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February 26, 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  
Fox Television Stations, Inc. Application for Assignment of Broadcast  
Licenses and Assets of Chris-Craft Industries, Inc.  
File Nos. BALCT-20000918ABB-ABD; BALCT-20000918ABF-ABS;  
BALCT-20000918ABU-ASBZ; BALCT-20000918ACA-ACE

Dear Ms. Salas:

On Friday, February 23, 2001, Angela Campbell, Christopher Day and Jennifer Mercer of the Institute for Public Representation and Andrew Jay Schwartzman of the Media Access Project spoke with Roy Stewart, Chief, Mass Media Bureau, Robert Ratcliffe, Deputy Chief, Mass Media Bureau, and Barbara Kreisman, Chief, Video Services Division on behalf of 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"), regarding the above-referenced proceeding.

During the meeting, Petitioners' counsel discussed issues of concern with regard to Fox Television Stations, Inc.'s ("Fox") application and the Commission's *ex parte* rules. First, Petitioners' counsel discussed concerns about the procedural difficulties encountered in locating and reviewing *ex parte* communication reports in cases, such as this, where the Commission has

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exercised its discretion to designate the proceeding as a "permit-but-disclose." Petitioners' counsel encouraged the Commission to notify parties when *ex parte* meetings take place, to require service of *ex parte* notices on parties of record, and/or to make *ex parte* communication reports available through an electronic database, such as the Commission's Electronic Comment Filing System ("ECFS").

Second, Petitioners' counsel discussed concerns about the proposed ownership structure of the assets for the Chris-Craft Industries, Inc. ("Chris-Craft") stations. The lack of substantial changes to the amended Operating Agreement were addressed, along with Petitioners' concern that *de facto* and *de jure* control over the Chris-Craft licenses will reside with Newco should the proposed transaction proceed. In addition, Petitioners' counsel also noted that Fox and Chris-Craft have failed to provide the information necessary to establish the level of foreign ownership and control over Newco and its ultimate parent company, News Corporation.

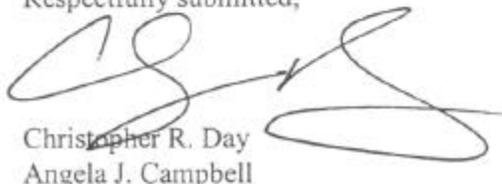
Third, Petitioners' counsel discussed the fact that they have not received or reviewed a copy of any letter from the U.S. Department of Justice ("DOJ") stating that the Hart-Scott-Rodino ("HSR") review of this transaction has been completed. Petitioners' counsel also discussed whether the Commission intends to address Fox and News Corporation's failure to execute a waiver, as requested in the Commission's December 21, 2000, letter to Fox's counsel, to allow Commission staff to examine the HSR documents filed with DOJ.

Finally, Petitioners' counsel requested information on the nature and timing of any protective order allowing Petitioners to view financial information for the *New York Post*. Petitioners also reiterated their position that the *New York Post's* financial information should be made available for public review.

An outline summarizing the status of this proceeding and detailing the above-referenced issues was also distributed at the meeting. A copy of this summary is attached to this letter.

In compliance with the Commission's rules regarding *ex parte* communications, an original and one (1) copy of this letter is being filed with the Commission. Should you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,



Christopher R. Day  
Angela J. Campbell

Counsel to the Petitioners

Magalie Roman Salas

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cc: Roy Stewart, MMB  
Barbara Kreisman, MMB  
Robert Ratcliffe, MMB  
David Roberts, MMB  
David Brown, MMB  
James R. Bird, OGC  
International Transcription Services, Inc.  
John C. Quale  
William S. Reyner, Jr.  
Marvin J. Diamond

## Summary of Issues Fox Television Applications

On September 18, 2000, Fox Television Stations, Inc. ("FTS") filed applications to acquire the licenses and broadcast assets of ten television stations owned by Chris-Craft Industries, Inc. and its subsidiaries ("Chris-Craft"). These applications requested waivers of three broadcast ownership rules: 1) the Newspaper/Broadcast Cross-Ownership Rule; 2) the Duopoly Rule; and 3) the National Market Cap Rule. In addition, Fox proposed an ownership structure that would split the Chris-Craft station assets from the Chris-Craft licenses in order to minimize the payment of capital gains taxes. Under the proposed ownership structure, the stations assets would be held by "Newco," a direct subsidiary of News Corporation, an Australian corporation, while the station licenses would be held by FTS. This ownership structure would differ materially from the ownership structure approved by the Commission in 1995.

On October 27, 2000, 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") filed a Petition to deny the applications. This Petition, and the accompanying Motion to Dismiss, delineates a number of substantial and material questions of fact regarding the proposed ownership structure and the degree of foreign influence involved. In addition, the Petition also details certain substantial questions of material fact concerning the broadcast ownership waivers sought by Fox.

On December 21, 2000, the Mass Media Bureau ("Bureau") sent Fox a letter requesting clarification of certain material foreign ownership issues. The letter states that "it appears that Newco is a corporation that may be 100% foreign owned and controlled." The letter further states that: "If Newco is in control of the licenses of the Chris-Craft stations, this would appear to be a violation of Section 310(b)(4) of the Communications Act." In order to resolve this factual question, the letter requested that Fox provide: 1) an explanation showing how Fox's proposed Operating Agreement between FTS and Newco comports with *Fox II*; 2) "information that details the level of foreign investment and control in Newco, FEG and their parent companies;" 3) a showing of how Fox's proposed ownership structure would serve the public interest; and 4) permission to access and review documents submitted to the U.S. Department of Justice ("DOJ") in connection with the Hart-Scott-Rodino review of this transaction.

The Bureau letter also requested further information regarding the financial situation of the *New York Post*, and a statement detailing the overall public interest benefit that would occur as a result of this transaction. On January 25, 2001, Fox provided its response to the letter. In the response, Fox offered minor changes to the proposed Operating Agreement between FTS and Newco. In addition, Fox stated that the public interest would be served through its acquisition of the Chris-Craft assets because those stations would have access to "Fox News Edge," a centralized news gathering service.

In their February 8, 2001 response to Fox's application amendments, Petitioners made the following detailed showings:

1. Newco is not part of the ownership structure approved by the FCC in *Fox II*. Nor is Newco part of any ownership structure approved by the FCC since *Fox II*. The extent of alien ownership and participation in economic benefits is substantially higher than the 25 percent maximum provided for by statute. (It is impossible to know how much alien ownership there actually is, as Fox has not provided all information as to ownership of News Corporation and its subsidiaries.)
2. FTS will have neither *de facto* nor *de jure* control over the Chris-Craft Stations. Newco, the owner of all the Stations' assets, and controlled by foreign corporations, will have control.
3. The Operating Agreement between FTS and Newco provides for Newco to exercise day-to-day management, own all the station assets, maintain and replace all station equipment, and hire almost all employees. Newco will retain 95 percent of the profits and suffer 95 percent of any losses. Their interest in running the station is reflected in the Operating Agreement which leaves them with control over finances, personnel, and programming.
4. The declarations provided by officers from FTS and Newco are ambiguous and amorphous. To the extent that the current proposed structure gives Newco control over the Chris-Craft Stations, assurances that Newco has no "present intention" (as of the date of the affidavit) of assuming control, are irrelevant.
5. Fox's "public interest" showing— that the Chris-Craft stations will improve news coverage due to access to Fox News Edge— is insufficient. To the contrary, it is likely that future reliance by the Chris-Craft stations on centralized news gathering services will actually reduce coverage of local news and public affairs.
6. Applicants' flat rejection of the Commission's request to examine documents filed with DOJ in connection with its Hart-Scott-Rodino review is unprecedented. Furthermore, Petitioners have received no evidence from DOJ that the review is complete, as Fox claims.
7. Petitioners still have not received access to the *New York Post's* financial materials.

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