

December 14, 2006

BY ELECTRONIC FILING

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Notice of Ex Parte Presentation, MB Docket No. 03-124*

Dear Ms. Dortch:

On December 13, 2006, Lindsay Gardner, President, Affiliate Sales and Marketing, of Fox Cable Networks ("FCN"), Mike Biard, Senior Vice President, Affiliate Sales and Marketing, of FCN, Ellen Agress, Deputy General Counsel of News Corporation, and Maureen O'Connell, Senior Vice President of News Corporation, had separate meetings with Chairman Martin's Legal Advisor, Heather Dixon, and Catherine Bohigian, Chief of the Office of Strategic Planning and Policy Analysis; Commissioner Adelstein and his Legal Advisor, Rudy Brioché; Commissioner McDowell and his Legal Advisor, Cristina Pauzé; and Donna Gregg, Rosemary Harold, Marcia Glauberman, Mary Beth Murphy, and Royce Sherlock of the Media Bureau.

The purpose of these meetings was to discuss FCN's proposal for handling negotiations for carriage of FCN's regional sports network programming with the National Cable Television Cooperative, Inc., as required under the conditions imposed in the *News/Hughes* proceeding.¹ The substance of those discussions and FCN's proposal are reflected in the attached document, which was circulated at each of the meetings.

Sincerely yours,



William M. Wiltshire
Counsel for News Corporation

¹ *General Motors Corp., Hughes Electronics Corp., and The News Corporation Ltd.*, 19 FCC Rcd. 473, 552 (2004).

HARRIS, WILTSHIRE & GRANNIS LLP

Marlene H. Dortch
December 14, 2006
Page 2 of 2

Attachment

cc: Chairman Martin
Commissioner Adelstein
Commissioner McDowell
Catherine Bohigian
Heather Dixon
Rudy Brioché
Cristina Pauzé
Donna Gregg
Rosemary Harold
Marcia Glauberman
Mary Beth Murphy
Royce Sherlock
Jeffrey L. Abbas
Seth A. Davidson

**Proposed Terms for Collective Bargaining Between News Corp. and the NCTC
For
Fox Regional Sports Networks**

Background

- When News Corp. purchased an interest in DirecTV in 2003, conditions were imposed by the FCC related to the Fox Regional Sports Networks (“RSNs”) operated by News Corp.
- These conditions include the following:
 - “An MVPD meeting the definition of a ‘small cable company’ may appoint a bargaining agent to bargain collectively on its behalf in negotiating carriage of RSNs with News Corp. and News Corp. may not refuse to negotiate carriage of RSN programming with such an entity. The designated collective bargaining entity will have all the rights and responsibilities granted by these conditions.”
- The National Cable Television Cooperative (“NCTC”) initiated discussions with News Corp. pursuant to this condition in May of 2005, but the parties have not been able to agree on the procedures for this collective bargaining process.

Issue One: *At what point* during the bargaining process does NCTC have a right to confidential information from the cable operators it may represent?

- News Corp. asserts that, at the point at which (1) NCTC has a legally-binding agreement with a member to be its collective bargaining agent with respect to an agreement that is expiring within a reasonable period of time, and (2) that member has agreed to be bound by the terms of any agreement ultimately entered into by NCTC, confidential information can be shared with NCTC about that member’s prior RSN carriage agreement with News Corp.
- News Corp. would agree that a member’s prior RSN carriage agreement can be shared with NCTC for its legally-bound members if the following conditions are agreed to by NCTC:
 - Access to Fox’s highly confidential and commercially-sensitive information would be limited to one NCTC employee and one outside counsel, neither of whom shall participate in current or future negotiations for News Corp. programming *other than* the Fox RSNs.
 - These two individuals would be required to sign a strict confidentiality agreement, the terms of which News Corp. and NCTC would agree to in advance.
 - NCTC would agree to indemnify and hold News Corp. harmless in the event any antitrust violations are alleged or found as a result of the collective bargaining arrangements entered into by NCTC

Issue Two: How should the parties to the negotiations handle RSN carriage contracts that may expire during the period when Fox and NCTC are bargaining?

- News Corp. proposes that, once NCTC has its collective bargaining agreements in place, and negotiations regarding the Fox RSNs have begun, a mutually agreed-upon period of time would be allowed for good faith negotiations before any of the companies represented by NCTC would risk losing Fox RSN programming for failure to trigger arbitration provisions. At the end of this period, NCTC would have the same options now available to its individual members: 1) initiating arbitration (with the end of the extended term being deemed the expiration date of the contract for purposes of the FCC's arbitration procedures); 2) ending negotiations and discontinuing carriage of the RSN service(s); or 3) negotiating a mutually-agreeable extension of the negotiation period.