
In reviewing and ultimately relaxing the Duopoly Rule, the Commission envisioned that smaller, less powerful stations (that is, UHF stations) could benefit from joining with larger, more powerful stations to generate efficiencies, cost-savings, and better programming.⁹⁶ Although the Commission did not explicitly bar VHF-VHF mergers, it recognized that the advantages stemming from efficiency-generating mergers would "be particularly helpful to small and independent UHF stations."⁹⁷ The Commission recognized that the relaxed rule "will allow weaker television stations in the market to combine, either with each other or with a larger station, thereby preserving and strengthening these stations and improving their ability to compete. These station combinations will allow licensees to take advantage of efficiencies and cost savings that can benefit the public, such as in allowing the stations to provide more local programming"⁹⁸ But while the Commission's Duopoly Report and Order clearly anticipated mergers involving weaker stations, it did not entertain the possibility of a merger between two strong VHF stations. Thus, it appears that in adopting the eight voice/top four-ranked duopoly test, which was intended to "ensur[e] a robust level of diversity,"⁹⁹ the Commission did not contemplate approving the creation of VHF duopolies.

Indeed, to date, the Commission has not granted any transfer that would result in the

discount for UHF stations. *Id.* It noted that one-third of Americans do not use cable to access broadcast signals, and that viewers have more difficulty receiving UHF stations' weaker signals.

⁹⁶*Duopoly R&O*, 14 FCC Rcd at 12,933, ¶ 65.

⁹⁷*Id.* at 12,931, ¶ 60.

⁹⁸*Id.* at 12,933, ¶ 65.

⁹⁹*Id.* at 12,934, ¶ 67.

creation of VHF duopolies. Although the CBS-Viacom merger, which was approved in May 2000, created duopolies in six of twenty largest markets in the country, none involved the combination of two VHF stations. All were VHF-UHF combinations.¹⁰⁰ Thus, Fox's proposal to own two VHF stations licensed to the same metropolitan area presents a case of first impression that should be decided by the full Commission.

2. VHF-VHF Combinations are Not in the Public Interest

The combination of two VHF stations harms diversity and competition by giving Fox two powerful voices in a single metropolitan area and eliminating a powerful independent voice from the market.¹⁰¹ VHF-VHF combinations in New York and Los Angeles are particularly troubling because both cities have large, heterogeneous populations that need a wider variety of local broadcast voices than do cities with smaller, more homogeneous populations.¹⁰²

With regard to the New York market, Fox asserts that a VHF-VHF merger would not harm the "uniquely diverse and competitive" New York media market, and it cites a wide range of cable and direct broadcast satellite channels as evidence of the diverse voices that are available

¹⁰⁰ *Shareholders of CBS Corp.*, 15 FCC Rcd 8230, 8237, at ¶ 24 (2000).

¹⁰¹ Fox's proposed acquisition would give it a combined market share of 12 in the New York DMA, which would tie the DMA's top-ranked station, WABC. BIA at DMA Rank 1 (using July 2000 data). Similarly, Fox's proposed acquisition would give it a combined market share of 12 in the Los Angeles DMA, which would tie the DMA's top-ranked station, KABC. BIA at DMA Rank 2 (using July 2000 data).

¹⁰² The populations of New York and Los Angeles contain many racial, ethnic, linguistic, religious, and political groups, all of which may have different viewpoints that should be given the opportunity to be heard or expressed. *Review of the Commission's Regulations Governing Television Broadcasting*, Petition for Reconsideration of UCC et al., MM Dkt 91-221 at 12 (filed Oct. 18, 1999).

to the New York marketplace.¹⁰³ However, the Commission correctly determined not to count such program sources under the eight voices test because it was unable to find that they were substitutes for television stations for purposes of diversity.¹⁰⁴ The Commission found that "broadcast television, more so than any other media, continues to have a special, pervasive impact in our society given its role as the preeminent source of news and entertainment for most Americans."¹⁰⁵ Indeed, it is broadcast stations, not cable stations, that provide New Yorkers with their main source of local, New York-oriented news and other programming.

Fox's applications greatly overstate the availability of alternative sources of local issue programming voices available in the New York market. In reality, there are a limited number of independent stations that are truly local voices for the New York DMA. Cable and DBS, for example, provide little locally-oriented programming. A large percentage of the radio stations in New York offer no independent news or public affairs staff and but rather obtain newscasts from a "turnkey" company owned by another licensee in the New York market.¹⁰⁶ Other media cited by Fox are not available to all or have very limited scope and circulation.¹⁰⁷ Thus, allowing Fox to control two of the stations that provide a local voice for the New York market would be a

¹⁰³*Fox App. Ex. No. 4*, at 30. Fox does not provide similar justification, or any justification for its proposed Los Angeles duopoly.

¹⁰⁴*Duopoly R&O*, 14 FCC Rcd at 12,935, ¶ 69.

¹⁰⁵*Id.*

¹⁰⁶Andrew Jay Schwartzman, *Viacom-CBS Merger: Media Competition and Consolidation in the New Millennium*, 52 *Fed. Comm. L. J.* 513, 515-16 (2000)(describing operations of Metro Networks).

¹⁰⁷For example, the various suburban weekly newspapers cited by Fox typically have both limited circulation and coverage.

substantial blow to diversity.¹⁰⁸

Allowing Fox to own two VHF stations in the New York metropolitan area is also problematic because it would give Fox even more control in a market it already dominates through various forms of television programming and other media outlets. If Fox's application for a duopoly in New York were granted, Fox would own (1) two VHF stations (WWOR and WNYW); (2) the English-language daily newspaper *New York Post*; (3) the Fox television network and possibly a second Fox network; (4) cable channels such as the Fox News Channel, FX, Fox Family Channel, and Fox Sports Channel, which are carried on cable systems serving New York City;¹⁰⁹ and (5) a nearly fifty percent (50%) interest in the company that provides the principal video programming channel guide, as well as the publisher of *TV Guide*.¹¹⁰ As a result, to permit Fox to control two of the broadcast television stations that provide local news and programming, in addition to controlling so many other sources of television programming, would increase the harm already done to diversity in the New York market and thus would not be in the public interest.

Ultimately, and as stated above, Fox's application to create duopolies in New York and Los Angeles flies in the face of Congress' explicit intent that the Commission not permit VHF

¹⁰⁸A similar argument, absent a discussion of newspaper ownership, may be made in the Los Angeles DMA, but Fox makes no assertions as to the diverse media options available in that DMA.

¹⁰⁹*News Corp. Annual Report 2000*, available at http://www.newscorp.com/report2000/cable_network.html (last visited Oct. 26, 2000).

¹¹⁰*News Corp. Annual Rpt. 2000*, available at http://www.newscorp.com/mag_and_inserts.html (last visited Oct. 26, 2000).

combination absent "compelling circumstances."¹¹¹ Here, Fox has not asserted any compelling circumstances in support of its proposed acquisition of CCI's stations, nor has it even asserted that the proposed acquisition is necessary.¹¹² In fact, as shown above, the decrease in diversity is actually a compelling reason not to approve a New York or Los Angeles duopoly. Moreover, approval of VHF combinations does nothing to further the Commission's goal of allowing weaker stations to achieve efficiencies, cost-savings, and better programming by combining with stronger stations. As a result, the VHF-VHF combinations in New York and Los Angeles do not serve the public interest.

C. A One-Year Waiver of the Duopoly Rule in the Salt Lake City Market is Not in the Public Interest

Fox acknowledges that the Commission's Duopoly Rule does not permit it to hold licenses for both Salt Lake City-based KSTU, which it currently owns, and Salt Lake City-based KTVK, which it would acquire from CCI.¹¹³ Accordingly, Fox seeks twelve months to divest one of the stations. Petitioners believe that twelve months is excessive.

Fox should not be granted a twelve-month duopoly waiver because its proposed combination would result in significant market concentration. The combined market share of the two stations Fox proposes to own in the Salt Lake City DMA would be at least twenty-four

¹¹¹S. Conf. Rep. No. 104-230 at 163 (1996).

¹¹²See generally, *Fox App. Ex. No. 4* at 2-5, 16-33.

¹¹³*Fox App. Ex. No. 4* at 8. The acquisition violates the duopoly rule because both stations are among the top four-ranked stations in the Salt Lake City DMA. BIA at DMA Rank 36.

percent based on the two stations' most recent market shares.¹¹⁴ This would give Fox a 100 percent gain in market share and a much greater market share than any other station in the market.¹¹⁵ Thus, it would be appropriate for the Commission to insist that Fox or CCI find a buyer for one of the stations before the Commission acts on the applications.

At most, the Commission should only grant a six-month waiver (with no extensions permitted), specifically conditioned on completely separate operation of the two stations. Recently, the Commission granted only a six-month waiver to Emmis Communications Corp., which acquired an impermissible duopoly in the Honolulu DMA as part of an acquisition of *fifteen* broadcast stations.¹¹⁶ Fox is acquiring the impermissible Salt Lake City duopoly as part of a smaller acquisition of *ten* stations,¹¹⁷ Because six months was sufficient for Emmis Communications, it should also be sufficient for Fox's smaller-scale acquisition.¹¹⁸

¹¹⁴BIA at DMA Rank 36. In July 2000, both Fox's KSTU (Fox programming) and CCI's KTVX (ABC programming) had a market share of 12. *Id.*

¹¹⁵In July 2000, the NBC station KSL had a market share of 12 and the CBS station KUTV had a market share of 10. *Id.*

¹¹⁶*LINT, Co.*, DA 00-2199, at ¶¶ 1, 5 (rel. Sept. 27, 2000) [hereinafter *Emmis Application*].

¹¹⁷*FCC Form 314 for Assignment of Licenses of KBHK-TV, San Francisco, CA, KCOP-TV, Los Angeles, CA, KMOL-TV, San Antonio, TX, KMSP-TV, Minneapolis, MN, KPTV(TV), Portland, OR, KTVK(TV), Salt Lake City, UT, KUTP(TV), Phoenix, AZ, WWOR-TV, Secaucus, NJ, WUTB(TV), Baltimore, MD, and WRBW(TV), Orlando, FL*, Section I, Exhibit 1 at 1-2.

¹¹⁸The six-month duopoly waiver the FCC granted to Emmis Communications is an appropriate precedent for other reasons as well. Both cases involve impermissible combinations of top-four stations within a DMA. *Emmis Application* at ¶¶2-5. In addition, the Salt Lake City and Honolulu DMAs have roughly the same number of independent voices with recorded market share—eight and seven, respectively. BIA at DMA Ranks 36, 71.

V. The Fox Request for a One-Year Waiver of the National Ownership Cap is Not in the Public Interest and Should be Denied

The Telecommunications Act of 1996 and Commission rules prohibit any transfer of a commercial television broadcast license that will result in a party having an attributable interest in television stations with an aggregate national audience reach exceeding thirty-five percent.¹¹⁹ In its recent Biennial Report, the Commission considered requests from parties, including Fox, to repeal the national television ownership rule.¹²⁰ The Commission decided to retain the audience reach cap at its current level, finding that further relaxation of that limit would have a detrimental impact on diversity and competition. Specifically, the Commission found that "[i]ndependent ownership of stations ... increases the diversity of programming by providing an outlet for non-network programming."¹²¹ In addition, the Commission concluded that "consolidation of ownership of all or most of the television stations in the country in the hands of a few national networks would [not] serve the public interest."¹²²

Fox's current national audience reach is 35.352 percent,¹²³ already above the thirty-five percent cap. According to Fox, the proposed acquisition of the Chris-Craft licenses will increase Fox's national audience reach to 40.91 percent.¹²⁴ If the Commission changes the method of

¹¹⁹Telecommunications Act of 1996, § 202(c)(1); 47 C.F.R. 73.3555(e)(1)(1999).

¹²⁰*1998 Biennial Review Report*, 15 FCC Rcd 11,070 at ¶22.

¹²¹*Id.*, at 11,075, ¶ 30.

¹²²*Id.*

¹²³*Fox App. Ex. No. 4*, at 13.

¹²⁴*Id.*

calculating audience reach to include duopolies as been requested in a pending Petition for Reconsideration, Fox's audience reach would be substantially higher.¹²⁵ Fox has requested a twelve-month waiver of the national television multiple ownership rule to allow time for divestiture of sufficient broadcast stations to reach its current national audience reach of 35.352 percent.

A. Fox Has Failed to Demonstrate that Twelve-Month Waiver Period Serves the Public Interest and Does Not Undermine Goals of Diversity and Economic Competition

In applying for a waiver of the national ownership rule, an applicant bears the burden of showing that its proposal is in the public interest and that the requested waiver will not compromise the goals of diversity and economic competition underlying the rule.¹²⁶ Fox completely fails to address the impact of its proposed waiver on diversity and economic competition and concludes that its waiver would serve the public interest simply because, on occasion, twelve-month waivers have been approved to facilitate the orderly divestiture of broadcast properties. Such a showing is both inadequate and misleading.

First, viewpoint diversity and economic competition, fundamental goals of the national ownership rule,¹²⁷ will be compromised significantly during the waiver period. A twelve-month waiver of the national ownership rule in this case will result in a massive concentration of media

¹²⁵See Petition for Reconsideration of UCC *et al*, MM Dkt. No. 96-222 (filed Oct. 18, 1999)(seeking reconsideration of FCC's refusal to count television duopolies toward 35% national cap).

¹²⁶*Multimedia, Inc.*, 11 FCC Rcd 4883, 4892, ¶ 27 (1995); *Stockholders of CBS, Inc.*, 11 FCC Rcd 3733, 3774, ¶ 90 (1995)(“*CBS I*”).

¹²⁷*CBS I*, 11 FCC Rcd at 3774, ¶ 90.

under the control of a single entity. If audience reach were not discounted for UHF stations, Fox's post-merger, aggregate national audience reach would total 48.82 percent,¹²⁸ 139 percent of the statutory limit.¹²⁹

The magnitude of control to be exercised in that context directly threatens diversity and competition. Indeed, the Commission has indicated that a large potential audience reach may raise concerns about "undue economic concentration or control during a temporary waiver period."¹³⁰ Yet, unlike previous applicants, Fox has made virtually no effort to justify the need for a twelve-month period.¹³¹ Moreover, Fox has made no effort to mitigate impacts on diversity and competition during the requested waiver period.¹³² In the absence of such a showing, Fox

¹²⁸*Fox App. Ex. No. 4*, Table 4-I (doubling the audience reach percentages represented for UHF stations, exclusive of the Arizona and Texas duopolies, produces an aggregate national audience reach without the fifty percent discount).

¹²⁹In 1995, Commission proposed to modify or eliminate the UHF discount. *Review of the Commission's Regulations Governing Television Broadcasting, Further Notice of Proposed Rule Making*, MM Dkt. 91-222, 10 FCC Rcd 3524, 3568 (1995). If the Commission were to adopt Fox's claim that it should allow otherwise impermissible ownership combinations when the Commission merely contemplates changes to the rules, then it should also assess Fox's proposed acquisition as if the UHF discount has been repealed as proposed.

¹³⁰*Multimedia, Inc.*, 11 FCC Rcd at 4892, ¶ 27 (approving a twelve-month waiver of the national ownership rule where seven other entities enjoyed a greater national audience reach such that potential audience reach during the temporary waiver period was not large enough to raise such concerns).

¹³¹*See, e.g., Shareholders of CBS, Corp.*, 15 FCC Rcd 8230, 8236, ¶ 19 (2000) (describing parties' claims of "complex and interdependent" interests particular to parties involved, unprecedented number of stations to be divested, and Commission approval of up to twenty-four month waivers for other ownership rules)("CBS IP").

¹³²*See, e.g., Young Broadcasting, Inc.*, 11 FCC Rcd 14632, 14633-14634, ¶¶ 5-7,10 (1996) (conditioning waiver of broadcast-cable cross ownership rule on parties' representation that conflicted individual would be insulated from involvement with station to be divested and would resign if divestiture not completed by end of waiver period); *Stockholders of CBS, Inc.*, 11

should not be allowed to dominate the broadcast field for a full year through the requested waiver.

Second, the public interest does not justify a twelve-month waiver in this case. The Commission has acknowledged public interest benefits in the common ownership of broadcast stations nationwide¹³³ and in allowing a reasonable time for orderly divestitures following a merger.¹³⁴ However, twelve months is the maximum period *ever* approved for needed divestitures in a transaction involving only television stations.¹³⁵ There is a ready market for broadcast stations, unlike cable or newspaper divestitures,¹³⁶ and the current economic climate is robust.

Furthermore, unlike the mergers cited by Fox¹³⁷ in which twelve-month waivers of the national ownership rule were approved, Fox was already over the national audience reach limit *before* merger negotiations even began. Fox has known from the outset that divestitures would be required and has taken no action in the interim to put them in motion. In the absence of a demonstrated need for a long divestiture period, the Commission should not reward Fox for its inaction by granting the maximum waiver period.

FCC Rcd 3733, 3764, ¶ 66 (1995) (waiving television duopoly rule, Commission acknowledges pledge by Westinghouse to attempt to find minority buyers for the station to be divested).

¹³³*Stockholders of CBS, Inc.*, 11 FCC Rcd 3733, 3774, ¶ 90 (1995).

¹³⁴*Multimedia, Inc.*, 11 FCC Rcd at 4885, ¶ 5 (1995); *CBS I*, 11 FCC Rcd at 3755, ¶ 44.

¹³⁵*CBS II*, 15 FCC Rcd at 8236, ¶¶ 21, 22.

¹³⁶*Id.* at ¶ 21.

¹³⁷*Fox App. Ex. No. 4* at 15, n. 16.

Finally, given the absence of a proper justification for the waiver, Fox's request may reflect a motive to delay in anticipation of avoiding compliance altogether. Although the Commission has acknowledged network preferences for repeal of the rule,¹³⁸ it has chosen to retain the national audience reach limit at its current level.¹³⁹ Significantly, Fox is currently attempting to have the courts overturn the Commission's decision to maintain its national broadcast station ownership rule¹⁴⁰ and recently filed an Emergency Petition for Relief seeking repeal of the rule.¹⁴¹ In addition, Fox specified in its application that it would not divest any of its proposed television duopolies,¹⁴² but failed to identify which stations would be divested. Fox could bring its national audience reach into compliance with the sale of a single duopoly.¹⁴³ The absence of even a general plan for accomplishing the required divestitures suggests a lack of commitment to compliance. Until the Commission's decision to retain the current limit comes under further review, the Commission should be wary of efforts to undermine the rule through

¹³⁸1998 *Biennial Review Report*, 15 FCC Rcd at 11,070, ¶ 22 ("All of the major networks (ABC, CBS, Fox, and NBC) support total repeal of the national television ownership rule.").

¹³⁹*Id.*, at 11,072, ¶ 25.

¹⁴⁰*Fox Television Stations, Inc. v. Federal Communications Commission*, D.C. Cir. No. 00-1222 (filed May 31, 2000).

¹⁴¹Emergency Petition for Relief and Supplemental Comments of Fox Television Stations, Inc., MM Dkt 98-35, (Nov. 18, 1999).

¹⁴²*Fox App. Ex. No. 4* at 14-15, n.15 (suggesting that because the duopolies themselves will not increase the calculated national audience reach, they should not be subject to divestiture).

¹⁴³Sale of the New York duopoly alone would reduce national audience reach to 34.123 percent. *Fox App. Ex. No. 4*, Table 4-1 (indicating that New York duopoly represents 6.787 percent of national audience reach).

exploitation of the waiver process.¹⁴⁴

In light of Fox's failure to justify its waiver request and the risk of the Commission's unintentional complicity in a broad campaign to undermine the national ownership rule, Petitioners believe that Fox's request for waiver of the national ownership rule should be denied.

B. At a minimum, Any Waiver of the National Ownership Cap Must be Limited to Six Months and Conditioned on Compliance with the Thirty-five Percent National Audience Reach Limit

Should the Commission grant a waiver, however, it should order Fox to identify its plans for divestiture and limit the waiver to no more than six months with no extensions. In addition, the Commission should make clear that Fox is required to reduce its aggregate national audience reach to the thirty-five percent limit required by law. Fox claims that the previous increase in its national audience reach from 34.82 percent to 35.352 percent did not require divestitures because the increase was due to population shifts within markets rather than station acquisitions.¹⁴⁵ Be that as it may, such a practical exception by the Commission does not justify allowing Fox to enjoy an individualized 35.352 percent cap for all time, regardless of future acquisitions. Indeed, the very order cited by Fox to avoid divestiture upon first exceeding the audience reach limit clearly states that once the cap is exceeded, even when due to population shifts, the Commission will not approve any new acquisition until national audience reach is reduced to comply with the cap.¹⁴⁶

¹⁴⁴ See *supra* at Part III(C)(3).

¹⁴⁵ Fox App. Ex. No. 4 at 15.

¹⁴⁶ *Amendment of Section 73.3555 of the Commission's Rules Relating to Multiple Ownership of AM, FM and Television Broadcast Stations*, 100 FCC 2d 74, 91-92, ¶ 40 & n.52

Fox must not be permitted to convert a practical exception to divestiture requirements into a permanent adjustment of the statutorily mandated national audience reach limit. Never before has the Commission been asked to approve a transaction that would result in a post-acquisition, post-waiver, national audience reach in excess of the statutory limit.¹⁴⁷ The Commission must take care not to undercut the limited protections of the national ownership rule. The rules are clear that national audience reach will be measured at the time of each acquisition,¹⁴⁸ and that no grant, transfer, or assignment will be approved that will result in an attributable, aggregate national audience reach exceeding thirty-five percent.¹⁴⁹ The Commission's ability to grant temporary waivers provides ample flexibility to facilitate mergers and the orderly divestiture of broadcast properties. If the Commission further were to engage in *ad hoc* adjustment of the national audience reach cap as applied to each owner seeking new acquisitions, the rule would be eviscerated.

In sum, the public interest would be best served by outright denial of any waiver of the national ownership limits. However, should the FCC grant a temporary waiver, it should be limited to six months and conditioned on full compliance with the thirty-five percent national

(1985).

¹⁴⁷Fox references Commission approval of its conversion of a same market LMA into a duopoly despite a pre-conversion national audience reach of 35.14 percent, as justification for retaining its current, pre-merger, national audience reach of 35.352 percent. *Fox App. Ex. No. 4* at 14, n.14. However, the conversion cited by Fox did not result in a Commission opinion and an LMA conversion has no impact on national audience reach. Therefore, Fox's LMA conversion provides no precedent for the current transaction.

¹⁴⁸47 C.F.R. 73.3555(e)(2)(i).

¹⁴⁹47 C.F.R. 73.3555(e)(1).

audience reach limit.

VI. Fox Television's Proposed Acquisition Will Eliminate Diverse Programming Aimed at Minorities and is Not in the Public Interest

Petitioners are also concerned about the detrimental impact this merger may have on another type of diversity -- that is, the diversity provided by United Paramount Network ("UPN") Eight of the ten stations that Fox seeks to purchase are UPN affiliates.¹⁵⁰ Rupert Murdoch, the head of Fox and its parent, News Corp., has suggested that he could "replace UPN with a second network of [Fox's] own."¹⁵¹ Thus, Fox's acquisition of Chris Craft's UPN stations—especially the flagship stations in Los Angeles and New York City — could mean the end of the UPN network as it exists now.¹⁵²

The FCC has recognized that the goal of diversity includes serving the needs of minority audiences: "If diversity means anything, it means exposing persons of one cultural stripe to the possibly differing views of others with differing environmental backgrounds and experiences."¹⁵³

In addition:

Adequate representation of minority viewpoints in programming serves not only the needs and interests of the minority community but also enriches and educates

¹⁵⁰KBHK (San Francisco), KCOP (Los Angeles), KMSP (Minneapolis), KPTV (Portland, Oregon), KUTP (Phoenix), WWOR (Secaucus, N.J.), WUTB (Baltimore), and WRBW (Orlando). *Fox App.* Section I, Exhibit I, Question I, p. 1-2. BIA at DMA Ranks 5, 2, 14, 23, 17, 1, 24, 22.

¹⁵¹Steve McClellan, *Fox in the UPN House*, *Broadcasting & Cable*, Aug. 21, 2000, at 4.

¹⁵²Brian Lowry and Greg Braxton, *UPN's Shaky Future Alarms Producers, Leaves Creative Artists Wary*, *Portland Oregonian*, Aug. 22, 2000, at D8. ("News Corp.'s surprise deal to acquire the Chris-Craft TV stations—which provide the network's cornerstone—has left the future of UPN in doubt, spurring speculation it might be shut down.").

¹⁵³*New Continental Broadcasting Co.*, 88 FCC 2d 830, 845 (Rev. Bd. 1981)).

the non-minority audience. It enhances the diversified programming which is a key objective not only of the Communications Act of 1934 but also of the First Amendment.¹⁵⁴

Among all broadcast networks, UPN alone provides a unique, minority-oriented voice.¹⁵⁵

The network's popularity among African-Americans is reflected by the fact that 3.5 million viewers, "more than three-quarters of them African-Americans," regularly watch UPN's Monday night programs.¹⁵⁶ One of those Monday night programs, "The Parkers," is "the most-watched program in African American homes."¹⁵⁷ The network attracts a large segment of African-American viewers because its programming largely features African American actors, and its shows are targeted to an African American audience.¹⁵⁸ By featuring minority actors, writers, and producers, UPN "has responded to the needs of the underserved segments of American viewers, particularly those with access only to free, over-the-air broadcast television."¹⁵⁹

¹⁵⁴*Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979, 981 (1978) (footnote omitted).

¹⁵⁵UPN "delivers higher ethnic ratings than any other network." Daisy Whitney, *L.A. Stations Evolve to Serve Population Shifts*, *Electronic Media* (July 24, 2000) at 3 (quoting KCOP News Director Larry Perret). See generally Comments of the Minority Media and Telecommunications Council, MM Dkt No. 00-108 (filed Sept. 1, 2000)(supporting rare exception to dual network rule to save UPN because it along with WB has done most to address minority audiences and its demise would leave WB with extraordinary power over terms and conditions of African American-themed programs and result in loss of such programming).

¹⁵⁶Brain Lowry and Greg Braxton, *UPN's Shaky Future Alarms Producers, Leaves Creative Artists Wary*, *Portland Oregonian*, Aug. 22, 2000, at D8.

¹⁵⁷*Id.*

¹⁵⁸*Hearings on CBS/Viacom Merger Before the Senate Judiciary Committee*, 106th Cong. Number (Oct. 28, 1999) (joint statement of Sumner M. Redstone, chairman and chief executive officer of Viacom Inc., and Mel Karmazin, president and chief executive officer of CBS Corp.).

¹⁵⁹*Id.*

Not only has the UPN network provided substantial minority-targeted programming, but it has also provided an arena for minority talent. As a result, those within the television industry acknowledge that "there will be a huge void in the black creative community if these shows go off the air."¹⁶⁰

In sum, the UPN network substantially contributes viewpoint diversity as it is the sole network that creates programming targeted to a minority audience. Because Fox's acquisition of the UPN network's flagship stations—namely KCOP, which serves Los Angeles, and WWOR, which serves New York City—might spell the end for the UPN network, the grant of Fox's application would not serve the public interest.

CONCLUSION

For the foregoing reasons, the Petitioners respectfully request that the Commission: 1) deny Fox's request for a waiver of the Daily Newspaper/Broadcast Cross-Ownership Rule to own two VHF television stations and one daily newspaper in the New York City market; 2) set the application for assignment of KUTP(TV) for hearing to determine whether Fox's creation of a duopoly in Phoenix is in the public interest; 3) set the application for assignment of KCOP-TV for hearing to determine whether Fox's creation of a VHF duopoly in Los Angeles is in the public interest; 4) set the application for assignment of WWOR-TV for hearing to determine

¹⁶⁰Brain Lowry and Greg Braxton, *UPN's Shaky Future Alarms Producers, Leaves Creative Artists Wary*, Portland Oregonian, Aug. 22, 2000, at D8 (quoting actor-director Charles S. Dutton). In addition, KCOP, the UPN station in Los Angeles, has plans to follow its minority-oriented network programming with minority-oriented local news—news that will "provide content relevant to different community groups, including Hispanics, Asians and African Americans." Daisy Whitney, *L.A. Stations Evolve to Serve Population Shifts*, Electronic Media, July 24, 2000, at 13.

whether the creation of a VHF duopoly in New York City is in the public interest; 5) deny Fox's request for a twelve (12) month waiver of the Duopoly Rule for the Salt Lake City market; 6) deny Fox's request for a twelve month waiver of the national market share cap; and 7) designate these applications for hearing to determine whether the grant of these applications would result in the demise of the United Paramount Network and whether such a result would be in the public interest. Petitioners further request leave to intervene in the hearing and any other appropriate relief.

Respectfully submitted,



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Dated: October 27, 2000

Counsel for Petitioners

DECLARATION

1. My name is Robert Chase. I am the liaison between the Office of Communication, Inc. and the United Church of Christ.
2. The United Church of Christ (UCC) is a union of Protestant churches, the Congregational Christian Church and the Evangelical and Reform Church, which collectively includes more than 1.4 million people of whom a significant number are racial minorities. UCC members reside in the New York, Los Angeles, Phoenix and Salt Lake City metropolitan areas, and in other communities throughout the United States.
3. The Office of Communication, Inc. is a not-for-profit corporation of the United Church of Christ charged with responsibility for developing the Church's policies in media advocacy. Since the mid-1950's, the Office of Communication, Inc. has participated in proceedings before the Federal Communications Commission to promote a diversity of viewpoints, a greater role for citizens in Commission regulatory proceedings, and more minority involvement in the electronic mass media industries.
4. I have reviewed the foregoing Petition to Deny. All of the relevant facts stated in the Petition are subject to official notice by the Federal Communications Commission, as they come from the transfer application itself, prior renewal applications, Commission and court decisions, or industry publications.
5. The proposed transfer harms the members of the United Church of Christ in the following ways:
 - a.. Members of the UCC residing within the New York metropolitan area will be harmed by the loss of diversity and competition that will result if Fox, which currently owns WNYW-TV, the *New York Post*, and other media in the New York area, is permitted to acquire a second VHF television station, WWOR-TV, on either a permanent or temporary basis.
 - b. Members of the UCC residing within the Los Angeles metropolitan area will be harmed by the loss of diversity and competition that will result if Fox, which already holds the license for VHF television station KTTV, is permitted to acquire the license for a second VHF television, KCOP-TV in the Los Angeles metropolitan area.
 - c. Members of the UCC residing in Phoenix, Arizona, metropolitan area, where Fox holds the license to KSAZ-TV, will be harmed by the loss of diversity and competition if Fox is permitted to also acquire KUTP-TV.

TOTAL P.03

d. Members of the UCC residing in Salt Lake City, Utah, metropolitan area will be harmed by the decrease in diversity and competition, if Fox is granted a waiver to permit it hold the licenses of two top-four ranked televisions station, KTVX-TV and KSTU-TV, for up to twelve months.

e. Members of the UCC residing throughout the United States will be harmed by the decrease in diversity and competition that would result if Fox were granted a 12 month waiver of the national ownership cap.

f. Because Fox's acquisition of eight affiliates of United Paramount Network (UPN), including those in the two largest markets, will likely result in the demise of that network, UCC members residing throughout the United States could be harmed by the loss of the diverse and minority-oriented programming aired on the UPN.

5. This Declaration has been prepared in support of the foregoing Petition to Deny.
6. This statement is true to my personal knowledge and is made under penalty of perjury of the laws of the United States of America.

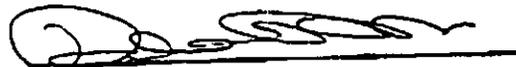
Date Executed: 10/25/00


Robert Chase

DECLARATION

1. I, Patricia Jordan, am the President of Black Citizens for a Fair Media.
2. Black Citizens for a Fair Media is a New York City-based organization that works to address the way in which blacks are portrayed by the media and the impact that portrayal has on the larger community. The organization also addresses programming and employment practices in the television industry. Black Citizens for a Fair Media has members who reside in the New York metropolitan area.
3. I have reviewed the foregoing Petition to Deny on behalf of myself and other members of my organization. All of the relevant facts stated in the Petition are subject to official notice by the Federal Communications Commission, as they come from the transfer application itself, prior renewal applications, Commission and court decisions, or industry publications.
4. The proposed transfer harms Black Citizens for a Fair Media and its membership for the following reasons:
 - a. Members of Black Citizens for a Fair Media residing within the New York metropolitan area will be harmed by the loss of diversity and competition that will result if Fox, which currently owns WNYW-TV, the *New York Post*, and other media in the New York area, is permitted to acquire a second VHF television station, WWOR-TV, on either a permanent or temporary basis.
 - b. Members of the Black Citizens for a Fair Media residing within the New York metropolitan area will be harmed by the decrease in diversity and competition that would result if Fox were granted a 12-month waiver of the national ownership cap.
 - c. Because Fox's acquisition of eight affiliates of United Paramount Network (UPN), including those in the two largest markets, will likely result in the demise of that network, members of Black Citizens for a Fair Media residing in the New York metropolitan area could be harmed by the loss of the diverse and minority-oriented programming aired on UPN.
5. This Declaration has been prepared in support of the foregoing Petition to Deny.
6. This statement is true to my personal knowledge and is made under penalty of perjury of the laws of the United States of America.

Date Executed:


Patricia Jordan

DECLARATION

1. My name is Jeff Chester. I am Executive Director of the Center for Media Education.

2. Center for Media Education ("CME") is a non-profit corporation based in Washington, D.C. with a mission to increase the diversity of the communications media. CME frequently represents the interests of non-profit organizations in media policy decision-making at the Federal Communications Commission. CME works closely with foundations and nonprofit organizations to advance the role of not-for-profits in the new media environment.

3. I have reviewed the foregoing Petition to Deny. All of the relevant facts stated in the Petition are subject to official notice by the Federal Communications Commission, as they come from the transfer application itself, prior renewal applications, Commission and court decisions, or industry publications.

4. The proposed transfer harms the CME's efforts to promote media diversity in the following ways:

a.. Diversity within the New York metropolitan area would to diminished if Fox, which currently owns WNYW-TV, the New York Post, and other media in the New York area, is permitted to acquire a second VHF television station, WWOR-TV, on either a permanent or temporary basis.

b. Diversity within the Los Angeles metropolitan area will be harmed if Fox, which already holds the license for VHF television station KTTV, is permitted to acquire the license for a second VHF television, KCOP-TV in the Los Angeles metropolitan area.

c. Diversity of voices in the Phoenix, Arizona, metropolitan area, where Fox holds the license to KSAZ-TV, will reduced if Fox is permitted to also acquire KUTP-TV.

d. Diversity will be undermined in the Salt Lake City, Utah, metropolitan area if Fox is granted a waiver to permit it hold the licenses for two top-four ranked televisions station, KTVX-TV and KSTU-TV, for up to twelve months.

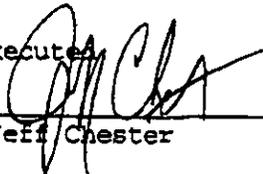
e. Diversity and competition will be decreased in the national program market if Fox is granted a 12 month waiver of the national ownership cap.

f. Diversity of program sources and viewpoints will be diminished if Fox's acquisition of eight stations currently affiliated with United Paramount Network (UPN), a competitor of the Fox Network, results in the demise of UPN.

5. This Declaration has been prepared in support of the foregoing Petition to Deny.

6. This statement is true to my personal knowledge and is made under penalty of perjury of the laws of the United States of America.

Date Executed



Jeff Chester

DECLARATION

1. My name is Mark Cooper. I am the Director or Research for the Consumer Federation of America.
2. Consumer Federation of America ("CFA") is the nation's largest consumer advocacy group, composed of over two hundred and forty state and local affiliates representing consumer, senior citizen, low-income, labor, farm, public power and cooperative organizations, with more than fifty million individual members residing throughout the United States.
3. I have reviewed the foregoing Petition to Deny. All of the relevant facts stated in the Petition are subject to official notice by the Federal Communications Commission, as they come from the transfer application itself, prior renewal applications, Commission and court decisions, or industry publications.
4. The proposed transaction harms CFA and its membership in the following ways:
 - a. CFA members residing within the New York metropolitan area will be harmed by the loss of diversity and competition that will result if Fox, which currently owns WNYW-TV, the *New York Post*, and other media in the New York area, is permitted to acquire a second VHF television station, WWOR-TV, on either a permanent or temporary basis.
 - b. CFA members residing within the Los Angeles metropolitan area will be harmed by the loss of diversity and competition that will result if Fox, which already holds the license for VHF television station KTTV, is permitted to acquire the license for a second VHF television, KCOP-TV in the Los Angeles metropolitan area.
 - c. CFA members residing in Phoenix, Arizona, metropolitan area, where Fox holds the license to KSAZ-TV, will be harmed by the loss of diversity and competition if Fox is permitted to also acquire KUTP-TV.
 - d. CFA members residing in Salt Lake City, Utah, metropolitan area will be harmed by the decrease in diversity and competition, if Fox is granted a waiver to permit it hold the licenses for two top-four ranked televisions station, KTVX-TV and KSTU-TV, for up to twelve months.
 - e. CFA members residing throughout the United States will be harmed by the decrease in diversity and competition that would result if Fox were granted a 12 month waiver of the national ownership cap.
 - f. Because Fox's acquisition of eight affiliates of United Paramount Network (UPN), including those in the two largest markets, will likely result in the demise

of that network, CFA members residing throughout the United States could be harmed by the loss of the diverse and minority-oriented programming aired on the UPN.

1. This Declaration has been prepared in support of the foregoing Petition to Deny.
2. This statement is true to my personal knowledge and is made under penalty of perjury of the laws of the United States of America.

Date Executed:


Mark Cooper

DECLARATION

1. My name is Gene Kimmelman. I am Co-Director of the Washington, D.C. Office of Consumers Union.
2. Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide consumers with information, education, and counsel about goods, services, health, and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. It published Consumer Reports. CU is also a frequent participant in FCC proceedings, and is especially concerned with promoting diversity and competition in the media. Its members reside throughout the United States.
3. I have reviewed the foregoing Petition to Deny. All of the relevant facts stated in the Petition are subject to official notice by the Federal Communications Commission, as they come from the transfer application itself, prior renewal applications, Commission and court decisions, or industry publications.
4. The proposed transfer harms CU and its membership in the following ways:
 - a.. CU members residing within the New York metropolitan area will be harmed by the loss of diversity and competition that will result if Fox, which currently owns WNYW-TV, the *New York Post*, and other media in the New York area, is permitted to acquire a second VHF television station, WWOR-TV, on either a permanent or temporary basis.
 - b. CU members residing within the Los Angeles metropolitan area will be harmed by the loss of diversity and competition that will result if Fox, which already holds the license for VHF television station KTTV, is permitted to acquire the license for a second VHF television, KCOP-TV in the Los Angeles metropolitan area.
 - c. CU members residing in Phoenix, Arizona, metropolitan area, where, where Fox holds the license to KSAZ-TV, will be harmed by the loss of diversity and competition if Fox is permitted to also acquire KUTP-TV.
 - d. CU members residing in Salt Lake City, Utah, metropolitan area. will be harmed by the decrease in diversity and competition, if Fox is granted a waiver to permit it hold the licenses for two top-four ranked televisions station, KTVX-TV and KSTU-TV, for up to twelve months.
 - e. CU members residing throughout the United States will be harmed by the decrease in diversity and competition that would result if Fox were granted a 12 month waiver of the national ownership cap.

f. CU members residing throughout the United States will be harmed by the loss of the diverse and minority-oriented programming aired on the United Paramount Network (UPN), a competitor of the Fox Network. Fox's acquisition of eight UPN affiliates, including those in the two largest markets, will likely result in the demise of UPN.

5. This Declaration has been prepared in support of the foregoing Petition to Deny.
6. This statement is true to my personal knowledge and is made under penalty of perjury of the laws of the United States of America.

Date Executed:



Gene Kinnelman

DECLARATION

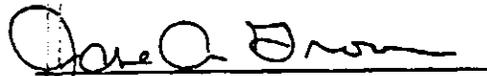
1. My name is Jane Anne Groom. I am the Interim Conference Minister of the New York Metropolitan Association of the United Church of Christ ("UCC").
2. The UCC is a union of Protestant churches, the Congregational Christian Church and the Evangelical and Reform Church, which collectively includes more than 1.5 million people, of whom a significant number are racial minorities.
3. I reside at 71 Dean Street, Brooklyn, NY 11201. I reside within the viewing area of WWOR-TV, which is licensed to WWOR-TV, Inc., a subsidiary of Chris-Craft-Industries, Inc. I also reside within the viewing area of WNYW-TV, which is licensed to Fox Television Stations, Inc. ("Fox"), a subsidiary of News Corporation. Additionally, I reside in the primary circulation area of the New York Post, which is also owned by the News Corporation.
4. I have reviewed the foregoing Petition to Deny on behalf of myself and other Petitioners. All of the relevant facts stated in the Petition are subject to official notice by the Federal Communications Commission, as they come from the transfer application itself, prior renewal applications, Commission and court decisions, or industry publications.
5. The proposed transfer personally harms me for the following reasons:
 - a. Transfer of WWOR-TV to Fox, and its ultimate corporate parent, News Corporation, would result in a substantial decrease in the amount of television diversity in the New York City local viewing area. In the instant case, Fox would acquire two (2) of the seven (7) VHF television stations in the New York City DMA. The combined local commercial shares ("LCS") of WWOR-TV and WNYW-TV would exceed the total LCS currently held by any one station in the New York metropolitan area market. I am harmed because the combination of WNYW-TV and WWOR-TV would create an unprecedented concentration of media ownership in the New York metropolitan area and would eliminate the independent programming provided by WWOR-TV.
 - b. Currently, both WNYW-TV and WWOR-TV, which Fox seeks to acquire, have substantial local news programming. The combination of both stations would eliminate independent local news coverage by WWOR-TV and would allow Fox to program two (2) of the six (6) VHF television stations with regular local news programming in the New York metropolitan area. In addition, Fox's parent company, News Corporation, also controls one (1) of three (3) major daily newspapers published in New York City. I am harmed because the proposed merger would allow Fox and its parent company to effectively control two (2) of six (6) VHF

television stations with regular local news programming and one (1) of three (3) New York City newspapers, thus greatly reducing my access to independent sources of local news coverage.

c. Transfer of WWOR-TV to Fox, and its ultimate corporate parent, News Corporation, would also continue the inadequate coverage of news and political programming in the New York metropolitan area. Fox's New York affiliate, WNYW-TV, failed to carry any of the 2000 Presidential Debates live. In addition, WNYW-TV has also generally failed to adequately cover other national and New York political events and issues. I am harmed by the proposed acquisition of WWOR-TV because this will result in the consolidation of two of New York City's VHF stations under Fox, which has thus far refused to provide adequate coverage of New York or national political events.

5. This Declaration has been prepared in support of the foregoing Petition to Deny.
6. This statement is true to my personal knowledge and is made under penalty of perjury of the laws of the United States of America.

Date Executed: Oct. 25, 2000


Jane Ann Groom

DECLARATION

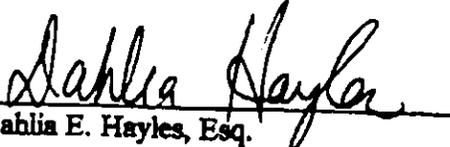
1. My name is Dahlia E. Hayles. I am the Director of the Media and Telecommunications Project for the Rainbow/PUSH Coalition.
2. The Rainbow/ PUSH Coalition ("RPC") is a multi-racial, multi-issue, international membership organization founded by the Rev. Jesse L. Jackson, Sr. that works to further social, racial and economic justice for individuals who are disenfranchised politically, socially and economically.
3. I reside at 901 6th Street, SW, Washington, DC. Members of the RPC reside within the viewing areas of WWOR-TV in the New York City metropolitan area, KCOP-TV in the Los Angeles metropolitan area, KUTP-TV in the Phoenix metropolitan area, and KTVX-TV in the Salt Lake City metropolitan area. All of the aforementioned are licensed to subsidiaries of Chris-Craft Industries, Inc. RPC members also reside within the viewing areas of WNYW-TV in the New York City metropolitan area, KTTV in the Los Angeles metropolitan area, KSAZ-TV in the Phoenix metropolitan area, and KSTU-TV in the Salt Lake City metropolitan area. All of the aforementioned are licensed to Fox Television Stations, Inc. ("Fox"), a subsidiary of News Corporation. Additionally, RPC members reside in the primary circulation area of the *New York Post*, which is owned by News Corporation.
4. I have reviewed the foregoing Petition to Deny ("Petition") on behalf of RPC. All of the relevant facts stated in the Petition are subject to official notice by the Federal Communications Commission, as they come from the transfer application itself, prior renewal applications, Commission and court decisions, or industry publications.
5. The proposed transfer personally harms members of the RPC for the following reasons:
 - a. Transfer of the four (4) aforementioned stations to Fox, and its ultimate corporate parent, News Corporation, would result in a substantial decrease in the amount of television diversity in the affected cities. In all four (4) cities, the local combined share of the two stations would exceed that of the current top-ranked station in the market. RPC members are harmed because the merger would create an unprecedented concentration of media ownership in the affected markets, eliminate the independent programming provided by those stations, and result in the loss of minority-oriented programming currently provided by the UPN network. Indeed, the loss of UPN affiliates in the top two television markets would cripple that network and leave producers of minority-oriented programming with fewer competitive options for distribution of their work.

b. In New York and Los Angeles, both KCOP-TV and WWOR-TV, which Fox seeks to acquire, have substantial local news programming. The combination of both stations would eliminate independent local news coverage by WWOR-TV and KCOP-TV and would allow Fox to program two (2) of the six (6) VHF television stations with regular local news programming in the New York metropolitan area, and two (2) of the seven (7) VHF television stations in the Los Angeles metropolitan area. In addition, Fox's parent company, News Corporation, also controls one (1) of three (3) major daily newspapers published in New York City. RPC members are harmed because the proposed merger would allow Fox and its parent company to effectively control two (2) powerful VHF stations in the nations two (2) largest television markets and one (1) of three (3) major daily newspapers published in New York City. RPC members are directly harmed as a result of the loss of access to independent sources of local news coverage.

c. Transfer of the four (4) aforementioned stations to Fox, and its ultimate corporate parent, News Corporation, would also perpetuate the inadequate coverage of news and political programming by Fox owned stations. For example, Fox failed to carry any of the 2000 Presidential Debates live. RPC members are harmed because the acquisition of television stations by Fox will perpetuate inadequate coverage of local and national political events.

6. This Declaration has been prepared in support of the foregoing Petition to Deny.
7. This statement is true to my personal knowledge and is made under penalty of perjury under the laws of the United States of America.

Date Executed: 10/27/00


Dahlia E. Hayles, Esq.

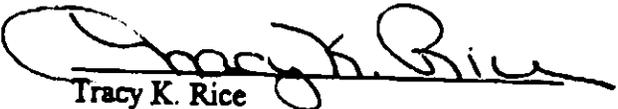
DECLARATION

1. My name is Tracy K. Rice. I am the Los Angeles Bureau Chief of Rainbow/PUSH Coalition, located at 5750 Wilshire Boulevard, Suite 650, Los Angeles, CA 90036.
2. The National Rainbow/ PUSH Coalition ("RPC") is a multi-racial, multi-issue, international membership organization founded by the Rev. Jesse L. Jackson, Sr. that works to further social, racial and economic justice.
3. I reside in Los Angeles, CA. I am a regular viewer of KTTV, which is licensed to Fox Television Stations, Inc. ("Fox"). I am also a regular viewer of KCOP-TV, which is licensed to KCOP Television, Inc., a subsidiary of Chris-Craft Industries, Inc.
4. I have reviewed the foregoing Petition to Deny on behalf of myself and other Petitioners. All of the relevant facts stated in the Petition are subject to official notice by the Federal Communications Commission, as they come from the transfer application itself, prior renewal applications, Commission and court decisions, press accounts, or industry publications.
5. The proposed transfer personally harms me for the following reasons:
 - a. Transfer of KCOP-TV to Fox, and its ultimate corporate parent, News Corporation, would result in a substantial decrease in the amount of television diversity in the Los Angeles local viewing area. In the instant case, Fox would acquire two (2) of the seven (7) VHF television stations in the Los Angeles DMA. The combined local commercial share ("LCS") of KTTV and KCOP-TV would exceed the total LCS currently held by any one station in the Los Angeles metropolitan area market. I am harmed because the combination of KTTV and KCOP-TV would create an unprecedented concentration of media ownership in the Los Angeles metropolitan area, and would eliminate the independent programming provided by KCOP-TV.
 - b. Currently, both KTTV and KCOP-TV, which Fox seeks to acquire, have substantial local news programming. The combination of both stations would eliminate independent local news coverage by KCOP-TV, and would allow Fox to program two (2) of the seven (7) VHF television stations with regular local news programming in the Los Angeles metropolitan area. I am harmed because the proposed merger would allow Fox and its parent company to effectively control two (2) of seven (7) VHF television stations with regular local news programming, thus greatly reducing my access to independent sources of broadcast local news coverage.

c. Transfer of KCOP-TV to Fox, and its ultimate corporate parent, News Corporation, would also continue the inadequate coverage of news and political programming in the Los Angeles metropolitan area. Fox's Los Angeles affiliate, KTTV, failed to carry any of the 2000 Presidential Debates live. In addition, KTTV has also generally failed to adequately cover other national and Southern California political events and issues. I am harmed by the proposed acquisition of KCOP-TV because this will result in the consolidation of two of Los Angeles' VHF stations under Fox, which has thus far refused to provide adequate coverage of Southern California or national political events.

5. This Declaration has been prepared in support of the foregoing Petition to Deny.
6. This statement is true to my personal knowledge and is made under penalty of perjury of the laws of the United States of America.

Executed this 27th day of October at Los Angeles, CA.



Tracy K. Rice
5750 Wilshire Blvd., Suite 650
Los Angeles, CA 90036

DECLARATION

1. My name is Jerry Dobbs. I am Executive Director of Valley Community Access Television, a 100-member, 501(c)(3) organization that administers the public access television station in Phoenix, Arizona.
2. I reside at 3322 West Catalina Driver in Phoenix, AZ. I reside within the viewing area of and I regularly view KUTP-TV, which is licensed to United Television, Inc., a subsidiary of Chris-Craft Industries, Inc. I also reside within the viewing area of and regularly view KSAZ-TV, which is licensed to Fox Television Stations, Inc. ("Fox"), a subsidiary of News Corporation.
3. I have reviewed the foregoing Petition to Deny on behalf of myself and other members of my organization. All of the relevant facts stated in the Petition are subject to official notice by the Federal Communications Commission, as they come from the transfer application itself, prior renewal applications, Commission and court decisions, press accounts, or industry publications.
4. The proposed transfer personally harms me and other members of my organization for the following reasons:
 - a. Transfer of KUTP-TV to Fox, and its ultimate corporate parent, News Corporation, would result in a substantial decrease in the amount of television diversity in the Phoenix local viewing area. I and other members of my organization are harmed because the combination of KUTP-TV and KSAZ-TV would create an unprecedented concentration of media ownership in the Phoenix metropolitan area, and would eliminate the independent programming provided by KUTP-TV.
 - b. The Phoenix Designated Market Area ("DMA"), as defined by Nielsen Media Research, is extremely large, and covers most of the State of Arizona. Fox's application to acquire the license of KUTP-TV lists a number of television stations, which are included in the Phoenix DMA, that I and other members of my organization are unable to receive. Fox's Application lists eleven (11) pre-transfer voices that are available to viewers in the Phoenix area. However, of those voices, I and other members of my organization are not able to receive Kingman-based KMOH-TV, Flagstaff-based KNAZ-TV, Flagstaff-based KBPX, Prescott-based KUSK, or Phoenix-based KPAZ. Once these stations are removed from Fox's analysis, there will be only seven (7) post-merger voices available to me in Phoenix. I and other members of my organization are harmed because the combination of KUTP-TV and KSAZ would further

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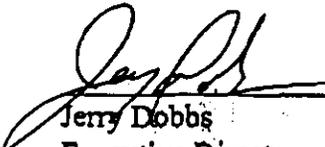
2026629634 P. 03/03

diminish the already limited broadcast media diversity in Phoenix.

c. Transfer of KUTP-TV to Fox, and its ultimate corporate parent, News Corporation, would also exacerbate the inadequate coverage of news and political programming in the Phoenix metropolitan area. Fox's Phoenix affiliate, KSAZ-TV, failed to carry any of the 2000 Presidential Debates live. In addition, KSAZ-TV has also generally failed to adequately cover other national and local Arizona political events and issues. I and other members of my organization are harmed by the proposed acquisition of KUTP-TV because this will result in the consolidation of two of Phoenix's eight true independent television broadcast voices under Fox, which has thus far refused to provide adequate coverage of Arizona or national political events.

5. This Declaration has been prepared in support of the foregoing Petition to Deny.
6. This statement is true to my personal knowledge and is made under penalty of perjury of the laws of the United States of America.

Date Executed:



Jerry Dobbs
Executive Director,
Valley Community Access Television

CERTIFICATE OF SERVICE

I, Martha Rodriguez, hereby certify that I have this 27th day of October, 2000, mailed by First Class mail, postage prepaid, a copy of the "Petition to Deny" to the following:

John C. Quale
Skadden, Arps, Slate, Meagher & Flom, L.L.P.
1440 New York Avenue, NW
Washington, DC 20005

Marvin J. Diamond
Law Office of Marvin J. Diamond
464 Common Street, PMB 365
Belmont, MA 02478

William S. Reyner, Jr.
Hogan & Hartson, L.L.P.
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004

The Honorable William E. Kennard, Chairman*
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

The Honorable Harold Furchtgott-Roth*
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

The Honorable Susan Ness*
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

The Honorable Michael K. Powell*
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

The Honorable Gloria Tristani*
Federal Communications Commission
445 Twelfth Street, SW

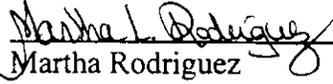
Washington, DC 20554
Christopher J. Wright*
General Counsel
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Roy Stewart, Chief*
Mass Media Bureau
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Susan Fox, Deputy Chief*
Mass Media Bureau
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Barbara A. Kreisman, Chief*
Video Services Division, Mass Media Bureau
Federal Communications Commission
445 Twelfth Street, SW
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Clay Pendarvis, Chief*
Television Branch, Mass Media Bureau
Federal Communications Commission
445 Twelfth Street, SW
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Martha Rodriguez

*Hand delivered