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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 10, 2001

VIA HAND DELIVERY

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Ex Parte Communication*: DA 00-2246
News Corporation and Fox Television Stations, Inc. Request for
Confidential Treatment of Material Submitted Pursuant to
April 3, 2001, Commission Request
File Nos. BALCT-20000918ABB-ABD; BALCT-20000918ABF-ABS;
BALCT-20000918ABU-ABZ; BALCT-20000918ACA-ACE

Dear Ms. Salas:

The Office of Communication, Inc. of the United Church of Christ, Academy of Latino Leaders in Action, Black Citizens for a Fair Media, Center for Media Education, Consumer Federation of America, Consumers Union, New York Metropolitan Association of the United Church of Christ, Rainbow/PUSH Coalition, and Valley Community Access Television ("Petitioners"), through undersigned counsel, hereby file their objection to the request of Fox Television Stations, Inc. ("Fox") and The News Corporation Limited ("News Corporation") for blanket confidential treatment of financial information concerning the *New York Post*¹ submitted pursuant to the April 3, 2001, request of the Commission.²

¹ See Letter from Arthur M. Siskind, Senior Executive Vice President, News Corporation, to Magalie Roman Salas, Secretary, Federal Communications Commission (dated April 9, 2001) (hereinafter "*Siskind Letter*").

² Letter from Barbara A. Kreisman, Chief, Video Services Division to William S. Reyner, Jr., John C. Quale and Marvin J. Diamond (dated April 3, 2001) (hereinafter

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Petitioners object to this request on two grounds. First and foremost, Petitioners reiterate their December 13, 2000³, and December 21, 2000⁴, objections to Fox and News Corporation's submission of confidential financial information. As stated in those letters, the Commission has long had a policy making most information filed in a Title III licensing proceeding publically available to ensure that the viewing public has opportunities to comment on the proceeding.⁵ In the instant case, the Commission has designated this case as "permit-but-disclose" for the purpose of the *ex parte* rules "in order to permit a full exchange on the multiple issues under consideration by the Commission."⁶ Therefore, the Commission should allow the widest possible public access to all information filed in this case, including the *New York Post* financial information, to ensure the widest possible public input in this proceeding.

Second, Petitioners are troubled by Fox and News Corporation's request that a protective order be issued in this matter prior to any Commission review of the latest *New York Post* financial documents.⁷ The Commission's April 3, 2001, letter requested "any available, independently audited financial statements, prepared in accordance with Generally Accepted Accounting Principles (GAAP), or similarly probative statements that support your contentions

"Commission Letter").

³ See Letter to Roy J. Stewart, Chief, Mass Media Bureau from Christopher R. Day and Angela J. Campbell (dated December 13, 2000).

⁴ See Letter to Roy J. Stewart, Chief, Mass Media Bureau from Christopher R. Day and Angela J. Campbell (dated December 21, 2000).

⁵ See *Examination of Current Policy Concerning Treatment of Confidential Information Submitted to the Commission*, 13 FCC Rcd 24816, 24822, ¶ 8 (1998); see also *Kannapolis Television Company WCCB-TV, Inc.*, 80 FCC 2d 307, 308 (1980) ("In particular, the Commission has determined that inspection of the financial reports will be permitted when a party places its financial condition at issue in a Commission proceeding.").

⁶ *Mass Media Bureau Announces "Permit-But-Disclose" Ex Parte Status Accorded to Proceeding Involving Applications Filed By Fox Television Stations, Inc. and Chris-Craft Industries, Inc. for Consent to Transfer Control of Licenses and Authorizations*, DA 00-2246 (rel. October 3, 2000).

⁷ See *Siskind Letter*, at 2 (stating that News Corporation requests "confidential treatment of the enclosed financial information of the New York Post" and that News Corporation also simultaneously requests "that the financial information submitted herewith be subject to the Protective Order.").

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regarding the *New York Post's* financial viability."⁸ Furthermore, the Commission letter states that the "documents requested should be accompanied by an explanation and analysis of their contents made by a properly qualified expert with personal knowledge of the accuracy of the facts contained therein."⁹ In light of the broad nature of the Commission's request, it is likely that certain documents, or portions of documents, filed by Fox and News Corporation do not contain actual financial information subject to confidential treatment.¹⁰ Rather, it appears that these documents merely contain explanatory materials and not information that could be classified as trade secret or proprietary information. The public interest would best be served by a Commission review of the information filed by Fox and News Corporation to segregate information subject to confidential treatment, and the release to the public of any information not containing confidential material.

Accordingly, Petitioners request that the Commission expediently review any information submitted by Fox and News Corporation pursuant to the Commission Letter to determine the extent to which the information is entitled to confidential treatment. To the extent that the Commission determines that portions of the information submitted are entitled to confidential treatment, Petitioners request the entry of a protective order consistent with that issued in DA 01-528, as amended by 01-579. Furthermore, since the financial information referenced in Fox and Chris-Craft Industries, Inc. amended application¹¹ is not currently available, Petitioners assume that the ten (10) day period to file a response runs from the date of access to the pertinent financial information.

⁸ See *Commission Letter*, at 2.

⁹ *Id.*

¹⁰ For example, the Declarations of David F. Devoe, Senior Executive Vice President & Chief Financial Officer of News Corporation and Arthur M. Siskind, Senior Executive Vice President and Group General Counsel of News Corporation were filed as confidential materials in Fox and News Corporation's amended application letter. See *Siskind Letter*, at 1. There is no evidence, however, that any confidential material contained within the Declarations could not be segregated, and redacted versions of the Declarations released for public inspection.

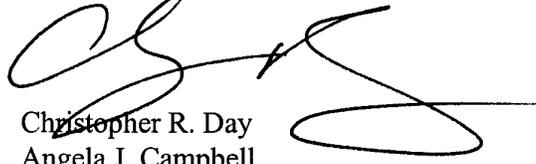
¹¹ See Letter from John C. Quale, William S. Reyner, Jr. and Marvin J. Diamond to Magalie Roman Salas, Secretary, Federal Communications Commission (dated April 9, 2001) (transmitting a further amendment to Fox and Chris-Craft Industries, Inc.'s application).

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris Day", with a large, stylized flourish extending to the right.

Christopher R. Day
Angela J. Campbell

Counsel for the Petitioners

cc: Chairman Michael K. Powell
Commissioner Harold Furchtgott-Roth
Commissioner Susan Ness
Commissioner Gloria Tristani
Roy Stewart, MMB
Barbara A. Kreisman, MMB
David Roberts, MMB
David Brown, MMB
James R. Bird, OGC
John C. Quale
Marvin J. Diamond
William S. Reyner, Jr.