal Communications Commission  
The Portals, 445 12th Street, S.W.  
Room 2-A663  
Washington, DC 20554

Re: Chris-Craft Industries/Fox Television

Dear Mr. Brown:

I write in response to the letter of May 22, 2001 from counsel for Fox Television Stations, Inc. opposing my Freedom of Information Act request in the Fox Television licensing proceeding.

First, I deeply resent Mr. Reyner's false and unfair characterization of me as a "stalking horse" for Mortimer Zuckerman, co-publisher of the Daily News. I have had no communication of any sort, direct or indirect, with Mr. Zuckerman about the Fox Television matter generally or my FOIA request specifically. Our newsroom, like all good news operations in the United States, prides itself on its independence from its owners. I made the request for one reason and only one reason: I cover the media industry for the Daily News. Fox's acquisition of another major media outlet in New York is an important story. The documents I seek will help me to better inform my readers about Fox, the decision-making process at the FCC, and, ultimately, what New Yorkers' options as media consumers will be in the years to come.

Second, Mr. Reyner ignores basic FOIA law when he insinuates that I should have identified myself as a reporter in my request and that my request should be denied because I am a reporter. As the Supreme Court itself has said, "The identity of the requesting party has no bearing on the merits of his or her FOIA request" because Congress "clearly intended the FOIA to give any member of the public as much right to disclosure as one with a special interest" (U.S. Department of Defense v. FLRA, 510 U.S. 487).

Third and most important, in claiming that I need to make a "persuasive showing" to obtain the documents under a 1998 order of the FCC, Mr. Reyner overlooks the key points from that order. The order directly states that "where a party placed its financial condition at issue in a Commission proceeding," disclosure of financial information will generally be appropriate.

That is precisely what Fox has done. While Mr. Reyner claims that Fox will be hurt by disclosure (without bothering to explain how), he conveniently ignores the clear public interest at stake. Fox has come before the FCC seeking special treatment. It wants to be exempted from laws designed to protect the public from domination of the airwaves, which are "public property," by a small number of media owners. Fox says it needs that special treatment because of financial considerations. The public has a right to know what information the FCC is considering as it makes a decision that will directly affect them as media consumers. As the Supreme Court said in the Department of Defense decision: "[FOIA's] basic policy of full agency disclosure unless information is exempted under clearly delineated statutory language indeed focuses on the citizens' right to be informed about what their government is up to. Official information that sheds light on an agency's performance of its statutory duties falls squarely within that statutory purpose."

Fox voluntarily chose to purchase a TV station in New York. It voluntarily chose to seek a waiver from the FCC so it could be able to keep both the New York Post and its TV holdings. It voluntarily chose to argue financial exigencies as a basis for the waiver. If it did not want its business in a public forum, it was free to pursue other opportunities in other markets or to make other arguments to the FCC. But its voluntary business choices should not now be allowed to prevent the public from knowing what the FCC "is up to" in considering an issue of great importance to the millions of people in the New York metropolitan area.

Sincerely,



Paul D. Colford  
(212) 210-6359

cc: William S. Reyner (via facsimile)