April 5, 2014

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

RE: Notice of *Ex Parte* Communication
MB Docket No. 07-260
File No. BRCT-20070201AJT

Dear Ms. Dortch:

On April 3, 2014, in response to a request from Chairman Wheeler's office, the undersigned met with Maria Kirby, Media Legal Advisor to the Chairman, to discuss WWOR-TV's pending license renewal application. The meeting focused primarily on arguments contained in the record of this proceeding, including in particular the matters described in Exhibit A to the *ex parte* letter submitted in this docket on September 23, 2009.[1]

Specifically, I reiterated WWOR-TV's position that Section 309(k) of the Communications Act requires the Commission to grant the station's renewal application because WWOR-TV served the tastes, needs and interests of Northern New Jersey throughout the preceding term of its license.[2] I also explained that the Commission consistently has made clear that WWOR-TV's public service obligation is no different in kind or degree than any other station's obligation, except that WWOR-TV historically was tasked with serving the area of Northern New Jersey within its service contour, rather than just its community of license.[3] Finally, I pointed out that, based on the First Amendment and well-established precedent, the Commission does not sit in judgment of a broadcast licensee's editorial discretion.[4]

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[1] *See* Letter from Antoinette Cook Bush, Counsel to Fox Television Stations, Inc. *et al.*, to Marlene Dortch, Secretary, FCC, MB Docket No. 07-260 (filed Sept. 23, 2009).

[2] *See* 47 U.S.C. 309(k) (Commission "shall grant" a station's license renewal application "if it finds, with respect to that station, during the preceding term of its license" that the station has served the public interest and that there have been no serious violations of the Act or the FCC's rules and no other violations that taken together constitute a pattern of abuse).

[3] *See In re RKO General, Inc*., 1 FCC Rcd 1081, 1087 (1986) (WWOR-TV's "obligation to serve the issues and concerns of northern New Jersey is not different in kind or degree from any licensee's obligation to serve its community of license"); *see also id.* at 1086, 1088 (WWOR-TV's "performance should be judged in the same manner as any other television station in it[s] overall performance, except that its performance will be tied to northern New Jersey, not primarily Secaucus" and "[j]ust as we would not purport to tell a licensee of New York City how much coverage it should devote to New York high school sports, neither will we intrude in the editorial discretion of a New Jersey station").

[4] *See Letter to Dr. Paul Klite*, 12 Comm. Reg. (P&F) 79 (1998) (*aff'd sub nom In re McGraw-Hill Broadcasting Co., Inc.*, 16 FCC Rcd 22739 (2001)) (rejecting petition to deny critical of licensee programming selection because "licensees are afforded broad discretion in the scheduling, selection and presentation of programs aired on their stations, and Section 326 of the Communications Act and the First Amendment of the Constitution prohibit any Commission actions which would improperly interfere with the programming decisions of licensees");

In addition, I updated Ms. Kirby about WWOR-TV's current local programming notwithstanding that, pursuant to the backward-looking standard embodied in Section 309(k) of the Communications Act, the station's current programming is not a legally relevant factor with regard to the pending renewal application.[5] I said that *Chasing New Jersey* continues to air each weeknight, providing intense coverage of New Jersey-centric news in an entirely new and innovative format designed to allow more depth and context in news coverage. I noted that recent news topics have included stories that have been in the headlines, such as Senator Booker's election and the controversy surrounding traffic for Ft. Lee residents trying to access the George Washington Bridge, as well as stories that few if any other media outlets in the state are covering, such as a rally at the Newark immigration office to protest against the deportation of a New Jersey family. I also said that WWOR-TV continues to broadcast *New Jersey Now*, a weekly public affairs program that features a roundtable discussion of political issues of importance to New Jersey viewers.

Finally, I noted that WWOR-TV is one of the 18 full-power broadcast television stations licensed to communities in the state of New Jersey. Although the station was a VHF station when it first was re-allocated to New Jersey approximately 30 years ago, WWOR-TV has operated on a UHF frequency since the conclusion of the digital television transition.

This letter is being submitted electronically in the above-referenced docket, which has been granted permit-but-disclose status, pursuant to Section 1.1206(b) of the Commission's Rules. Should you have any questions concerning this submission, kindly contact the undersigned.

Respectfully submitted,
/s/
Jared S. Sher
Vice President, Associate General Counsel
21st Century Fox, Inc.

cc: Maria Kirby (via email)
Barbara Kreisman (via email)
Dave Roberts (via email)
Best Copy and Printing, Inc. (via email)
Charles Lovey, Voice for New Jersey (via UPS)
Angela Campbell, Counsel to UCC and Rainbow/PUSH (via UPS)
Andrew Schwartzman, Counsel to Free Press (via UPS)

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see also In re John Neely, Esq., 22 FCC Rcd 8395 (2007) (FCC "will not take adverse action on a license renewal application based upon the subjective determination of a listener or group of listeners as to what constitutes appropriate programming") (*citing WGBH Educational Foundation*, 69 FCC 2d 1250, 1251 (1978)).

[5] *See In re Birach Broadcasting Corp*., 16 FCC Rcd 5015, 5020 (2001) ("consideration of post-[license] term developments is fundamentally at odds with [the] backwards-looking standard" set forth in Section 309(k)).