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May 7, 2014

Marlene 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 proceedings.

On May 5, 2014 Angela J. Campbell and Andrew Jay Schwartzman of the Institute for Public Representation, acting on behalf of the Office of Communication of the United Church of Christ, Inc., Rainbow/PUSH Coalition and Voices for New Jersey (collectively, "Petitioners"), met with Maria Kirby, Legal Advisor to the Chairman, Holly Saurer, Associate Chief, Media Bureau and Lori Maarbjerg, Chief of Staff, Office of Legislative Affairs, concerning the pending license renewal and expired ownership waiver of WWOR-TV.

Mr. Schwartzman began by stating that while Petitioners share concerns that have recently been expressed with respect to WWOR-TV's current failure to meet the special needs of Northern New Jersey, the Commission must also recognize that those shortcomings should not be the exclusive focus of the Commission. The pending petitions to deny renewal of WWOR-TV properly raise the question of whether WWOR-TV's program service during the period 1999-2007 could justify a finding that license renewal is in the public interest and also raise the question as to whether the Commission could possibly find that renewal is in the public interest in light of the fact that renewal would violate the newspaper broadcast ownership rule that existed at the time as well as the one proposed in the 2014 Quadrennial Review. Notably, the two year period afforded 21st Century Fox, Inc. and its corporate predecessors ("Fox") for divestiture is the same time period the Commission has recently found to be sufficient for licensees with Joint Sales Agreements to come into compliance.

Mr. Schwartzman briefly recounted the history of the legislation which resulted in reallocation of WWOR-TV's license to Northern New Jersey and the Commission's admonition that

> [W]e expect [WWOR-TV] to perform a higher degree of service to its Grade B coverage area than is normally required of a broadcast licensee. At renewal time, [WWOR-TV] will be judged by how it has met the obligation to serve the greater service needs of Northern New Jersey, which we view as higher than the specific needs of Secaucus.

Channel 9 Reallocation (WOR-TV), 53 RR2d 469, 471 (1983).

Ms. Campbell then reviewed the regulatory history of WWOR-TV, noting that the Commission granted a "temporary 24-month waiver within which to come into compliance with the" Commission's newspaper/broadcast cross-ownership ("NBCO") rule, and that its decision was affirmed by the D.C. Circuit. She pointed out that Fox's license renewal application filed seven years ago, still had not been acted upon by the commission, despite serious issues raised in the petitions to deny filed by UCC/Rainbow/PUSH and Voices for New Jersey and the fact that the Commission took the unusual step of holding a public forum in New Jersey concerning WWOR. She noted that Fox was out of compliance with the NBCO from 2003 until 2006, when the Commission gave Fox a new temporary waiver within which to divest. Although that waiver expired in December, 2008, Fox has not sold WWOR-TV, and the Commission has taken no action to enforce its order. A timely petition for reconsideration of the Commission's 2009 decision affirming the 2006 decision was filed, but the Commission has taken no action upon it.

Mr. Schwartzman noted that in November, 2009, Voices for New Jersey provided new evidence of WWOR-TV's failure to serve Northern New Jersey and that in January, 2010 it called attention to Fox's lack of candor in its response. In February, 2011, the Commission sent an inquiry letter to Fox about that response.

With respect to the Commission's power to examine WWOR-TV's programming practices, Mr. Schwartzman cited *UCC v. FCC*, 707 F.2d 1413, 1427-1429 (D.C. Cir. 1984), and quoted the statement (at page 1428) that

> Since the Commission has the power to make license determinations on the basis of programming, then it perforce has the power--and in fact the responsibility--to define the licensees' public interest obligations with respect to programming.

Ms. Campbell and Mr. Schwartzman argued that the only appropriate remedy is to designate the WWOR-TV application for hearing and deny renewal. They reviewed available remedies including short-term renewal, forfeitures and settlements, but said none of them are satisfactory since WWOR-TV has violated a Commission directive to divest and cannot come into compliance with current or proposed Commission rules without a divestiture.

Mr. Schwartzman and Ms. Campbell concluded by stating that the Commission's failure to act on a Fox's license renewal application for nearly the entire length of the license term, to address the petitions to deny and petitions for reconsideration, and to act on Fox's request for yet another waiver (which was last "supplemented" in 2008), rewards licensees that ignore Commission rules and orders. It sends the wrong message to the industry at a time when the Commission is trying to prevent stations from getting around ownership limits through the uses of JSAs.

Respectfully submitted,

Andrew Jay Schwartzman

cc. (via email) Jared S. Sher
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