DowLohnes

John R. Feore
D 202.776.2786 E jfeore@dowlohnes.com

June 25, 2012

VIA ECFS

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

Re: 2010 Quadrennial Review – Review of the Commission's Broadcast Ownership Rules And Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996
MB Docket No. 09-182
Notice of Ex Parte Communication

Dear Ms. Dortch:

On June 21, 2012 Barry Ohlson, Vice President of Regulatory Affairs of Cox Enterprises, Inc. ("Cox"), Jason E. Rademacher of Dow Lohnes PLLC and the undersigned met with William T. Lake, Chief of the Media Bureau, Hillary S. DeNigro, Chief of the Industry Analysis Division, Brendan Holland, Assistant Chief of the Industry Analysis Division, and Benjamin D. Arden, Attorney Advisor with the Industry Analysis Division to discuss issues relating to the FCC's consideration in its ongoing Quadrennial Media Ownership Proceeding of the Newspaper/Broadcast Cross-Ownership Rule (the "NBCO Rule"). Participants in the meeting were provided with the attached document summarizing Cox's arguments in this proceeding.

During the meeting, Cox reiterated its support for full repeal of the NBCO Rule, which was fully expressed in Cox's comments in this proceeding. The rule is more than 37 years old, and the modern media market has fundamentally changed. The unprecedented economic challenges facing newspapers and broadcast stations present a solid justification for the Commission to provide local media properties with the flexibility to compete with new competition from multichannel entertainment providers and the Internet. Cox also discussed its experiences in Atlanta and Dayton where it has owned both newspaper and broadcast properties for more than 70 years and where diversity and competition have thrived.

Cox also explained that even if the Commission is not prepared to repeal the NBCO Rule, changed circumstances justify liberalizing the rule to reflect local media market conditions that exist today. In particular, Cox noted that no basis exists for treating television and radio the same under the NBCO Rule. The Commission has recognized that radio does not play an equivalent role to TV in local media markets. Applying the same flat prohibition to both is untenable. Cox further argued that permitting radio/newspaper combinations could lead to improved local news and other services. Cox advocated elimination of the prohibition on newspaper/radio combinations and argued that such combinations should be limited only by the local radio ownership rules.

The parties discussed another area which is ripe for reform, the Commission's standards for waiving the NBCO Rule. Cox advocated a new approach to waivers that eschews the market-rank model (i.e., top-20 markets) tried by the Commission in 2003 and 2006 and instead would rely on an objective voice count like the one that historically has been used for radio/television cross-ownership. Specifically, Cox argued that a waiver of the NBCO Rule should be available in any market if after the combination is formed, 20 independently-owned media voices and three independent news producers (other than the proposed combination) continue to exist. The changes Cox supports would provide local media companies with an objective standard by which to judge the likelihood that a waiver would be granted and would avoid the types of market-based line-drawing that have not yet withstood court scrutiny.

Cox expressed its support for a modified version of the Commission's proposal to move from a contour-based standard to a DMA-based standard for determining when the NBCO Rule is triggered. Cox agreed with the Commission's view expressed in the *NPRM* that a DMA-based approach better reflects television stations' markets and is more certain than the contour-based rule. Cox's proposal is that the rule should apply <u>only</u> if: (1) the newspaper and television station are located in same DMA; (2) the newspaper's circulation exceeds 5 percent of the households in the television station's community of license; and (3) the digital equivalent of a television station's Grade A contour fully encompasses the newspaper's community of publication. Cox noted that the modifications it has proposed to the DMA-based approach are essential to modernizing the rule without expanding its reach to cover ever more combinations than it does today. Cox also pointed out that existing combinations brought within the rule as a result of this change should be grandfathered.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being today through the Commission's Electronic Comment Filing System, and a copy will be sent by electronic mail to each of the Commission participants in the meeting participants.

Very truly yours,

/s/

John R. Feore, Jr.

Attachment

cc (w/attachment): William T. Lake
Hillary S. DeNigro
Brendan Holland
Benjamin D. Arden

MB Docket No. 09-182

June 22, 2012

- **<u>Cox Media Group Holdings</u>**
  - 8 Daily and 16 Weekly Newspapers
  - 15 Full-Power TV Stations in 11 Markets
  - 86 Radio stations (71 FM and 15 AM) in 20 Markets
  - More than 9,000 employees

- **<u>It Is Time to Eliminate the NBCO Rule</u>**
  - Cox's longstanding cross-owned properties in Atlanta and Dayton demonstrate that cross-ownership enhances diversity, localism, and competition – a conclusion amply supported in the record before the Commission developed over many years
  - Both short- and long-term trends in the newspaper industry suggest readers can expect less professional journalism service in coming years (*e.g.*, *New Orleans Times-Picayune*)
  - Permitting cross-ownership could slow and perhaps reverse these trends

- **<u>At a Minimum, It Is Time to Rationalize the NBCO Rule</u>**
  - Eliminate Radio from the Cross-Ownership Ban
    - Today radio does plays a very different role than either television or newspapers
    - Newspaper/Radio combinations could improve both radio and newspaper news output
  - Replace contour-based rule with market-based rule for newspaper/television combos
    - Modified DMA-based trigger would better reflect media markets
    - Rule should apply only if <u>all</u> of the following conditions are met:
      - Newspaper and television station are located in same DMA;
      - Newspaper's circulation exceeds 5 percent of the households in the television station's community of license; and
      - The digital equivalent of a television station's Grade A contour fully encompasses the newspaper's community of publication
    - Existing combinations should be grandfathered
  - Permit NBCO Combinations to participate fully in local media markets
    - Any waiver should permit a single owner to operate a newspaper and as many television and radio stations as permitted by the local ownership rules
  - Adopt uniform, two-pronged NBCO waiver standard for all markets
    - <u>Diversity Prong</u>: 20 voices test
    - <u>Localism Prong</u>: 3 independent news producers other than the combining properties remain in the market