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May 4, 2001

COMMUNICATIONS  
MAY 11 P 1:16

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W  
Washington, D.C. 20554

**EX PARTE – DA 00-2246**

Re: Applications Seeking Consent to the Assignment of  
Chris-Craft Television Stations Licenses to Fox Television Stations, Inc.  
File Nos. BALCT-20000918ABC, et al.

Dear Ms. Salas:

On April 30, 2001, the Office of Communication, Inc. of the United Church of Christ, *et al.* ("Petitioners") filed a response to the Second Application Amendment of Fox and Chris-Craft ("Opposition"). Although Petitioners' Opposition does not require a detailed reply, The News Corporation Limited ("News Corp") and Fox Television Stations, Inc. ("Fox") wish to correct for the public record several erroneous points made by Petitioners:

- News Corp has not argued that no purchaser could be found for the *New York Post*. Rather, News Corp contends that it is very unlikely that it could obtain a fair price for the *Post* from an entity with the strength to avoid yet another bankruptcy or closure of the *Post*. Petitioners ignore (*see* Pet. Opposition at 2-3) that any proposed purchase price for the *Post* in fairness must be based upon the substantial investments made by News Corp in reliance on the permanent waiver granted by the Commission in 1993.

BRUSSELS BUDAPEST LONDON MOSCOW PARIS\* PRAGUE WARSAW  
BALTIMORE, MD BETHESDA, MD COLORADO SPRINGS, CO DENVER, CO LOS ANGELES, CA MCLEAN, VA

\*Affiliated Office

Ms. Magalie Roman Salas  
May 4, 2001  
Page 2

- The fact that the owner of a competitive newspaper in the market has expressed a highly conditional interest in acquiring the *New York Post* is irrelevant to News Corp's request for an interim waiver. Obviously, Mr. Zuckerman would benefit by the elimination of this competition. The Petitioners' professed concerns for the impact of an interim waiver on the public interest are scarcely alleviated by combination of the *Post* with a competing newspaper and the dismantlement of most of the *Post's* staff.
- News Corp's financial submissions are responsive to the Commission's request for additional information regarding the financial condition of the *Post*. Contrary to Petitioners' assertions (*see* Pet. Opposition at 4), the Commission requested independently audited financial statements if they were "available."<sup>1</sup> In accordance with the Commission's request, because audited financials of the *Post's* operations were not available for the reasons set forth in News Corp's submission, News Corp submitted Statements of Operation for NYP Holdings, Inc. showing the actual results of operations for the *New York Post* for the fiscal years ended June 30, 1999 and 2000 and for the six months ending December 31, 2000, and the forecast results of operations for the full six months ending June 30, 2001. These statements/results of operations were supported by a declaration made under penalty of perjury by David F. DeVoe, the Chief Financial Officer of News Corp, who has actual knowledge of the operations of the *New York Post*.
- The Commission did *not* specifically request that News Corp provide a balance sheet to support its contentions regarding the *Post's* finan-

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<sup>1</sup> Letter dated April 3, 2001 from Barbara A. Kreisman, Chief, Video Services Division, Mass Media Bureau, at 2 (requesting "any available, independently audited certified financial statements, prepared in accordance with Generally Accepted Accounting Procedures (GAAP), or similarly probative statements that support your contentions regarding the *New York Post's* financial viability").

Ms. Magalie Roman Salas  
May 4, 2001  
Page 3

cial viability. *See* Pet. Opposition at 6-8. In fact, the book values of the *Post's* assets and liabilities have no relevance to the fundamental issue before the Commission – namely, the operating losses being incurred by the *New York Post*.

- Contrary to Petitioners' assertions (*see* Pet. Opposition at 7), a balance sheet would *not* show the current market value of the assets. Rather, a balance sheet would be required to present the original cost of the assets less any depreciation expense. The relevant information relates to the investments made by News Corp in the *New York Post*, and that information has been provided.
- Contrary to Petitioners' speculation (*see* Pet. Opposition at 8-10), all assets of the *New York Post* are, in fact, carried on its books. Although Petitioners' text at footnote 23 is incomprehensible, News Corp wishes to clarify that there has been no depreciation by the *Post* for ANY asset owned by News Corp and not carried on the *Post's* books.
- Petitioners claim that the capital improvements made over the years are irrelevant to this proceeding. *See* Pet. Opposition at 7-8. How can one seriously argue that the amount of money required to stabilize a bankrupt, failed newspaper is irrelevant to the newspaper's viability and losses? How can one argue the relevancy of the building and operating costs of a new printing plant in the South Bronx that will create new jobs and make the *New York Post* more competitive with other daily newspapers with modern printing plants?
- Finally, the *Post's* decision to reduce its newsstand price by 50% was not "a self-imposed slash" as claimed by Petitioners (Pet. Opposition at 11), but rather was a competitive response to Mr. Mortimer Zuckerman's decision to offer a free afternoon edition of the *Daily News*. Attached are newspaper articles published at the time of the price reduction that confirm the *Post's* motivation. No publicly traded company, such as News Corp, could justify to its shareholders a

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Ms. Magalie Roman Salas  
May 4, 2001  
Page 4

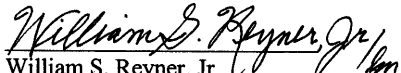
reduction in the newsstand price unless the price cut was in response to competitive pressures.

\* \* \*

The above-referenced applications are ripe for Commission action. Fox urges the Commission to allow News Corp to continue its operation of the *New York Post* and to grant the requested assignment of licenses without delay.

Respectfully submitted,

HOGAN & HARTSON, L.L.P.

By:   
William S. Reyner, Jr.

Attorneys for The News Corporation Limited  
and Fox Television Stations, Inc.


cc: Chairman Michael K. Powell  
Commissioner Harold Furchtgott-Roth  
Commissioner Susan Ness  
Commissioner Gloria Tristani  
Roy J. Stewart, MMB  
Barbara A. Kreisman, MMB  
David Roberts, MMB  
David Brown, MMB  
James R. Bird, OGC  
Christopher R. Day  
Angela Campbell

**DECLARATION OF DAVID F. DEVOE**

David f. DeVoe hereby declares under penalty of perjury as follows:

1. I am the Senior Executive Vice President and Chief Financial Officer of The News Corporation Limited. I supervise the preparation of financial statements for The News Corporation Limited and its subsidiaries, including NYP Holdings, Inc., the owner of the New York Post.

2. I have read the Letter to Magalie Roman Salas dated May 4, 2001. The facts set out therein are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
David F. DeVoe  
Senior Executive Vice President  
and Chief Financial Officer

Date: May 7, 2001

# Daily News Opens a New Front in the Tabloid War

## Free Paper Raises Stakes in Battle With Post

the free Daily News Express, The New York Post quickly cut its newsstand price to 25 cents from 50 cents within the city limits. If red ink trickled through the streets of Denver, it threatens to course through the streets of Manhattan.

What does it mean? Everyone in the business has his own take. But most agree that the sudden escalation of New York's long-running tabloid war makes the perennially uncertain newspaper landscape even more uncertain. A new weapon, the free daily afternoon newspaper, hurries The Post. The Post, however, has shown that it knows how to undercut The News. Four years ago, it introduced a cut-rate Sunday newspaper, forcing The News to cut its newsstand price, even so, in less than a year, circulation of The News's most valuable edition dropped more than 100,000 copies.

Leonard N. Stern, who, as the owner of The Village Voice, turned the paid alternative weekly into a free newspaper and then sold it at a significant profit, sees the latest developments in stark terms. "The Daily News is the dominant tabloid of the city, and it is now under challenge for its life," he said. Mr. Stern, chairman of the privately held Hartz Group, added: "This is it. I believe the battle has been joined. When it's over, things are not going to look the way they do today."

Mr. Stern's views are stark, but he is not alone. Even more moderate observers do not disagree about the intensity of the current battle, or the willingness of the combatants to incur short- or medium-term losses in pursuit of long-term dominance. John Morton, a newspaper industry analyst, observed, "When you have two papers, neither of which is making money, going at it in this fashion, what it promises to do, is increase

Continued on Page 16

BY FELICITY BARRINGER  
with JAYSON BLAIR

Despite its Texas-size sense of its own primacy in almost everything, New York City in recent years has not been the site of the country's bloodiest newspaper war. That title went to Denver, where rival papers tried to starve each other into submission by offering themselves for a penny a day.

Penny, schmonny. Tomorrow, New York gets a new afternoon newspaper for nothing, courtesy of The Daily News. (The News itself still costs 50 cents.) After The News announced its plans for

the Daily News, which never for nothing, courtesy of The Daily News. (The News itself still costs 50 cents.) After The News announced its plans for



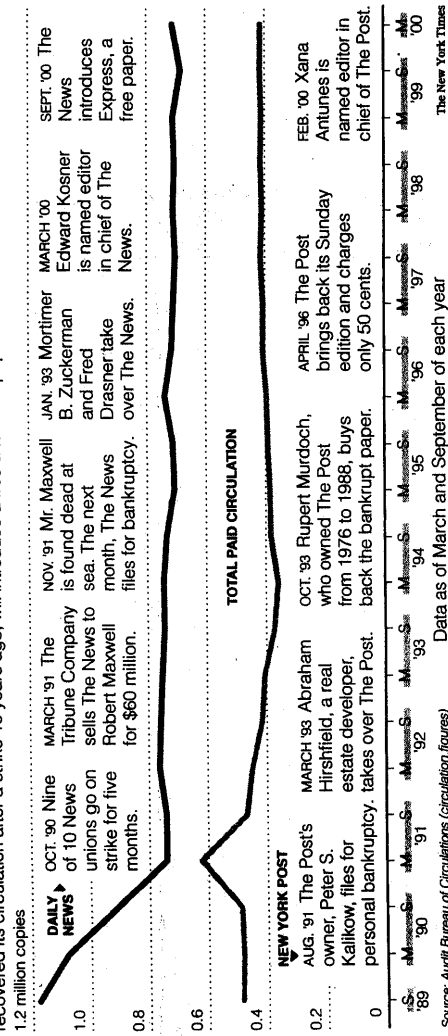
The New York Post cut its price to 25 cents as its main rival, The Daily News, prepared a free paper, Express.



Carol Babban for The New York Times

### Tale of the Tabloids

In the 1990s, New York's two main tabloid newspapers have gone through turbulent changes. The Daily News, which never recovered its circulation after a strike 10 years ago, will introduce a free afternoon paper tomorrow.



The New York Times

Data as of March and September of each year

Source: Audit Bureau of Circulations (circulation figures)

NY Times  
Sept. 11, 2000

# Free Version of Daily News Opens New Front in an Old Tabloid War

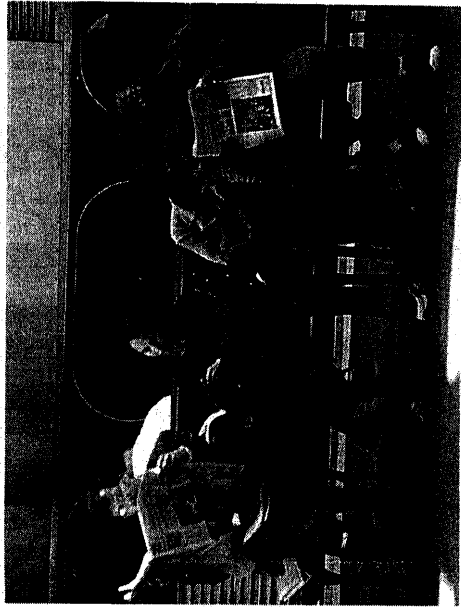
Continued From First Business Page

the losses for both of them." He added that Rupert Murdoch, chairman of The Post's parent, the News Corporation, and Mortimer B. Zuckerman, co-owner of The News, have each demonstrated a determination to keep control of a New York newspaper. "It's not about money," he said. "It's about image and being the publisher of a major newspaper in the world's most important city."

So The News and The Post are willingly incurring extra economic pain at a time when there is already pain enough: the price of newsprint, the biggest nonlabor cost for any newspaper, is rising steeply in a market tighter than at any time in the last four years.

For The News, there is also the question of fighting a two-front war: Newsday, the Long Island newspaper, is beginning a circulation comeback in Queens after years of decline; its editor, Anthony Marro, said he planned to send in 15 people next year to strengthen a Queens-based editorial staff that now numbers about 45. (Newsday is now owned by the Tribune Company, the former owner of The Daily News.)

Indeed, to hear News executives tell it, you would not know that there was anything but fun and profit ahead. Their blithe willingness to part with cost nothing are worth nothing to advertisers has provoked guard-line enthusiasm from both media analysts and advertisers. About 75,000 copies of Express will be distributed at 85 commuter hubs: bridges, tun-



Laura Pedricci/The New York Times

As commuters wait at the 30th Street Station in Philadelphia, some read copies of Metro, a Swedish-owned free newspaper.

nels, bus terminals and subway and train stations. It can carry news that breaks as late as noon, executives say.

Robert J. Broadwater, managing director of the media-centric investment bank Veronis, Suhler & Associates, is impressed. "I don't know if it will work for The News or anybody, but it's intriguing as all get-out," he said. "In the current market for news and information and entertainment, it's increasingly difficult to get and hold a paying subscriber or reader. Circulation is the biggest challenge."

Esther Eaton, advertising director at Seaman Furniture, one of The News's major advertisers, called Express "a great vehicle," adding, "There's a difference between a penny-saver type vehicle and a real newspaper."

Les Goodstein, chief operating officer of The News, said executives at the News conceived the idea when they heard that Metro, a Swedish-owned free newspaper, would be distributed to Philadelphia commuters in cooperation with the city's transit authority. "We are taking the concept and refining it to fit the needs of

the New York area," he said. And executives of Metro's parent company, the Modern Times Group, from thinking about a move to New York. Earlier this year, Modern Times executives discussed a possible collaboration with The Post, but those talks were not productive, according to an executive involved in the talks.

Express, as designed, will split its 40 pages roughly equally between advertising and editorial material: pictures, listings and short, 300-word articles, emphasizing topics like business, entertainment and sports. In Europe, such free dailies began to win audiences more than two decades ago. But almost all were morning publications — and New Yorkers can choose from The Post, The News, The New York Times and Newsday in the morning.

"The gaping hole," Mr. Goodstein said, "was in the afternoon."

The high-profile introduction is generating guarded excitement among advertisers, who have been less than enthusiastic about reader erosion. The News — which a decade ago had a circulation of more than a million — is struggling to keep its circulation figure above 700,000 for the six-month period ending Sept. 30.

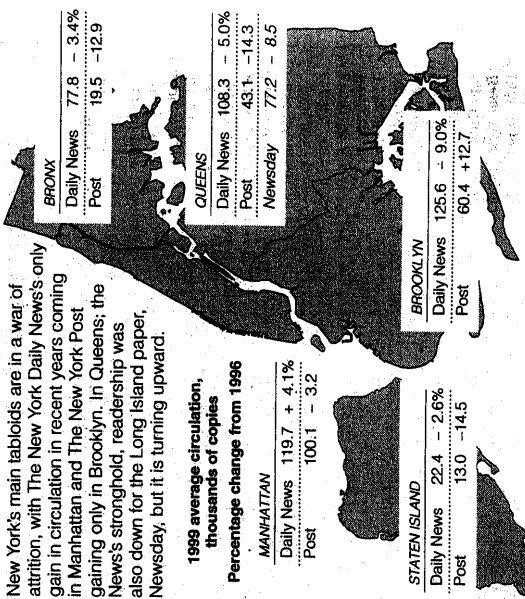
In fact, erosion of New York City circulation has affected not just The News but The New York Times as well. The Post has bucked this trend the last few years but has lost some of its core Manhattan readership. Others who remain loyal to The Post have known it since it was an afternoon newspaper itself — and save it for the train or bus ride home. Tomorrow, these readers of The Post

## Losing in Core Markets

New York's main tabloids are in a war of attrition, with The New York Daily News's only gain in circulation in recent years coming in Manhattan and The New York Post gaining only in Brooklyn. In Queens, the News's stronghold, readership was also down for the Long Island paper, Newsday, but it is turning upward.

1999 average circulation, thousands of copies

Percentage change from 1996



Source: Audit Bureau of Circulations

NY TIMES

Sept. 11, 2000

will be offered a free copy of Express by a novel crew of hawkers, including an opera singer and a handful of leggy cheerleaders.

If The News wants to grab The Post's readers, it would not mind slicing into Newsday's advertising revenue. Last year, Newsday's Queens circulation increased after three years of losses, while the Queens circulation of The News dipped. Readers in the Staten Island area are also being courted by limited budgets. Eventually, Ms. Eaton said, new expenditures for ads in Express would require her to cut spending elsewhere. Perhaps at Newsday Or, perhaps, at The News. Cannibalization of readers and advertising dollars, is a consideration for executives of The News. But Mr. Goodstein said he was not worried. Express, he said, posed little threat to The News. "If we compare the evening paper to the Cliffs Notes," Edward Kosner, editor in chief of The Daily News, said Express has a staff of 20, about half carved out of The News staff and many of the rest hired, for the moment, on a contingency basis.

"The New York market is going to stay competitive," Mr. Goodstein said. "The way we're positioning our paper is to be a strong competitor." Much of its breaking business news will come from the San Francisco-based Web site CBSMarketwatch.com.

But can The Daily News's daily circulation (730,542 for the six months ended March 31) withstand the possible hammer effect of The Post's price cut? With a circulation measured at 1.4 million, The Post loses less from such an action than The News does if it follows suit.

Mr. Murdoch, for his part, is legendary for using blunt instruments like price cuts to good effect in one market after another. In London, a 1993 price cut at The Times of London brought in close to 400,000 new readers, more than half of whom stayed even when the price was cut back up. In New York, The Daily News was forced to cut its own prices in response.

In Britain, cuts in the cover price are a more dire move, since 35 percent to 50 percent of most British newspapers' revenue come from readers. By contrast, most American newspapers gain close to 80 percent of their revenue from advertisers. Still, analysts believe The Post already loses at least \$10 million annually; the new price loss should add to that.

As Mr. Stern sees it, Mr. Murdoch's willingness to sustain that kind of drain makes him a fearsome

competitor. "I've been in many businesses, including publishing. I can tell you categorically: I don't want to be in any business where I have to compete with Rupert Murdoch."

Ken Chandler, publisher of The Post, alluded to the News Corporation's willingness to endure economic pain when he said, "I remind people that we have a history of being patient and taking a long-term view with newspapers." He added, "Basically, we just see this price change as a market move. We're going to be in the longer and reintroduce old readers who may not have looked at us recently," pointing out that the paper has increased its daily circulation by 50,000 in the last five years.

Keeping that upward momentum is important, particularly when \$200 million worth of new presses are nearing completion. Some observers suggest it may also be important for The Post to impress federal regulators with its willingness to publish at great cost to itself — so they will not overrule the News Corp. plan to reconvert the News Corp. plant to buy a second television station in New York as an unacceptable concentration of media power.

For his part, Mr. Chandler is willing to do some genteel trash-talking about his rivals at The News. "Our hawkers will go toe to toe with theirs," he said. "And we have got a few things that we're keeping close to our chest that will make life more interesting. It does not take our eye off the ball. The evening paper will publish a few evening special editions of its own. Major events at the Summer Olympics in Sydney are scheduled for the early-morning hours, East Coast time — perfect timing for a noon deadline.

Indeed, it is no accident that Express is starting just as the Summer Olympics are about to begin and the pre-Christmas advertising begins to roll in. But then what? Mr. Stern, Mr. Goodstein and Mr. Murdoch initially asked to commit to 16 weeks of advertising (she committed to 8). Mr. Goodstein said Express's viability — meaning its appeal to advertisers — would be continually monitored; it is clear that it could be abandoned quickly if its usefulness seemed doubtful.

Meanwhile, executives at The Post will be monitoring their own circulation; Mr. Chandler does not rule out further price cuts, ignoring Mr. Goodstein's provocative description of the paper move as a "desperate" strategy.

"Obviously this is a very, very competitive environment," Mr. Chandler said. "We are wholly focused on The Post and we see The Post as a long-term investment."



NYTimes  
Sept 1, 2000

## **The Post to Halve Its Newsstand Price**

By JAYSON BLAIR

The New York Post will reduce its daily newsstand price to 25 cents from 50 cents starting Monday, a move taken two weeks after its main competitor, The Daily News, said it would begin distributing a free afternoon edition.

The Post, owned by the News Corporation, is reducing its price to attract more readers, said Ken Chandler, the publisher. The reduction will apply every day except Sunday. Mr. Chandler said in an interview yesterday.

Both The Post and The Daily News have experimented with lower newsstand prices in the past.

The Post reduced its price to 25 cents on Staten Island for two years in the mid-1990's and its daily circulation in that borough doubled to 12,000, company officials said. The paper lost only 1,000 subscribers when the price went back to 50 cents, the officials added.

"This is a very aggressive market and we basically see this on the eve of our 200th anniversary as a chance to introduce new readers to the paper," Mr. Chandler said.

The Post, which faces tough competition for advertising dollars from The New York Times and The Daily News, hopes that the lower price and improvements related to a new color printing plant opening in the Bronx next year will help it capture a larger share of the city's newspaper readers.

Two weeks ago, The Daily News announced its plan for a free afternoon edition that could cut into The Post's circulation during the September audits, often used to determine the next year's ad rates.