

August 1, 2012

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re: MB Docket Nos. 09-182, 06- 121, 02-277, MM Docket No. 01-235
Notice of Ex Parte Communication

Dear Ms. Dortch:

On July 30, 2012, the undersigned counsel for Cox Enterprises, Inc., Bonneville International Corporation, The Scranton Times, L.P., Calvary, Inc., and Morris Communications Company, LLC (collectively the “Media Parties”) met with Hillary DeNigro, Sarah Whitesell, Benjamin Arden, and Brendan Holland of the Media Bureau. The Media Parties had previously filed a “Motion for Extension of Time” with respect to the date specified in the Commission’s decision in its 2006 Quadrennial Regulatory Review proceeding (“QRR Decision”)¹ for their submissions addressing the effect that the changes made in that decision might have on their pending requests for waiver or existing waivers of the newspaper/broadcast cross-ownership rule, 47 C.F.R. § 73.3555(d) (“NBCO Rule”).² In response, the Commission extended the time for filing supplemental showings on several occasions, most recently until September 27, 2012.³

In the July 30, 2012 meeting, counsel for the Media Parties discussed the implications of the decision of the United States Court of Appeals for the Third Circuit in *Prometheus II*, (in which the Court, *inter alia*, vacated and remanded to the Commission the portions of the QRR Decision relating to the NBCO Rule), the Supreme Court’s action on petitions for *certiorari* seeking review of *Prometheus II*, as well as the additional issues and proposals relating to the rule with respect to which the FCC requested comment in its December 22, 2011 Notice of Proposed Rulemaking in the 2010 Quadrennial Regulatory Review Proceeding.⁴ The Media Parties noted

¹ 2006 *Quadrennial Regulatory Review*, Memorandum Opinion and Order, 23 FCC Rcd 2010, 2021-22, ¶ 19 (2008), *affirmed in part, vacated in part, Prometheus Radio Project v. FCC*, ___ F.3d ___, 2011 WL 2653785 (3d Cir. July 7, 2011) (“*Prometheus I*”), *rehearing denied*, Order, *Prometheus Radio Project v. FCC* (3d Cir. Sept. 6, 2011).

² The Media Parties contended in their original Motion that, in view of the numerous appellate challenges to the QRR Decision, the time for filing their supplemental waiver showings should be delayed until ninety days after issuance of a final court order resolving the pending challenges to the NBCO Rule. *See* Motion for Extension of Time at 2, 6 (Sept. 30, 2008).

³ 2006 *Quadrennial Regulatory Review*, Order, DA 12-40 (rel. January 12, 2012). As it had in its earlier extension orders, the Bureau noted that the January 12 Order “does not constitute action on the Media Parties’ request to further extend the deadline.” *Id.* at para. 2.

⁴ 2010 *Quadrennial Regulatory Review*, Notice of Proposed Rulemaking, FCC 11-186 (rel. December 22, 2011).

that, notwithstanding the denial of the petitions for *certiorari*, judicial consideration of the QRR Decision's changes to the NBCO Rule has not been completed; rather, the Third Circuit vacated and remanded those changes to the FCC for further consideration in the context of the pending 2010 Quadrennial Regulatory Review. Moreover, adoption of certain of the proposals advanced in the NPRM would obviate the need for waivers of the NBCO Rule for the Media Parties and, in any event, the standards under which requests for waiver of the NBCO Rule will be considered remain to be determined. Accordingly, the Media Parties stated their view that the bases for deferral of the filing of any waiver supplements remain essentially unchanged from those set forth in the prior Motion for Extension of Time and that continued deferral, pending resolution of the issues on remand and in the pending NPRM, is therefore appropriate. Alternatively, given that comments and replies have been filed and the Commission has indicated that it is on-track to complete the rulemaking proceeding by the end of this year, the Media Parties requested that the time for filing supplemental waiver showings be extended by an additional 90 days, while the 2010 Quadrennial Regulatory Review is being completed.

Respectfully submitted,

/s/

James R. Bayes
WILEY REIN LLP
1776 K Street, NW
Washington, DC 20006
*Counsel for Calvary, Inc. and Morris
Communications Company, LLC*

/s/

John R. Feore, Jr.
DOW LOHNES PLLC
1200 New Hampshire Avenue, NW
Washington, DC 20037
Counsel for Cox Enterprises, Inc.

/s/

Kenneth E. Satten
WILKINSON BARKER KNAUER, LLP
2300 N Street, NW
Washington, DC 20037
*Counsel for Bonneville International Corporation
and The Scranton Times, L.P.*

cc (via email): Hillary DeNigro
Sarah Whitesell
Benjamin Arden
Brendan Holland
Andrew Jay Schwartzman