

*FCC Received October 18, 1993 @ 3:20 p.m.  
Anna P. Bradshaw*

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**NOV 3 - 1993**

**TRANSCRIPT OF PROCEEDINGS**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION** FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
Washington, D.C. 20554

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**IN RE: MM DOCKET NO. 93-94**  
**SCRIPPS HOWARD BROADCASTING COMPANY**  
**and**  
**FOUR JACKS BROADCASTING, INC.**  
**Baltimore, Maryland**

**DATE OF SESSION: October 5, 1993** **VOLUME: 4**  
**PLACE OF SESSION: Washington, D.C.** **PAGES: 97-263**

**FREE STATE REPORTING, INC.**  
Court Reporting Depositions  
D.C. Area (301) 261-1902  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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In re Application of:  
SCRIPPS HOWARD BROADCASTING COMPANY  
and  
FOUR JACKS BROADCASTING, INC.  
Baltimore, Maryland  
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The above-entitled matter came on for admissions session pursuant to Notice before Judge Richard L. Sippel, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C., in Courtroom No. 4, on Tuesday, October 5, 1993, at 9:30 a.m.

APPEARANCES:

On behalf of Scripps Howard Broadcasting Company:

KENNETH C. HOWARD, Esquire  
LEONARD C. GREENEBAUM, Esquire  
DAVID N. ROBERTS, Esquire  
Baker & Hostetler  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036

On behalf of Four Jacks Broadcasting, Inc.

KATHRYN SCHMELTZER, Esquire  
GREGORY L. MASTERS, Esquire  
Fisher, Wayland, Cooper & Leader  
1255 23rd Street N.W.  
Washington, D.C. 20037

On behalf of the Mass Media Bureau:

NORMAN GOLDSTEIN, Esquire  
ROBERT ZAUNER, Esquire  
2025 M Street, N. W.  
Washington, D.C. 20554

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E X H I B I T S

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Session Began: 9:30 a.m.                      Session Ended: 3:20 p.m.

Lunch Break Began: 12:00 noon              Lunch Break Ended: 1:20 p.m.

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P R O C E E D I N G S

1  
2 JUDGE SIPPEL: Okay, we're on the record. Everybody  
3 was here, ready to go at 9:30. I've got a few things I want  
4 to say and then we'll get down to business. The -- I take it  
5 all counsel have given their names to the court reporter, so  
6 we won't have to give notices on the record, note appearances  
7 on the record. Today is the first day of the hearing in  
8 Docket 93-94 and it's going to be an admission session. We're  
9 dealing with documents today. The courtroom hours that I  
10 anticipate will be 9:30 to 11, and then a 10-minute break and  
11 we'll go until noon. From 1:15 to approximately 2:30, and  
12 then 3:45 and I'd like to finish up at 4:00.

13 I'm prepared, of course, to go until tomorrow,  
14 whatever it takes. I'm hoping that, that this will move  
15 along. Let me ask this question up front. Are the parties  
16 agreed that all principals and party witnesses who are  
17 sponsoring exhibits will be made available for cross  
18 examination? Mr. Howard?

19 MR. HOWARD: Yes, Your Honor.

20 JUDGE SIPPEL: Ms. Schmeltzer?

21 MS. SCHMELTZER: Yes, Your Honor.

22 JUDGE SIPPEL: Okay. Now, those will be for Scripps  
23 Howard, Terry Schroeder, Arnold Kleiner, and Emily, Emily  
24 Barr. Is that correct?

25 MR. HOWARD: Yes, Your Honor.

1 JUDGE SIPPEL: And for Four Jacks, it will be David  
2 Smith, Robert Smith -- Is that correct, Ms. Schmeltzer?

3 MS. SCHMELTZER: Yes. Yes, Your Honor.

4 JUDGE SIPPEL: Okay. Now, was -- there was to be a  
5 stipulation exhibit on Scripps' diversification.

6 MR. HOWARD: We were not able to reach a  
7 stipulation, I presume. I did not get word from counsel  
8 yesterday. Is that correct?

9 MS. SCHMELTZER: I didn't get a draft till yesterday  
10 afternoon and I was busy with the exceptions in another case.  
11 I did look it over. There was some language at the end which  
12 pertained to Four Jacks which I just didn't think was  
13 appropriate because it was a stipulation on Scripps' case. If  
14 that's removed, I don't have any problem with it. I just  
15 haven't had a chance to tell Mr. Howard that.

16 JUDGE SIPPEL: All right. Okay. Well, okay. Well,  
17 I just wanted to know what its status was and you've told me.

18 MR. HOWARD: There, there is --

19 JUDGE SIPPEL: Mr. Howard?

20 MR. HOWARD: May I add some additional information?  
21 We do -- did want to give notice, Your Honor, and have  
22 prepared a statement for the record for submission today to  
23 explain why we were unable to stipulate as to the  
24 diversification interests of Four Jacks, except to the extent  
25 that those interests are formal ownership interests, because

1 of the documents in the record that indicate that, that Four  
2 Jacks principals are involved in programming other stations in  
3 a market where they also own a property.

4 It's explained in the statement of the record in  
5 that we just wanted to get it clear that we will be seeking to  
6 cross examine on that point under the diversification  
7 criteria.

8 MS. SCHMELTZER: Your Honor, your -- the order that  
9 you issued spoke of a stipulation with respect to Scripps  
10 Howard's case.

11 JUDGE SIPPEL: That's what I thought.

12 MS. SCHMELTZER: Our diversification showing is in  
13 our direct case exhibits. Mr. Howard can argue -- make his  
14 arguments when we reach those exhibits. I don't think it's  
15 appropriate to put this statement for the record -- in the  
16 record.

17 JUDGE SIPPEL: Well, I, I, I, I would expect, and  
18 I've looked at the Four Jacks exhibits and I get, you know, a  
19 pretty good feel for where you want to go on. I expected --  
20 cross examination on, on Four Jacks's diversification. What I  
21 was trying to eliminate was -- Well, not eliminate, but was  
22 trying to facilitate the diversification showing with respect  
23 to Scripps Howard which might be a fairly lengthy evidentiary  
24 submission, unless it has -- by producing the stipulation and  
25 Four Jacks doesn't intend to cross examine you on it.

1           MR. HOWARD: We will certainly remove any reference  
2 to the Four Jack procedure with the understanding the  
3 stipulation will file only under Scripps Howard motion.

4           JUDGE SIPPEL: That's correct. Okay, that's, that's  
5 how we -- That's, that's exactly correct. And, you know, that  
6 can wait until -- you can, you can have until the end of this  
7 admission session to get that prepared. And I, I suspect that  
8 certainly it's certainly at least it's going to continue until  
9 tomorrow. At least before we finish up this, this aspect of  
10 the case, I'd like to get it in as an exhibit. You can just  
11 number it the last exhibit number. It should be Exhibit 25 at  
12 the present count. Do you have any objection to that,  
13 anybody? No? Okay, that's the way we'll do it.

14           I'd like, Mr. Howard, your, your side to give to the  
15 court reporter sometime during the break the 20 statements of  
16 the nonparty witnesses, and that way she can start the marking  
17 process while we're in recess or out to lunch or however she  
18 can mark it. I mean, I guess maybe it'll facilitate it rather  
19 than wait until that stage to give it to her. I expect --  
20 Again, we're in a -- Well, let me back up a little bit. As is  
21 the practice at the Commission and as I would do it anyway,  
22 we'll be taking this evidence in, in docket order. So Scripps  
23 Howard goes first, and I would take this evidence in the  
24 numbers that you describe for the documents. The first order  
25 of business will be Mr. Schroeder's testimony, it being your

1 Exhibit Number 1.

2           So my point being that while we're doing this  
3 Exhibits 1, 2, and 3, the reporter can have these statements,  
4 20 statements, and she can be stamping them so that when we  
5 come to them we can move through faster. Let me just ask a  
6 general question to Ms. Schmeltzer. You've had a chance now  
7 to review these nonparty witness statements. Do you  
8 anticipate objections to some, all or many?

9           MS. SCHMELTZER: All.

10           JUDGE SIPPEL: Okay. Now, that's -- Those are,  
11 those are my preliminary matters. Does anybody else have any  
12 preliminary matters they want to raise?

13           MR. HOWARD: Yes, Your Honor, Mr. Greenebaum.

14           JUDGE SIPPEL: Mr. Greenebaum?

15           MR. GREENEBAUM: Your Honor, the good news is we're  
16 here and we're prepared to go forward.

17           UNIDENTIFIED SPEAKER: Colorado's all taken care of?

18           MR. GREENEBAUM: Well, I have a trial in progress  
19 before Judge Batine in the United States District Court there.  
20 We started that case early this month and went continuously.  
21 What nobody counted on was we lost three days to the Jewish  
22 Holidays last week and court resumed today. I felt in light  
23 of my situation I should come here and explain that to you,  
24 that I do have to go back out there, but we're prepared to  
25 continue.

1 JUDGE SIPPEL: All right. Well, I, I appreciate you  
2 letting me know that and I, I -- as I said, I think that --  
3 Well, you, you have to make those judgment calls as to who's  
4 going to be in court at any given time, but we're just --

5 MR. GREENEBAUM: I've got no problem. I just did  
6 not want the court to think I was rude by not showing up  
7 today -- the cross examination of their case.

8 JUDGE SIPPEL: I, I -- That I appreciate. Your mind  
9 is probably in -- and that's perfectly understandable. Thank  
10 you, Mr. Greenebaum.

11 MR. HOWARD: I've got some other matters.

12 JUDGE SIPPEL: Go ahead. Let's do this side first.

13 MR. HOWARD: All right. With respect to the witness  
14 schedule at hearing, Your Honor --

15 JUDGE SIPPEL: Excuse me. Mr. Greenebaum, you, you  
16 have -- you can leave the courtroom any time.

17 MR. GREENEBAUM: I'm, I'm going to stay as long as I  
18 can, Your Honor. I've got people covering it this morning and  
19 I'll just call at noon and if I have to I'll leave. If not,  
20 I'll stay till four.

21 JUDGE SIPPEL: Okay, fine. Mr. Howard.

22 MR. HOWARD: That Scripps Howard does wish to have  
23 Emily Barr as its company representative, sitting with us  
24 through the testimony.

25 JUDGE SIPPEL: Is she here now?

1 MR. HOWARD: Oh, no, not, not, not at the -- at this  
2 session, sir, but at the, at the hearing in November. And  
3 the -- given that the witness schedule, the way we submitted  
4 our exhibits, she would be the first -- or she would be the  
5 last witness, I wanted to alert everyone that, that she would  
6 then be here while the other witnesses were, were testifying  
7 and to see if, if there was -- if it would be better to move  
8 her to the -- to be the first witness instead of the last  
9 witness.

10 JUDGE SIPPEL: Okay. Well, I do have, you know, I  
11 haven't made a formal announcement of it or anything, but I do  
12 have the sequestration rule, and again that's generally  
13 applied to Commission procedures at these APA hearings. And  
14 so, having said that, there is a sequestration rule that has  
15 to be addressed with that -- with respect to that comment. I  
16 would expect to have her come on first then. Would you have  
17 any objection to her remaining in the courtroom?

18 MS. SCHMELTZER: Well, first of all, I think that  
19 the witnesses should be sequestered in this case. Scripps  
20 Howard has a number of other officers who could sit in on this  
21 case. I don't see why we have to have one of the witnesses  
22 sit in.

23 JUDGE SIPPEL: Well, she's -- But you're going to  
24 have, you're going to have her said her piece and then she's  
25 -- I mean, if she's recalled for some reason, to clarify

1 something, obviously, you know, you're going to have -- one,  
2 you're going to have arguments to make. I don't know how I  
3 would rule in that situation. She may be precluded from  
4 retaking the, the stand for clarification, but I don't know.  
5 I mean, it depends on what she would be coming in -- what,  
6 what you were asking of her. And I think that here that's not  
7 an absolute bar -- then you do run that risk.

8 MR. HOWARD: Yes.

9 JUDGE SIPPEL: And other than that, I can't see, I  
10 can't see how you'd be prejudiced.

11 MS. SCHMELTZER: If she's barred from retaking the  
12 stand, then I don't have a problem with her going first.

13 JUDGE SIPPEL: All right. As I said, that -- I'm  
14 not going to give an absolute up-front bar, but as a general  
15 proposition, she's going to have to show cause -- a strong  
16 showing as to why she should come back on the stand. And if  
17 it's a matter where I feel that she's been -- her credibility  
18 has been in any way impaired by her sitting in the courtroom,  
19 I'm going to listen to argument and rules for it. All right.  
20 Does -- Mr. Howard, does that -- I'm sorry, does that, does  
21 that finish your side?

22 MR. HOWARD: No, Your Honor, I did have a couple of  
23 --

24 JUDGE SIPPEL: You did, you did say you have more.

25 MR. HOWARD: I have a couple of other things. The

1 second, if we do have other witnesses who would be coming from  
2 out of town then, who are trying to arrange their schedules in  
3 November, both Terry Schroeder and Arnie Kleiner, are now  
4 located distant from, from Washington, they have indicated  
5 that they will be able to be flexible in, in coming into town.  
6 But could we anticipate that the -- we could get them, you  
7 know, call them the day before so that they could then come  
8 in, give them a day's notice where they would not be called in  
9 the middle of a day to the stand. Would that be possible?

10 MS. SCHMELTZER: I appreciate your problem and I  
11 don't have any difficulty with that. I don't know whether the  
12 judge would mind if there might conceivably be a lapse in the  
13 hearing, but it's all right with me 'cause I do understand  
14 that you have out-of-town witnesses. And we have witnesses  
15 coming from Baltimore.

16 MR. HOWARD: It, it may be that if it's clear that  
17 Emily has a little bit coming up, we can try and anticipate it  
18 then the day before to see whether we're going to go a full  
19 day with Emily Barr the next day. All I'm saying is can I  
20 give them some indication that we will try to accommodate  
21 their, their schedules by not requiring them to come here when  
22 they would not be likely to take the stand the next day?

23 JUDGE SIPPEL: Well, I think it's safe -- certainly  
24 safe to say they don't have to be -- neither one of them have  
25 to be here the first day. I think that's clearly safe. Mr.

1 -- Let me ask if the Bureau has any, any objections or  
2 comments on that.

3 MR. GOLDSTEIN: No. As long as the two adversarial  
4 parties can reach an accommodation, we have no difficulties so  
5 far.

6 JUDGE SIPPEL: And I can't improve on that. That's  
7 good. You, you, you'll all work it out and just give me some,  
8 you know, some advance indication as to what's happening so  
9 that I can plan my time accordingly. But if we only go for  
10 half a day with Ms. Barr the following day, and I'm satisfied  
11 that things are moving along all right -- Well, I'll give you,  
12 I'll let you know -- I mean, I, I'll let you know -- Well,  
13 you'll have -- well, we'll know by the end of the first day --  
14 We'll have a good idea anyway as to whether or not Ms. Barr is  
15 going to go the morning of the following day or -- The only  
16 thing I would -- Let me, let me just drop this cautionary  
17 remark, and that if she finishes the first day, there has to  
18 be a witness on the stand the following morning.

19 MR. HOWARD: Yes, Your Honor. Understood.

20 JUDGE SIPPEL: But other than that, I'll go along  
21 with Mr. Goldstein's suggestion and you all work it out. Just  
22 let us know so that we can accommodate -- Okay.

23 MR. HOWARD: And that --

24 JUDGE SIPPEL: Anything else?

25 MR. HOWARD: I've got several more, please

1 Your Honor.

2 JUDGE SIPPEL: Go ahead.

3 MR. HOWARD: The -- Arnold Kleiner's signature page  
4 for his testimony, he signed it and faxed it to us, which was  
5 the copy that was submitted on the exhibit exchange date. But  
6 then he has lost the original and he has issued a conforming  
7 signature, so that it's not the exact same document but it is  
8 an original signature of Mr. Kleiner's dated that same day,  
9 which will be attached to his testimony. I wanted to make  
10 sure that was clear.

11 JUDGE SIPPEL: That's what the reporter's going to  
12 be marking this morning?

13 MR. HOWARD: Yes. Yes, Your Honor.

14 JUDGE SIPPEL: Any objection.

15 MS. SCHMELTZER: No, Your Honor.

16 MR. GOLDSTEIN: No, Your Honor.

17 MR. HOWARD: And the final matter that I wanted to  
18 raise is that Dr. Hooks, who has been traveling for a week,  
19 has faxed me a, a, a clarifying statement with respect to his  
20 residence which was a little bit more complicated than, than I  
21 anticipated because he kept a boating residence in Memphis and  
22 he wanted to make that clear. And I've got that document  
23 which -- here, though I don't have the hard copy as of yet to  
24 submit for the record.

25 JUDGE SIPPEL: All right. Well --

1 MS. SCHMELTZER: I think I'm going to have a problem  
2 with that. I haven't seen it, but it seems to me if somebody  
3 maintains a boating residence in Memphis, then they're not a  
4 resident of Baltimore, Maryland.

5 JUDGE SIPPEL: Well, that's a conclusion that you  
6 can argue about, but Mr. Howard is offering -- It doesn't  
7 sound like it's something that's going -- that, that would be  
8 a plus for his case. I think in candor he's making this, this  
9 full disclosure and I would think that that would come in  
10 pretty readily, in light of my ruling on the supplement, on  
11 the earlier supplement. Now --

12 MR. HOWARD: Shall I distribute it?

13 JUDGE SIPPEL: Yeah. Yeah, I would like to see a  
14 copy submitted first. Again I think that -- Do you have a  
15 copy for me? I'd like to see one. But I don't expect to --  
16 Well --

17 MR. HOWARD: We don't have, we don't have the --

18 JUDGE SIPPEL: Okay. Now, what I would, what I  
19 would like to see done is to have this -- Again I'm going back  
20 to the numbering system, before I had said the stipulation  
21 would be 25. This would logically be 25. That is Scripps  
22 Howard Exhibit for Identification Number 25. Have it marked  
23 and we'll offer it in to see if there's going to be any  
24 objection to it.

25 MR. HOWARD: Yes, Your Honor.

1 JUDGE SIPPEL: And then 26 would be the stipulation.  
2 That sounds logical to me? Okay? That's how we're going to  
3 to it.

4 MR. HOWARD: And the last thing, Your Honor, and  
5 that is that with respect to Ben Hooks's signature page for  
6 the, for the revision that was submitted and exchanged on  
7 September the -- that he signed on September the 3rd. That  
8 original, we believe, was provided to opposing counsel by  
9 mistake. And if she --

10 MS. SCHMELTZER: We were not able to find it  
11 yesterday.

12 MR. HOWARD: Thank you. We are getting another  
13 original signature from Dr. Hooks today, I believe, that will  
14 be a conforming signature as well to be submitted.

15 JUDGE SIPPEL: All right. Those things, those  
16 things happen. And we will -- Again, you know, we'll take it  
17 -- we'll receive it out of order if it's -- if you don't have  
18 it here to go when the number comes up. But we'll, we'll get  
19 it in.

20 MR. HOWARD: Thank you, Your Honor. That's, that's  
21 all I have.

22 JUDGE SIPPEL: Ms. Schmeltzer.

23 MS. SCHMELTZER: My concern was related to something  
24 that Mr. Howard has brought up, and that is the scheduling of  
25 the witnesses. Thursday of the week that we scheduled the

1 hearing is Veterans Day, and I was wondering whether -- I  
2 assume the hearing will be interrupted on Wednesday. Did you  
3 want to resume on Friday or -- I guess -- Let me say this. We  
4 presume that we will not reach Four Jacks until the week of  
5 the 15th. Is that a fair presumption? Till at least the week  
6 of the 15th?

7 JUDGE SIPPEL: Well, we've been -- Let me see if the  
8 Bureau would, would, would, would agree to this. Well, if we  
9 can finish, if we can finish Scripps the week of the 8th,  
10 without knowing precisely the hour and the day that that would  
11 happen, would the Bureau have any objection and would Scripps  
12 Howard have any objection to starting Four Jacks on the 15th,  
13 which the Monday of the following week?

14 MR. GOLDSTEIN: I would have no objection, it's just  
15 that I made plans -- I would have no objection. Just that I  
16 assumed that we would and I had plans with my family that I  
17 changed so that I would be here on Friday. But that's okay.  
18 And, Your Honor, we have no role with then anyway, so it  
19 really doesn't make any difference.

20 JUDGE SIPPEL: All right. I, I mean I, I know you  
21 want to be here and I want certainly the Bureau to do with the  
22 case what it sees fit as far as participation. But I -- I  
23 mean, if there is a chance to finish this case up by the 12th,  
24 I'll be here on Friday at 9:00 in the morning, ready to go.  
25 But if it, if it looks like it's going to be -- We do have a

1 holiday on the 11th and if it looks like it's just going to be  
2 Scripps Howard people finishing up, well, we can finish it up  
3 on the 12th. It doesn't make any sense, it seems to me, to  
4 start a Four Jacks witness --

5 MR. GOLDSTEIN: No, that's fine.

6 JUDGE SIPPEL: -- until the 15th.

7 MR. GOLDSTEIN: Okay.

8 JUDGE SIPPEL: I guess -- Well, I'm not going to ask  
9 anybody if they, they, they have a strong feeling for this.  
10 We're just not going to know I guess until we really get into  
11 it on the 8th. Then we'll have a better idea, when we see all  
12 the documents, too. But I, I read these exhibits and there's  
13 going to be, there's going to be a significant amount of cross  
14 examination. So what can I do? I don't intend to go until,  
15 you know, 7:00 at night and wear the witnesses and everybody  
16 else down -- scheduling -- On the other hand, I don't see why  
17 this can't be done the week of the, of the 8th for Scripps and  
18 a couple of days into the week of the 15th for, for Four  
19 Jacks. And that's how I would see it. We'll have to see.  
20 Anything else?

21 MS. SCHMELTZER: No, sir. No.

22 MR. HOWARD: Your Honor, I'm sorry, I do have one  
23 more matter.

24 JUDGE SIPPEL: Okay, Mr. Howard.

25 MR. HOWARD: The -- With respect to the NBC news

1 programming that's part of one of Scripps Howard's exhibits, I  
2 would like to ask if there will be an -- if counsel for Four  
3 Jacks intends to object to its admission because we have  
4 arranged for the archive -- archivist of NBC to be available  
5 for a, a telephone cross examination tomorrow, if that's -- I  
6 mean if that would be necessary. It would be minimal to the  
7 parties, just to confirm that these are documents kept in the  
8 ordinary course of business at the NBC network.

9           So I, I -- She asked to be -- let her know today if  
10 we are going to be telephoning her tomorrow. So I wanted to  
11 raise it as a preliminary.

12           MS. SCHMELTZER: Your Honor, I'd prefer to take  
13 these exhibits in order, rather than to suddenly spring ahead  
14 into the middle of them.

15           JUDGE SIPPEL: I, I feel the same way about it. I,  
16 -- Does NBC programming -- What is, what's the, what's the  
17 format to the programming?

18           MR. HOWARD: We prepared a summary exhibit on that,  
19 Your Honor, that identifies the news programs that were  
20 responses to issues that were ascertained by Scripps Howard.  
21 And so it's a -- And it was -- That, that summary was prepared  
22 from documents that were sent to station WMAR by the NBC  
23 archivist out of the NBC computers.

24           JUDGE SIPPEL: As far as this -- what I have in the  
25 exhibits here is a hard copy of this, a list of the programs.

1 MR. HOWARD: Yes.

2 JUDGE SIPPEL: Well, we can handle that I think as,  
3 as it comes up. And in between now and the time it does come  
4 up, I hope that counsel will be talking to one another about  
5 perhaps, you know, stipulating as to authenticity -- We're  
6 going to have to switch courtrooms to get a speaker phone and  
7 it's, you know, if it's important, it's important, but if you  
8 can do it without getting into that, I, I would think that you  
9 could. I'm more concerned about whether or not, whether or  
10 not it's relevant and admissible -- All right, I'm getting  
11 ahead of the situation. We will take it as it comes. Is  
12 there anything else?

13 MR. HOWARD: No, Your Honor.

14 JUDGE SIPPEL: That's it. All right. Let's go  
15 forward with the first exhibit. This would be the testimony,  
16 first testimony of Terry Schroeder, and you've indicated in  
17 this bound volume it has Exhibits A -- or Attachments A, B, C,  
18 D, E, F, and G attached to the statement. Will Scripps Howard  
19 -- counsel for Scripps Howard then provide the court reporter  
20 with two copies? And let's, let's start with the first page.  
21 Let me go off the record for just one moment.

22 (Off the record.)

23 JUDGE SIPPEL: All right, counsel has handed the two  
24 copies, the original and a copy of the first exhibit, and the  
25 reporter has been instructed on stamping procedures. Now,

1 let's start with the first page then. How do you want to --  
2 It's your witness.

3 MS. SCHMELTZER: Page 1, page 1, I have objection to  
4 the first sentence -- the first six sentences of paragraph 2.  
5 That's all the way down through "Great American Broadcasting."  
6 And the reason for that is that it's irrelevant to the issues  
7 concerning Scripps Howard. There is nothing in this case  
8 about prior broadcast experience for the renewal applicant.

9 JUDGE SIPPEL: All right. Let's let Mr. Howard of  
10 Scripps Howard -- counsel for Scripps Howard respond to that.  
11 I'd like to first have, just as a general explanation or just  
12 a general proffer as to what Mr. Schroeder's testimony is  
13 intended to show.

14 MR. HOWARD: Well, Your Honor, Mr. Schroeder's  
15 testimony is offered to show that the care with which Scripps  
16 Howard attest the issue of acquiring station WMAR, that it  
17 made a thorough investigation of the station, its management  
18 and its -- including its public affairs programming, and that  
19 that was part of the decision that they made to divide the  
20 station. He also -- He is sponsoring exhibits which shows  
21 Scripps Howard's participation in the operations of the --  
22 Scripps Howard's corporate participation in the management of  
23 the station during the license term.

24 MS. SCHMELTZER: Well --

25 JUDGE SIPPEL: So let me, let me just ask the next

1 question. Then what's the relevance to this back--  
2 Ms. Schmeltzer's point is that you're not seeking integration.

3 MR. HOWARD: No, Your Honor. It's just background  
4 information about Mr. Schroeder's experience in the broadcast  
5 industry, to introduce him.

6 JUDGE SIPPEL: It's just background. You're not  
7 trying, trying to get any points with this one? I'll let it  
8 stay.

9 MS. SCHMELTZER: As background?

10 JUDGE SIPPEL: That's it, as background.

11 MS. SCHMELTZER: Your Honor, I just want to bring up  
12 a point for clarification in the next paragraph. Scripps  
13 apparently has defined May 30, 1991, to September 3, 1991, as  
14 the license term. I don't have a problem with that, but then  
15 they go on to say, "and the period designated by the Presiding  
16 Judge in this proceeding as the Renewal Period," but they  
17 haven't listed renewal period as a defined term. Later on we  
18 are going to be seeing references to license term or renewal  
19 period. So if we can stick with these terms, that's fine.

20 I think renewal period should be in there as a  
21 defined term, though.

22 JUDGE SIPPEL: Well, we -- It's, it's, it's really a  
23 renewal period. It's a self-defining term. I mean, if it's  
24 used by witnesses, they're going to be stuck with what they  
25 say. They're not going to be able to -- Are you worried about

1 | them being able to somehow or other finesse testimony with one  
2 | or the other?

3 |           MR. GOLDSTEIN: Would Ms. Schmeltzer be -- want to  
4 | have the definition of why September 3rd was there at this  
5 | point in time? Is that the problem? For clarification?

6 |           JUDGE SIPPEL: Well, we had --

7 |           MR. GOLDSTEIN: We've had it. That's my  
8 | understanding.

9 |           JUDGE SIPPEL: Every time I keep repeating this --

10 |           MR. GOLDSTEIN: I don't have any problem with it,  
11 | Your Honor.

12 |           MS. SCHMELTZER: Well, I'm just bringing this up  
13 | because we are going to be seeing references to these periods  
14 | later on, and I don't know whether Scripps has been totally  
15 | consistent with how they've referred to them. But we could  
16 | address it as it comes up.

17 |           JUDGE SIPPEL: Well, I've seen no consistency thus  
18 | far -- inconsistency thus far, and if Scripps has any other  
19 | witness that use these terms is going to use it at their  
20 | peril. But I don't say -- I, I don't mean to say that in an  
21 | in terrorem sense, just as -- I mean, that's the practical  
22 | result of this. We've been over these dates to, to -- fairly  
23 | well at our first get-together and I don't want to start  
24 | talking about them again. But I -- You, you've made your  
25 | point for the record and you've sensitized this today. That

1 takes care of the first page then?

2 MS. SCHMELTZER: Right. Turning to page 2, Your  
3 Honor, unfortunately I don't have a copy -- Well, maybe I do  
4 -- Scripps Howard's stipulation. I believe that all of  
5 paragraph 4 is embodied in the stipulation and is not really  
6 relevant otherwise.

7 JUDGE SIPPEL: Mr. Howard?

8 MR. HOWARD: That's, that's not quite so, Your  
9 Honor. The statement that Scripps Howard has never sold one  
10 of its television stations is not in the stipulation, and the  
11 description of the beneficiaries of the trust, "entered into  
12 an agreement to preserve family control of the company,"  
13 that's not in the -- it's not relevant to diversification and  
14 was not placed in, in that document.

15 MS. SCHMELTZER: And, in fact, those two sentences  
16 about that they've never sold anything before and that they've  
17 preserved family control are irrelevant and immaterial to this  
18 proceedings, I feel.

19 JUDGE SIPPEL: All right. Well, let me take the  
20 first one. The first one is -- The first objection was that  
21 this would be, this would be duplicative of what's already  
22 going to come in by virtue of stipulations and Howard has  
23 pointed out that that's not the case. So that objection is  
24 overruled. With respect to the second one --

25 MR. HOWARD: Your Honor, it's highly relevant

1 because Scripps Howard is the ultimate licensee of this  
2 station and the Commission is entitled to have information  
3 that bears on that, that corporate licensee.

4 MS. SCHMELTZER: I don't think the fact that Scripps  
5 Howard has not sold one of its television stations has any  
6 bearing at all on this license renewal proceeding.

7 JUDGE SIPPEL: Well, I'll leave it in.

8 MS. SCHMELTZER: I mean, is Scripps Howard  
9 representing that it will never sell a television station? I  
10 don't think they want to represent that.

11 JUDGE SIPPEL: Well, they do have the one exception  
12 and they disclosed that. But I'm saying that if they had, if  
13 they had had 20 TV stations in the last 20 years and had sold  
14 them at the end of a 12-month period, I think you'd want that  
15 in the record. I mean, that's what I'm saying, that it makes  
16 --

17 MS. SCHMELTZER: It's not relevant. Even if they  
18 had done that, that's not relevant. I mean unless there were  
19 an issue on trafficking or something.

20 JUDGE SIPPEL: All right. All right, that's --  
21 Mr. Goldstein, do you --

22 MR. GOLDSTEIN: It's, it's not relevant under any of  
23 the issues. On the other hand, it is a statement of fact and  
24 background, and if someone -- if the question arises, if it's  
25 not incorrect, it may as well be in the record someplace.