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November 17, 2014

Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Fox Television Stations, Inc., Application for Renewal of License of
WNYW(TV) and WWOR-TV and Supplement to Petition for Modification
of Permanent Waiver

File Nos. BRCT-20070201AJS and BRCT20070201AJT

MB Docket No. 07-260

Dear Ms. Dortch:

Pursuant to section 1.1206(b) of the Commission's rules, this letter provides notice regarding an *ex parte* communication in the above referenced proceeding, which has been granted permit-but-disclose status.

On November 13, 2014, Cheryl Leanza, Policy Advisor at the Office of Communication of the United Church of Christ, Inc. ("UCC"), and Angela J. Campbell, Andrew Jay Schwartzman, and Patricia Kim of the Institute for Public Representation ("IPR"), met with Maria Kirby, Legal Advisor to the Chairman, concerning the pending Applications for Review of the Media Bureau's August 8, 2014 Order in the above-

*Admitted to the Washington bar only;
DC bar membership pending. Practice supervised by members of the DC bar.

referenced matter.¹ IPR represents UCC and Rainbow/PUSH Coalition (collectively, "Petitioners").

Petitioners expressed concern that the original Petition to Deny Fox Television Stations' ("Fox") license renewal application for WWOR-TV was filed in 2007, and the Media Bureau did not issue its decision until seven years later. In addition, Petitioners stated that the Order did not address the merits of their claims. Instead, the Media Bureau merely dismissed UCC's Petition, without reaching a determination as required by Section 309 of the Communications Act.

Petitioners provided Ms. Kirby with a copy of the attached timeline showing the history of this case and depicting the extended periods of time when Fox was not in compliance with the Commission's ownership rules. Petitioners stated that the Commission previously gave Fox two temporary, 24-month waivers in 2001 and 2006 to allow Fox the time to divest at a reasonable price and avoid a "fire sale," but that Fox took no steps to comply before or after the waivers expired. They also noted that the Commission has taken no action to enforce compliance with its orders.

Petitioners addressed Fox's claim that the mere pendency for an extension of a waiver effectively extends the waiver indefinitely. They said there is no legal basis or precedent for such a claim. Petitioners stated that it is extremely important for the Commission to clarify the law in this regard, pointing to the Commission's holding in *Counterpoint Communications, Inc.* that the Commission does not intend to allow expired waivers to languish via Commission inaction.²

Petitioners explained that the unprecedented relief afforded Fox in the Order was in effect a waiver of indefinite length by allowing Fox to extend the duration of the waiver so long as it requests a new waiver after the Commission acts on its 2014 Quadrennial Review docket. Since nothing the Commission has proposed in the 2014 Quadrennial Review would permit the common ownership of two TV stations and a daily newspaper, it is a near certainty that Fox will have to request a new waiver, thereby effectively extending Fox's conditional waiver beyond the end of the 2014 Quadrennial Review. Moreover, they explained that Commission precedent makes clear that the mere pendency of a rulemaking is not a valid basis for grant of a waiver. For example, when the Commission granted a waiver to Fox in 2001, it rejected Fox's request for an interim waiver based on the pendency of the 2002 *Biennial Review*.³ The

¹ *Fox Television Stations, Inc.*, 29 FCC Rcd 9564 (2014) ("Order").

² *Counterpoint Communications, Inc.*, 20 FCC Rcd 8582, 8585 (2005).

³ *UTV of San Francisco, Inc.*, 16 FCC Rcd 14975, 14988-90 (2001).

Commission has also rejected this argument in other cases.⁴ Petitioners stated that if the Commission were to allow a pending review to be the reason for not enforcing time-limited waivers, licensees would see no need to comply because the ownership rules are nearly always under review.

Petitioners urged the Commission to hold the Media Bureau accountable and to promote greater transparency with regard to waivers of Commission rules. Petitioners gave suggestions, such as having the Media Bureau put online a list of all outstanding waivers of the ownership rules, with the terms and expiration dates included, as well as giving the public meaningful notice when a licensee applies to extend an existing waiver or seek a new waiver. Petitioners stated that enacting these suggestions would reinforce the Commission's current efforts in tightening compliance with the ownership rules, by for example, amending the attribution rules regarding Joint Sales Agreements.

This letter is being submitted electronically as part of the MB Docket No. 07-260. Should you have any questions concerning this letter, please contact the undersigned.

Respectfully Submitted,

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United Church of Christ and Rainbow/
PUSH Coalition

cc (via email): Maria Kirby
Jared S. Sher
Mace Rosenstein
Michael Beder

⁴ See *Application of Shareholders in Tribune Company*, 22 FCC Rcd 21266 (2007); *Counterpoint Communications, Inc.*, 20 FCC Rcd 8582 (2005); *Mobilemedia Corporation*, 14 FCC Rcd 8017 (1999) (enforcing compliance with waivers in the face of pending ownership reviews).

TIMELINE OF FOX'S WAIVERS FOR OWNERSHIP OF WWOR-TV

