December 13, 2000

Re: Notice of Written Ex Parte Presentation – DA 00-2246
Applications Seeking Consent to the Assignment of
Chris-Craft Television Licenses to Fox Television Stations, Inc.
File Nos. BALCT-20000918ABB-ABD; BALCT-20000918ABF-ABS;
BALCT-20000918ABU-ABZ; BALCT-20000918ACA-ACE

Dear Ms. Salas:

Attached is a copy of a letter that was sent today, on behalf of Fox Television Stations, Inc. and The News Corporation Limited, to Mr. Roy J. Stewart, Chief of the Mass Media Bureau, regarding the above-referenced assignment applications. An original and one copy this Notice of Ex Parte Presentation are being filed in accordance with Section 1.1206(b) of the Commission's Rules.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

By: William S. Reyner, Jr.

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

CC: Roy J. Stewart, Chief, MMB, Room 2-C337
    Barbara Kreisman, MMB, Room 2-A665
    David Roberts, MMB, Room 2-A728
    David Brown, MMB, Room 2-A730
    James Bird, OGC, Room 8-C818
    International Transcription Services, Inc., Room CY-B402

No. of Copies rec'd
List ABCDE
December 13, 2000

VIA HAND DELIVERY

Mr. Roy J. Stewart
Chief, Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Applications Seeking Consent to the Assignment of
Chris-Craft Television Licenses to Fox Television Stations, Inc.
File Nos. BALCT-20000918ABB-ABD; BALCT-20000918ABF-ABS;
BALCT-20000918ABU-ABZ; BALCT-20000918ACA-ACE

Dear Mr. Stewart:

The above-referenced assignment applications (the "Applications") seek
Commission consent to permit Fox Television Stations, Inc. ("FTS") to acquire, inter
alia, WWOR-TV, Secaucus, New Jersey, which operates in the New York designated
market area ("DMA").

FTS is the licensee of WNYW-TV, which is also located in the New York DMA.
Additionally, NYP Holdings Inc. ("NYP"), a subsidiary of The News Corporation Limited
("News Corp"), is the owner of the New York Post and indirectly has an interest in FTS.
Common ownership of WNYW-TV and the New York Post is permitted pursuant to the
Commission's 1993 grant of a permanent waiver of section 73.3555(c)(3) of the
Commission's Rules, which restricts common ownership or control of daily newspapers
and television broadcast stations. 1/

The Commission's recently modified television duopoly rule permits FTS to own
WNYW and WWOR-TV. 2/ As detailed in the Applications, FTS believes that because
the current duopoly rule permits the proposed acquisition of WWOR-TV by FTS and

1/ See Fox Television Stations, Inc., 8 FCC Rcd 5341 (1993), aff'd sub nom
Metropolitan Council of NAACP Branch v. FCC, 46 F.3d 1154 (D.C. Cir. 1995).

2/ See Review of the Commission's Regulations Governing Broadcasting, MM
there is already in place a permanent waiver of the newspaper/television cross-ownership rule, no further action is required by the Commission to permit the television duopoly in the New York market and continued ownership of the New York Post.

Nevertheless, in order to facilitate the Commission's review of this matter and to provide a better understanding for the intensity and financial challenge of competing in this newspaper market, News Corp wishes to submit to the Commission financial information concerning the New York Post's operations. News Corp is deeply concerned that, if submitted, this extremely sensitive information could fall into the hands of the Post's competitors and could be used to the detriment of the Post. In fact, the competitive pressures are such that earlier this year the Post reduced its newsstand price in New York from 50 to 25 cents. In view of this situation, prior to submitting the Post's financial data to the Commission, News Corp wishes to secure confidential treatment for this information. Accordingly, pursuant to Sections 0.457 and 0.459 of the Commission's Rules, News Corp hereby requests confidential treatment of any and all financial information submitted to the Commission with respect to the New York Post.

The Commission has recognized that it is obligated to ensure that in the exercise of its duties it does not unnecessarily disclose information that might place a regulated entity at a competitive disadvantage. 3/ The Commission has recognized that these types of risks justify protecting financial information from unrestricted disclosure. 4/

The government is not required to make available to the public documents in its possession which contain "commercial or financial information obtained from any person [that are] privileged or confidential . . . ." 5 U.S.C. § 552(b)(4) ("Exemption 4 of FOIA"); see also 47 C.F.R. § 0.457(d). The United States Court of Appeals for the District of Columbia Circuit has held that information that is given to the government


4/ For example, the Commission ruled in American Satellite Company, 1985 FCC LEXIS 3117 at ¶ 17 (1985), that release of a satellite construction contract including sensitive financial and technical information would cause the licensee competitive harm. See also Mercury PCS II, LLC, FCC 00-241, 15 FCC Rcd 14559 at ¶ 4 (2000) (discussing Bureau determination that documents disclosing filer's overall business strategy should not be disclosed because disclosure could adversely affect company's competitive position and ability to implement its business plan).
Mr. Roy J. Stewart  
December 13, 2000  
Page 3

voluntarily will be treated as confidential pursuant to Exemption 4 of FOIA “if it is of a kind that the provider would not customarily make available to the public.” *Critical Mass Energy Project v. Nuclear Regulatory Commission*, 975 F.2d 871 (D.C. Cir. 1992), cert. denied, 113 S. Ct. 1579 (1993). This test is used by the Commission to determine whether documents are exempt from disclosure. *See, e.g.*, *Thomas N. Locke*, 8 FCC Rcd 8746 (1993).

The documents that News Corp wishes to file are clearly exempt from disclosure under the standard articulated in *Critical Mass Energy Project*. The financial information which is being volunteered is not only the type that would not customarily be made available to the public, but also it contains highly sensitive data that could – and certainly would – be used by competitors to the disadvantage of the *Post*.

For the foregoing reasons, News Corp hereby requests confirmation that financial information regarding the *New York Post* will be accorded confidential treatment pursuant to Section 0.457 of the Commission’s Rules and 5 U.S.C. § 552(b)(4). Upon receipt of such confirmation, News Corp will provide the Commission with data reflecting the financial performance of the newspaper since its acquisition by NYP.

Respectfully submitted,

HOGAN & HARTSON LLC

By: [Signature]

William S. Reyner, Jr.

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

cc: Chairman William E. Kennard  
Commissioner Susan Ness  
Commissioner Harold Furchtgott-Roth  
Commissioner Michael K. Powell  
Commissioner Gloria Tristani  
Barbara Kreisman  
Clay Pendarvis  
Angela J. Campbell