



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

September 19, 2024

Lyuba Goltser
Weil, Gotshal & Manges LLP

Re: Fox Corporation (the "Company")
Incoming letter dated July 2, 2024

Dear Lyuba Goltser:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by John Chevedden for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the Company's board prepare and publish a report assessing the potential negative social impact and risks to the Company from continuing to inadequately distinguish between the Company's on-air news content and its opinion content, and the viability and benefits of providing public differentiation between its news and the entertainment-based nature of its non-news shows.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal relates to ordinary business matters. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which the Company relies.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Luke Morgan
As You Sow

Weil, Gotshal & Manges LLP

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Lyuba Goltser
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July 2, 2024

SUBMITTED ONLINE (www.sec.gov/forms/shareholder-proposal)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

**Re: Fox Corporation
2024 Annual Meeting Omission of Shareholder Proposal from As You Sow on Behalf of
John Chevedden
Securities Exchange Act of 1934 – Rule 14a-8**

Ladies and Gentlemen:

This letter is submitted on behalf of Fox Corporation, a Delaware corporation (the “Company”), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), to notify the Securities and Exchange Commission (the “Commission”) of the Company’s intention to exclude a shareholder proposal and related supporting statement (collectively, the “Proposal”) submitted by As You Sow on behalf of John Chevedden (the “Proponent”) from its proxy statement and form of proxy for its 2024 Annual Meeting of Stockholders (the “2024 Proxy Materials”). The Proposal was received by the Company on May 23, 2024. The Company believes it may properly exclude the Proposal from its 2024 Proxy Materials for the reasons discussed below. The Company requests confirmation that the Division of Corporation Finance (the “Staff”) will not recommend to the Commission that enforcement action be taken if the Company excludes the Proposal from its 2024 Proxy Materials.

Pursuant to Rule 14a-8(j), we are:

- Electronically submitting this letter with the Staff no later than eighty (80) calendar days before the Company intends to file the 2024 Proxy Materials in definitive form with the Commission; and
- Concurrently sending copies of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (November 7, 2008) (“SLB 14D”) provide that stockholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be sent at the same time to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

I. The Proposal

The Proposal is attached hereto as Exhibit A. The Proposal sets forth the following proposed resolution:

RESOLVED: Shareholders request that the Fox Corporation Board prepare and publish a report, excluding confidential information, assessing the potential negative social impact and risks to the Company from continuing to inadequately distinguish between Fox’s on-air news content and its opinion content, and the viability and benefits of providing public differentiation between its news and the entertainment-based nature of its non-news shows.

II. Basis for Excluding the Proposal

The Company believes it may properly omit the Proposal from its 2024 Proxy Materials in reliance on Rule 14a-8(i)(3), as the Proposal violates the Commission’s proxy rules by inserting a materially false or misleading statement, and/or Rule 14a-8(i)(7), as the Proposal impermissibly seeks a report on matters that fall within the “ordinary business” of the Company and does not raise a significant social policy issue.

III. Analysis

A. *The Proposal May be Excluded under Rule 14a-8(i)(3) as Violating the Commission’s Proxy Rules*

(i) *The Graphic Is a Misleading Statement in Violation of Rule 14a-9*

Rule 14a-8(a)(i)(3) allows a company to exclude a shareholder proposal if such proposal or the accompanying supporting statement violates the proxy rules promulgated under the Exchange Act, including Rule 14a-9, which prohibits materially false or misleading statements in connection with the solicitation of proxies. The Staff has stated that exclusion of a proposal under Rule 14a-8(i)(3) may be appropriate where “substantial portions of the supporting statement are irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which she is being asked to vote.” (Staff Legal Bulletin No. 14B (Sep. 15, 2004)). Further, courts have held that shareholders are entitled to know “precisely the breadth of the

proposal on which they are asked to vote.” *New York City Employees’ Retirement System v. Brunswick Corp.*, 789 F. Supp. 144, 146 (S.D.N.Y. 1992).

The Proponent has requested the publication of a graphic (the “Graphic”) with the Proposal that displays an altered on-screen logo of the Company’s Fox News Media business (“Fox News”) that labels the logo “Fox Opinion” rather than “Fox News.” In Staff Legal Bulletin No. 14I (Nov. 1, 2017), the Staff noted that while Rule 14a-8(d) “does not preclude shareholders from using graphics to convey information about their proposals,” it “recognizes the potential for abuse” in connection with the use of graphics. The Staff goes on to list situations under which exclusion of a graphic would be appropriate under Rule 14a-8(i)(3), including where “there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote.”

In this case, the Proposal asks that the Company’s board of directors prepare and publish a report assessing the potential impact and risks of differentiation between Fox News’ on-air news content and opinion content and the viability and benefits of providing public differentiation between news and opinion. The Graphic has nothing to do with the purpose of the Proposal, which requests a report assessing whether public differentiation of content would mitigate risk. The Graphic is presumably meant to be an illustration of what “public differentiation” could look like. The inclusion of the Graphic, however, creates significant confusion, and would lead a reasonable stockholder to conclude that the Proposal requires a vote on a specific alteration to the Company’s on-screen logos or content, as opposed to the publication of a report on the general topic of public differentiation as a purported risk mitigation strategy. Thus, the Graphic creates significant uncertainty as to the matter subject to vote. The Graphic is therefore exactly the type of misleading statement the Staff has opined violates the prohibitions of Rule 14a-9. As a result, the Graphic should be excluded from the 2024 Proxy Materials.

- (ii) *The Proposal’s Assertions Regarding (i) Opinion, News, and Journalism Content and (ii) “Negative Social Impacts” Are Vague in Violation of Rule 14a-9*

A proposal may be materially misleading as vague and indefinite when the “meaning and application of terms and conditions . . . in the proposal would have to be made without guidance from the proposal and would be subject to differing interpretations” such that “any action ultimately taken by the [c]ompany upon implementation [of the proposal] could be significantly different from the actions envisioned by shareholders voting on the proposal.” *See Fuqua Industries, Inc.* (Mar. 12, 1991). The Proposal in this case is focused on the Proponent’s desire to differentiate between Fox News’ on-air news content and opinion content. The Supporting Statement discusses perceived “blurred lines between opinion and journalism” and the “entertainment-based nature of its [Fox News’] non-news shows.” All of these terms are vague and indefinite, and any interpretation of what content constitutes “news” or “opinion” or “actual journalism” could be subject to differing interpretations. Furthermore, the Proposal asks the Company to assess the “negative social impact” of its content. What constitutes “negative” impact is also entirely subjective and varies from one individual to the next, and is not factual or objectively

certifiable. *See, e.g. Walt Disney Co.* (Jan. 19, 2022), where the Staff concurred in the exclusion of a proposal requesting a prohibition on communications by or to cast members, contractors, management or other supervisory groups within the Company of “politically charged biases regardless of content or purpose” on the grounds that the proposal was vague and indefinite. Just like the terms in the Disney proposal, the term “negative social impact” is vague and indefinite and creates confusion around what would be expected of the Company if it were to implement the Proposal. The Staff has also concurred in the exclusion of shareholder proposals that fail to define key terms. *See Moody’s Corp.* (Feb. 10, 2014) (concurring in exclusion of a proposal when the term “ESG risk assessments” was not defined); *The Boeing Company* (Mar. 2, 2011) (concurring in exclusion of a proposal because it failed to “sufficiently explain the meaning of “executive pay rights”); and *NSTAR* (Jan. 5, 2007) (concurring in exclusion of a proposal requesting standards of “record keeping of financial records” as inherently vague and indefinite because the terms “record keeping” and “financial records” were undefined). Again, the Proposal fails to provide any clarity on the meaning of “negative social impacts” that the requested report would cover. Moreover, Rule 14a-9 provides that no solicitation may be made by means of any proxy materials “containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.” It is practically impossible for the Company to respond to the Proponent’s request for differentiation between news and opinion in a way that would ensure that viewers’ “ongoing perception” of content aligns with the Proponent’s perception of what content constitutes “journalism,” “news,” and “opinion.” By its nature, journalism can encompass both news and opinion, news broadcasts can incorporate elements of opinion, and opinion broadcasts can incorporate elements of news. Consequently, the Proposal’s implication that differentiation between journalism and opinion is possible is materially false and misleading.

As a result, because the Proposal includes terms that are so inherently vague or indefinite, the Proposal may properly be excluded from the 2024 Proxy Materials under Rule 14a-8(i)(3) on the basis that the Proposal is materially false and misleading in violation of Rule 14a-9.

B. *The Proposal May be Excluded under Rule 14a-8(i)(7) Because the Proposal Relates to the Company’s “Ordinary Business Operations”*

(i) *Overview of Rule 14a-8(i)(7)*

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a shareholder proposal that relates to the company’s “ordinary business operations.” According to the Commission, the underlying policy of the ordinary business exclusion is “to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting.” *Exchange Act Release No. 40018* (May 21, 1998) (the “1998 Release”). In the 1998 Release, the Commission described the two central considerations for the

ordinary business exclusion. The first is that “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” The second consideration relates to “the degree to which the proposal seeks to ‘micro-manage’ the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.” *Id.* (citing Exchange Act Release No. 12999 (Nov. 22, 1976)).

(ii) *The Proposal May Be Excluded under Rule 14a-8(i)(7) Because it Relates to Fox News’s Programming*

When evaluating a proposal that relates to a company engaging in an assessment of risk, the Staff has focused on the subject matter to which the risk pertains, or that gives rise to the risk, to determine whether the proposal relates to the company’s ordinary business. See Staff Legal Bulletin No. 14E (Oct. 27, 2009). Here, the Proposal requests a report on the risks related to “on- air news content and opinion content.” On-air news and opinion content is core to the Company’s ordinary business operations: indeed, it is one of the principal products and services that the Company offers.

The Staff has previously permitted exclusion under Rule 14a-8(i)(7) of stockholder proposals requesting the publication of a report when the subject matter involved is undoubtedly related to a company’s ordinary business. The Commission has stated that a stockholder proposal that seeks a report on the merits of engaging in an action, rather than requesting the underlying action, still warrants exclusion under Rule 14a-8(i)(7) if the subject matter of the report “involves a matter of ordinary business.” *Exchange Act Release No. 20091* (Aug. 16, 1983). See also, e.g., *Johnson Controls, Inc.* (avail. Oct. 26, 1999), “[where] the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business...it may be excluded under [R]ule 14a-8(i)(7).” For example, in *Home Depot, Inc.* (Mar. 17, 2021), the Staff concurred in the exclusion of a proposal from the Proponent requesting an independent third-party report assessing how and whether Home Depot ensures its advertising policies are not contributing to violations of civil or human rights. Similarly, in *American Express* (Mar. 13, 2023), the Staff concurred with the exclusion of a proposal requesting a report concerning American Express’ oversight of management’s decision-making regarding the potential use of a merchant category code (MCC) for standalone gun and ammunition stores; in *J.P.Morgan Chase & Co.* (Mar. 29, 2024) the Staff concurred with the exclusion of a proposal requesting a report on the reputational and financial risks of misalignment between proxy votes cast by the company on behalf of clients on the grounds that the proposal relates to ordinary business matters; and in *The Walt Disney Company* (Jan. 8, 2021) the Staff concurred with the exclusion of a proposal requesting a third-party report assessing how and whether Disney ensures the company’s advertising policies are not contributing to violations of civil or human rights. In each of these precedents, the Staff recognized that a proposal framed in the form of a request for a report, when the subject matter is related to a company’s ordinary business, may be excluded.

Moreover, the Staff has consistently preserved the right of media and entertainment companies to operate their businesses without the intervention of stockholders directly into such ordinary business

decisions. The Staff has repeatedly concurred in the exclusion under Rule 14a-8(i)(7) of proposals to media companies that request that a company make specific changes in the way it presents news and the format of its programming. For example, in *Time Warner, Inc.* (avail. Mar. 13, 2018), the Staff concurred in the exclusion of a proposal under Rule 14a-8(i)(7) where a proposal requested that Time Warner's board of directors "adopt a policy requiring that [the company's] news operations tell the truth and issue an annual report to shareholders explaining instances where the [c]ompany failed to meet this basic journalistic obligation." Further, in *The Walt Disney Co.* (avail. December 12, 2017), the Staff concurred in the exclusion under Rule 14a-8(i)(7) of a substantially similar proposal to the one in Time Warner Inc., finding that "the [p]roposal relates to the content of news programming." See also *CBS Corp.* (avail. Mar. 22, 2013) (concurring in the exclusion of a proposal under Rule 14a-8(i)(7) that requested that "the board of directors ensure that CBS's news programming adheres to CBS's corporate policy concerning accurate reporting, and that the board should report to shareholders with regard to this issue," noting that "the proposal relates to the content of news programming"); *General Electric Co.* (avail. Dec. 10, 2009) (concurring in the exclusion of a proposal requesting that "the GE-NBC news department should cease all its liberal editorializing" on grounds that it "relates to the content of news programming"). Additionally, the Staff has consistently agreed that the nature, presentation and content of media programming relate to a company's ordinary business. See, e.g., *Netflix, Inc.* (avail. Mar. 14, 2016) (concurring with the exclusion of a proposal requesting that "the company issue a report describing how company management identifies, analyzes and oversees reputational risks related to offensive and inaccurate portrayals of Native Americans, American Indians and other indigenous peoples, how it mitigates these risks and how the company incorporates these risk assessment results into company policies and decision-making" as relating to the "nature, presentation and content of programming and film production"); *Comcast Corp.* (avail. Mar. 24, 2015) (concurring with the exclusion of a proposal requesting that the company "provid[e] oversight and public reporting" regarding smoking and other matters that may endanger young people's well-being or otherwise harm the reputation of the company as relating to "the nature, presentation and content of programming and film production"); *The Walt Disney Co.* (avail. Nov. 22, 2006) (concurring with the exclusion of a proposal requesting that Disney report on steps undertaken to avoid stereotyping in its products because the proposal related to the nature, presentation and content of programming); and *General Electric Co.* (avail. Feb. 1, 1999) (concurring with the exclusion of a proposal requesting that the company's board prohibit all unbiblical programming by NBC and reprimand a particular employee on the basis that the proposal related to the content of programming).

Here, the Proponent seeks to insert stockholders directly into decisions about the content and presentation of the Company's programming, specifically how news and opinion content is presented on Fox News. Fox News's programming is a key ordinary business matter of the Company. Fox News devotes significant time, energy and resources in making decisions relating to the presentation, nature, tone and format of the Fox News programming. By requesting a report on the assessment of the "potential negative social impact and risks . . . from continuing to inadequately distinguish between Fox's on-air news content and its opinion content" the Proposal attempts to impose the Proponent's own views on Fox News's programming strategy and content. Indeed, the Graphic highlights the day-to-day nature of the subject matter of the Proposal, that is, Fox News's on-screen graphics, which are an ordinary and core

matter of programming presentation and branding that is recognizable to Fox News audiences. It is akin to a proposal suggesting a company change the packaging of its products. Fox News programming has always included news and opinion, and Fox News audiences recognize this basic and long-standing feature of the programming. As this long list of precedent demonstrates, proposals, like the Proposal, that relate to the nature, presentation and content of a company's programming constitute the ordinary business of a company and are excludable under Rule 14a-8(i)(7).

Finally, Fox News programming is a key product offering of the Company, and the Staff has consistently acknowledged that shareholder proposals that relate to the products and services offered by a company are excludable under Rule 14a-8(i)(7). For example, in *Wells Fargo & Co.* (Jan. 28, 2013, recon. denied Mar. 4, 2013), the Staff granted no-action relief under Rule 14a-8(i)(7) where the proposal requested a report discussing the adequacy of the company's policies in addressing the social and financial impacts of the company's direct deposit advance lending service, explaining that "the proposal relates to the products and services offered for sale by the [company]" and that "[p]roposals concerning the sale of particular products and services are generally excludable under rule 14a-8(i)(7)." Similarly, in *Pfizer Inc.* (Mar. 1, 2016), the Staff permitted exclusion under Rule 14a-8(i)(7) of a proposal requesting a report describing steps taken by the company to prevent the sale of its medicines for use in executions, noting that the proposal "relates to the sale or distribution of [the company's] products"; *see also The Walt Disney Co.* (Nov. 23, 2015) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company's board approve the release of a certain film on Blu-ray, noting that the proposal "relates to the products and services offered for sale by the company"); *The TJX Companies, Inc.* (Apr. 16, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company's board develop and disclose a new universal and comprehensive animal welfare policy applying to the company's sale of products, with the majority of the proposal focusing on the company's sale of products containing fur).

(iii) *The Proposal Seeks to Micromanage the Company*

In addition to introducing stockholders into a fundamental aspect of management's ability to run Fox News on a day-to-day basis, the Proposal seeks to impermissibly micromanage the Company "by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." 1998 Release. The Proposal is comparable to several proposals that the Staff permitted to be excluded recently under Rule 14a-8(i)(7) for seeking to micromanage the companies "by probing too deeply into matters of a complex nature." In *Amazon.com Inc.* (April 1, 2024), the Staff concurred with the exclusion of a proposal requesting the preparation of a living wage report as seeking to micromanage the company. In *Deere & Company* (Jan. 3, 2022), *Verizon Communications Inc.* (Mar. 17, 2022), and *American Express* (Mar. 11, 2022), the Staff concurred in the exclusion of proposals requesting publication of employee-training materials to allow investors to evaluate management's handling of risk associated with employment discrimination. Similarly, in *The Kroger Co.* (Apr. 12, 2023), the Staff concurred with the exclusion of a proposal requesting the publication of a report detailing the potential risks associated with omitting "viewpoint" and "ideology" from its written equal employment opportunity policy. *See also Delta Air Lines, Inc.* (Apr. 24, 2024) (concurring in the exclusion

of a proposal requesting publication of a report on Delta's expenditures that are intended or could be viewed as dissuading employees from joining or supporting unions); and *Paramount Global* (Apr. 19, 2024) (concurring with the exclusion of a proposal requesting the company list recipients of corporate charitable contributions on the company website).

Here, the Proposal requests a report on the presentation of the Fox News' on-air content and associated risks and includes the Graphic as a risk mitigation strategy. The daily reporting and on-air presentation of programming that appears on the Company's news networks, including Fox News, is the result of numerous, daily decisions and considerations by experienced individual managers and professional journalists, including which news to report, the content of the news to be reported, and the presentation of on-air content. This includes considerations such as where to send reporters, which subject matter to cover on any given day (or during any given hour of a 24-hour news day), how to cover that subject matter, which sources and reporting resources to use, whom to interview, whom to book as guests, and which graphics to use on screen. As argued by the company in *Deere & Company* regarding the requested content in the proposal: "[D]ecisions concerning internal [diversity, equity, and inclusion] efforts are multifaceted and are based on a range of factors that are outside the knowledge and expertise of shareholders, and therefore inappropriate for such oversight and vote." Similarly, preparing and delivering on-air content requires the consideration by numerous experienced managers and journalists of a wide range of factors in making frequent complex decisions informed by journalistic expertise and experience. Stockholders by and large cannot be expected to have journalistic expertise or experience, and thus decisions regarding on-air content are not an appropriate subject for stockholder oversight. Again, the Graphic illustrates the Proposal's flaw in this regard, simplistically suggesting a change to Fox News's on-air graphics as a purported risk mitigation strategy, glossing over the multifaceted determinations involved in Fox News's delivery of on-air content. The Proposal seeks to intervene in matters that are squarely within the necessary purview of managers and journalists and which are not suited for stockholder oversight. Accordingly, the Proposal may be excluded under Rule 14a-8(i)(7).

(iv) *The Proposal Does Not Raise a "Significant Policy Issue"*

The well-established precedents set forth above demonstrate that the Proposal addresses ordinary business matters, and therefore is excludable under Rule 14a-8(i)(7). In Staff Legal Bulletin No. 14L (Nov. 3, 2021), the Staff noted a plan to "realign" with the Commission's standard in the 1998 Release, first articulated in 1976, by focusing on "the social policy significance of the issue that is the subject of the shareholder proposal" rather than "the nexus between a policy issue and the company." In *Amazon.com, Inc.* (avail. Apr. 8, 2022), Amazon argued that the proposal, which requested a report on workforce turnover and an assessment of its impact on the company's diversity, equity and inclusion, merely "touches upon a significant social policy issue" but primarily relates to an ordinary business matter, and is distinguishable from a proposal related to human capital management practices that raise specific social policy issues "with a broad societal impact." See also, e.g., *The Kroger Co.* (Apr. 12, 2023) (discussed above); *CIGNA Corp.* (Feb. 23, 2011) (permitting exclusion under Rule 14a-8(i)(7) when, although the proposal addressed the potential significant policy issue of access to affordable health care, it also

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Weil, Gotshal & Manges LLP

asked CIGNA to report on expense management, an ordinary business matter); *Capital One Financial Corp.* (Feb. 3, 2005) (permitting exclusion under Rule 14a-8(i)(7) when, although the proposal addressed the significant policy issue of outsourcing, it also asked the company to disclose information about how it manages its workforce, an ordinary business matter). As demonstrated by the Staff's concurrence in these precedents, citing potential social policy implications in a proposal does not qualify as "focusing" on such issues, even if the social policies happen to be the subject of substantial public focus. The underlying subject of the Proposal—decisions regarding on-air content—is not a significant policy issue that transcends the Company's ordinary business operations. While the Proposal references the social implications of news on society and politics, the focus of the Proposal primarily relates to the delivery of on-air content and not any particular policy issue. In sum, the Proposal focuses directly on newsroom operations, an area long-held to be within the realm of managerial responsibility and not a topic that transcends ordinary business. Accordingly, the Proposal may be excluded under Rule 14a-8 (i)(7).

For the reasons discussed above, the Company believes that it may properly omit the Proposal from its 2024 Proxy Materials in reliance on Rule 14a-8. As such, we respectfully request that the Staff concur with the Company's view and not recommend enforcement action to the Commission if the Company omits the Proposal from its 2024 Proxy Materials. Should the Staff have any questions regarding this matter, please feel free to contact me at (212) 310-8048 or by e-mail at lyuba.goltser@weil.com.

Sincerely,

Lyuba Goltser

CC: Adam Ciongoli, Chief Legal and Policy Officer, Fox Corporation
Laura A. Cleveland, Senior Vice President and Corporate Secretary, Fox Corporation

Enclosure: Exhibit A - Proposal and Supporting Statement

EXHIBIT A
Proposal and Supporting Statement



VIA FEDEX & EMAIL

May 23, 2024

Laura A. Cleveland
Sr. Vice President and Corporate Secretary
Fox Corporation,



Dear Ms. Cleveland,

As You Sow® is filing a shareholder proposal on behalf of John Chevedden (“Proponent”), a shareholder of Fox Corporation for inclusion in Fox’s 2024 proxy statement and for consideration by shareholders in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934.

A letter from the Proponent authorizing *As You Sow* to act on its behalf is enclosed. A representative of the Proponent will attend the stockholder meeting to move the resolution as required.

We are available to discuss this issue and are optimistic that such a discussion could result in resolution of the Proponent’s concerns.

To schedule a dialogue, please contact myself, Andrew Behar, at [REDACTED] Please send all correspondence with a copy to [REDACTED]

Sincerely,

Andrew Behar
CEO, *As You Sow*

Enclosures

- Shareholder Proposal
- Shareholder Authorization

cc:

[REDACTED]
Steven Tomsic, Chief Financial Officer, [REDACTED]
Katherine Primas, Chief Compliance Officer, [REDACTED]

WHEREAS: The ongoing perception by Fox News viewers, that non-news shows are actual journalism, poses significant risks to Fox Corp. and to U.S. democracy. Last year, Fox settled a lawsuit with Dominion Voting Systems for **\$787.5 million** because of statements made on Fox News alleging illegitimacy of the 2020 election results due to Dominion’s systems.¹ The settlement came after a court rejected Fox’s legal defense that the statements about Dominion were “pure opinion.” The Court found instead that the statements “were made by newscasters holding themselves out to be sources of accurate information.”² The 2023 Dominion lawsuit highlights the risk of a news organization inadequately differentiating its news reporting from its opinion and entertainment programming.

Failure to differentiate between journalism and opinion also poses a clear threat to an informed electorate and a thriving American democracy. Studies show that Fox viewers are more likely to be misinformed about issues including elections and the integrity of voting systems, COVID-19, climate change, and other issues.³ Typically, it is Fox’s opinion shows that are identified as the basis for the misinformation.⁴

Blurred lines between opinion and journalism also introduce significant business risk from potential reputational damage. Twenty-one percent of Fox News viewers said they trusted the network less in light of evidence revealed by the Dominion lawsuit.⁵

A clear differentiation between Fox’s opinion and news shows can mitigate ongoing risks to the Company, shareholders, and its audience without limiting the free speech of hosts or the programming that Fox News provides.

RESOLVED: Shareholders request that the Fox Corporation Board prepare and publish a report, excluding confidential information, assessing the potential negative social impact and risks to the Company from continuing to inadequately distinguish between Fox’s on-air news content and its opinion content, and the viability and benefits of providing public differentiation between its news and the entertainment-based nature of its non-news shows.

SUPPORTING STATEMENT: Shareholders request that the report include:

- Analysis of risk mitigation from a third-party expert that includes legal, financial, and reputational risk;
- Identification of likely strategies that increase the distinction between news and opinion content, such as replacing the on-screen “Fox News” branding during opinion shows to highlight opinion content.
- Third-party testing of methods that communicate opinion content to independent viewers (such as the example of branding differentiation, provided below).

¹ <https://www.cnn.com/2023/04/18/media/fox-dominion-settlement/index.html>

² <https://www.cnn.com/2023/03/31/media/fox-news-dominion-lawsuit/index.html>

³ <https://www.prii.org/research/competing-visions-of-america-an-evolving-identity-or-a-culture-under-attack/>;
<https://www.kff.org/coronavirus-covid-19/press-release/covid-19-misinformation-is-ubiquitous-78-of-the-public-believes-or-is-unsure-about-at-least-one-false-statement-and-nearly-at-third-believe-at-least-four-of-eight-false-statements-tested/>;
<https://www.independent.co.uk/climate-change/news/misinformation-denial-fox-news-media-b2225682.html>

⁴ <https://www.washingtonpost.com/news/monkey-cage/wp/2018/11/06/blame-fox-not-facebook-for-fake-news/>;
<https://www.salon.com/2020/07/17/fox-news-peddled-misinformation-about-the-coronavirus-253-times-in-five-days-study/>

⁵ <https://variety.com/2023/tv/news/fox-news-dominion-lawsuit-viewers-less-trust-1235554399/>



On-screen logo may be used to clarify content and reduce litigation risk

May 22, 2024

Andrew Behar
CEO
As You Sow

[REDACTED]
[REDACTED]

Re: Authorization to File Shareholder Resolution

Dear Mr. Behar,

In accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934, the undersigned (“Stockholder”) authorizes *As You Sow* to file or co-file a shareholder resolution on Stockholder’s behalf with the named Company for inclusion in the Company’s 2024 proxy statement. The resolution at issue relates to the below described subject.

Stockholder: John Chevedden

Company: Fox Corp

Subject: Media content: Legal risk caused by lack of differentiation between news and opinion content.

The Stockholder has continuously owned Company stock, with voting rights, for a duration of time that enables the Stockholder to file a shareholder resolution for inclusion in the Company’s proxy statement. The Stockholder intends to hold the required amount of such stock through the date of the Company’s annual meeting in 2024.

The Stockholder gives *As You Sow* authority to address, on the Stockholder’s behalf, any and all aspects of the shareholder resolution, including drafting and editing the proposal, representing Stockholder in engagements with the Company, entering into any agreement with the Company, designating another entity as lead filer and representative of the shareholder, presenting the proposal at the Company’s annual general meeting, and all other forms of representation necessary in moving the proposal. The Stockholder understands that the Stockholder’s name may appear on the company’s proxy statement as the filer of the aforementioned resolution, and that the media may mention the Stockholder’s name in relation to the resolution. The Stockholder supports this proposal.

The Stockholder is available for a meeting with Fox Corp regarding this shareholder proposal, at the following days/times: [Stockholder to provide 2 dates and 30-minute meeting options within the following time frame: 6/3/2024 - 6/18/2024

Monday - Friday and between the hours of 9:00am and 5:30pm Eastern Time]

Date: 6-10 Time: 9 am pt Date: 6-11 Time: 9 am pt

If the Company would like to meet at one of these dates and times, let the Stockholder and *As You Sow* at, [REDACTED] know within 2 days of the dates offered in this letter.

If this Authorization is used for a Co-filing role instead of for a Proponent role, then the Stockholder agrees to designate the Proponent to engage on the Stockholder's behalf on the dates and times that the Proponent has provided.

The Stockholder can be contacted at the following email address to schedule a dialogue during one of the above dates: [REDACTED]

Any correspondence regarding meeting dates must **also be sent to my representative:**

Andrew Behar, CEO at [REDACTED]

and to [REDACTED]

The Stockholder also authorizes *As You Sow* to send a letter of support of the resolution on Stockholder's behalf.

Sincerely,

DocuSigned by:

E93AB5CD4ED8495

John Chevedden

Shareholder



JOHN R CHEVEDDEN

May 24, 2024



Dear John Chevedden:

This letter is provided at the request of Mr. John R. Chevedden, a customer of Fidelity Investments.

Please accept this letter as confirmation that as of the start of business on the date of this letter Mr. Chevedden has continuously owned no fewer than the shares quantities of the securities shown on the below table since at least May 1, 2021, except for Fox Corporation (FOX) for which was held since at least May 20, 2021:

Security	Symbol	Share Quantity
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
Fox Corporation	(FOX)	100.000

These securities are registered in the name of National Financial Services LLC, a DTC participant (DTC number 0226) a Fidelity Investments subsidiary.

I hope this information is helpful. For any other issues or general inquiries, please call your Private Client Group at 1-800-544-5704. Thank you for choosing Fidelity Investments.

Sincerely,

Shuritta Dixon

Shuritta Dixon
Brokerage Operations

Our File: [Redacted]

From: Cleveland, Laura [REDACTED] >
Sent: Monday, July 1, 2024 4:30 PM
To: Cleveland, Laura
Subject: FW: Fox Corp (FOXB) - Shareholder Proposal Filing Documents
Attachments: 24.FOXB.1 Fox News Media Content LEAD Filing Packet.pdf

From: Shareholder Engagement [REDACTED] >
Sent: Friday, May 24, 2024 12:56 PM
To: Cleveland, Laura [REDACTED]; FOX Investor Relations <[REDACTED]>; Tomsic, Steven [REDACTED] >;
Cc: Andrew Behar <[REDACTED]>; Danielle Fugere <[REDACTED]>; Gail Follansbee <[REDACTED]>; Riley McCann <[REDACTED]>; Sophia Wilson <[REDACTED]>
Subject: Fox Corp (FOXB) - Shareholder Proposal Filing Documents

Dear Ms. Cleveland,

Attached please find the lead filing document packet submitting a shareholder proposal for inclusion in the company's 2024 proxy statement. A printed copy of these documents has been sent to your offices via FedEx and our records show it was delivered today, May 24, 2024 at 11:03am.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,
Rachel Lowy

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

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[REDACTED]

[REDACTED]

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Laura A. Cleveland
Senior Vice President
and Corporate Secretary



May 30, 2024

Via Email
Mr. Andrew Behar
Chief Executive Officer
As You Sow

Re: Rule 14a-8 shareholder proposal dated May 24, 2024 (the "Proposal")

On May 24, 2024, Fox Corporation (the "Company") received the Proposal submitted by you on behalf of Mr. John Chevedden (the "Proponent") for consideration at the Company's 2024 Annual Meeting of Stockholders.

The purpose of this letter is to notify you (pursuant to the requirements of Rule 14a-8(f) under Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) that the above referenced submission of the Proposal fails to satisfy certain eligibility and procedural requirements specified under Rule 14a-8(b). Pursuant to Rule 14a-8(f) of the Exchange Act, your response to this letter must be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter (the "Deadline"). If you fail to remedy the deficiency before the Deadline, the Company may exclude the Proposal from its proxy statement.

Under Rule 14a-8(b) of the Exchange Act, in order to be eligible to submit a proposal, a stockholder must have continuously held (i) at least \$2,000 in market value of the Company's securities entitled to vote on the Proposal for at least three years, (ii) at least \$15,000 in market value of the Company's securities entitled to vote on the Proposal for at least two years or (iii) at least \$25,000 in market value of the Company's securities entitled to vote on the Proposal for at least one year through the date the Proposal was submitted to the Company. As of the date hereof, we have not received proof that the Proponent has satisfied such ownership requirements under Rule 14a-8(b)(2) of the Exchange Act as of the date that the Proposal was submitted to the Company.

To remedy this defect, you must submit sufficient proof demonstrating that the Proponent is a stockholder with continuous ownership of the required amount of shares of the Company's securities entitled to vote on the Proposal for the relevant period.

Furthermore, under Rule 14a-8(b)(1)(vi) of the Exchange Act, in order to be eligible to submit a proposal, a stockholder cannot aggregate its holdings with those of another stockholder or group of stockholders to meet the requisite amount of securities necessary to be eligible to submit a proposal. We request confirmation that the Proponent has not aggregated its holdings with those of another stockholder or group of stockholders to meet the requisite amount of securities necessary to be eligible to submit the Proposal.



This letter will constitute the Company's notice to you under Rule 14a-8(f) of the Exchange Act of these deficiencies. As noted above, Rule 14a-8(f) of the Exchange Act requires that your response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to Laura Cleveland, Senior Vice President and Corporate Secretary, c/o Fox Corporation, [REDACTED] [REDACTED]. Alternatively, and preferably, you may transmit any response by email to me at [REDACTED].

Please note that the requests in this letter are without prejudice to any other rights that the Company may have to exclude the Proposal from its proxy materials on any other grounds permitted by Rule 14a-8.

If you have any questions with respect to the foregoing, please contact me at [REDACTED].
[REDACTED] For your reference, I enclose a copy of Rule 14a-8 of the Exchange Act.

Sincerely,



Laura A. Cleveland
Senior Vice President and Corporate Secretary

Enclosures:
Rule 14a-8 under the Securities Exchange Act of 1934, as amended

From: Cleveland, Laura <[REDACTED]>
Sent: Monday, July 1, 2024 4:34 PM
To: Cleveland, Laura
Subject: FW: Letter regarding stockholder proposal

From: Cleveland, Laura
Sent: Thursday, June 13, 2024 3:00 PM
To: Kaylea Noce <[REDACTED]>; Shareholder Engagement <[REDACTED]>
Cc: Andrew Behar <[REDACTED]>; [REDACTED]
Subject: RE: Letter regarding stockholder proposal

Kaylea, Thurs. June 20 at either 11.30am-12pm PT or 12-12.30pm PT would work for us. Gabrielle Brown, FOX Chief Investor Relations Officer ([REDACTED]), will join.
Kindly forward a zoom with the preferred time.
Thank you.
Best,
Laura

From: Kaylea Noce <[REDACTED]>
Sent: Tuesday, June 11, 2024 3:25 PM
To: Shareholder Engagement <[REDACTED]>; Cleveland, Laura <[REDACTED]>
Cc: Andrew Behar <[REDACTED]>; [REDACTED]
Subject: RE: Letter regarding stockholder proposal

Laura,

Andy is travelling for work between June 17-19 and June 21-28.

The following times are available on Andy's calendar.

- Thurs., June 20 @ 9:30am, 11:30 am or 12 pm PT / 12:30 pm, 2:30 pm, or 3 pm ET

Please let me know if any of those times work for your team and I will send a zoom invitation. If none work, we can potentially schedule on those travel days.

Best,

Kaylea Noce
Administrative/Research Coordinator
As You Sow
Pronouns: She/Her/Hers

[REDACTED]
[REDACTED] | www.asyousow.org

~Building a Safe, Just, and Sustainable World since 1992



AS YOU SOW

From: Shareholder Engagement <[REDACTED]>

Sent: Friday, June 7, 2024 9:56 AM

To: Cleveland, Laura <[REDACTED]>

Cc: Kaylea Noce <[REDACTED]>; Andrew Behar <[REDACTED]>; [REDACTED]

Subject: Re: Letter regarding stockholder proposal

Hello Laura,

I've cc'd Kaylea Noce who will be able to speak to Andrew Behar's schedule and will be in touch early next week with a few available options.

Thank you for your help and coordination. Wishing you a good weekend ahead.

Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

From: Cleveland, Laura <[REDACTED]>

Sent: Friday, June 7, 2024 7:44 AM

To: Shareholder Engagement <[REDACTED]>

Cc: Andrew Behar <[REDACTED]>; [REDACTED]

Subject: RE: Letter regarding stockholder proposal

Rachel, apologies, we will not be able to have the call next week, would you advise any availability for the week of June 17, 2024? Gabrielle Brown, FOX Chief Investor Relations Officer, will join.

Thank you.

Regards,

Laura

From: Cleveland, Laura

Sent: Wednesday, June 5, 2024 4:45 PM

To: Shareholder Engagement <[REDACTED]>

Cc: Andrew Behar <[REDACTED]>; [REDACTED]

Subject: RE: Letter regarding stockholder proposal

Rachel, thank you very much, and apologies, we have a scheduling conflict we are trying to resolve, we will come back asap.

Best,

Laura

From: Shareholder Engagement <[REDACTED]>
Sent: Tuesday, June 4, 2024 9:01 PM
To: Cleveland, Laura <[REDACTED]>
Cc: Andrew Behar <[REDACTED]>; [REDACTED]
Subject: Re: Letter regarding stockholder proposal

Hello Laura,

Thank you for reaching out to schedule a meeting. I confirm that the representatives remain available to meet - Monday, June 10, 2024 at 9am PT/12pm ET would be best. I would be happy to send the calendar invitation, unless you would prefer to.

We appreciate your help and look forward to speaking soon.

Best,
Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

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[REDACTED]

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From: Cleveland, Laura <[REDACTED]>
Sent: Tuesday, June 4, 2024 9:01 AM
To: Shareholder Engagement <[REDACTED]>
Cc: Andrew Behar <[REDACTED]>; [REDACTED]
Subject: RE: Letter regarding stockholder proposal

Rachel, thank you, we've reviewed and agree the deficiency has been satisfied. Would you advise if representatives remain available on June 10 or 11, 2024 at 9amPT/12pmET for a call to discuss the proposal?

Regards,
Laura

From: Shareholder Engagement <[REDACTED]>
Sent: Friday, May 31, 2024 1:02 PM
To: Cleveland, Laura <[REDACTED]>

Cc: Andrew Behar <[REDACTED]>; [REDACTED]

Subject: Re: Letter regarding stockholder proposal

Hello Laura,

Confirming receipt of this deficiency letter. Please find attached the following proof of ownership:

Lead Filer John Chevedden 100 shares

It would be greatly appreciated if you could confirm receipt of this attachment, and that all deficiencies have been satisfied.

Thank you and have a nice weekend,
Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

[REDACTED]

[REDACTED]

rlowy@asyousow.org | www.asyousow.org



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From: Cleveland, Laura <[REDACTED]>

Sent: Thursday, May 30, 2024 2:29 PM

To: Andrew Behar <[REDACTED]>

Cc: [REDACTED] <[REDACTED]>; Shareholder Engagement

[REDACTED] <[REDACTED]>

Subject: Letter regarding stockholder proposal

Mr. Behar: Attached here is a letter from Fox Corporation regarding the proposal submitted on behalf of Mr. Chevedden for our 2024 annual meeting.

Please contact me if you have any questions.

Regards,

Laura

Laura A. Cleveland
Senior Vice President and Corporate Secretary | FOX

[REDACTED] | tel: [REDACTED]

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August 6, 2024

VIA ONLINE SUBMISSION

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549
Email: shareholderproposals@sec.gov

Re: Shareholder Proposal to Fox Corporation from *As You Sow* on behalf of John Chevedden

Ladies and Gentlemen:

John Chevedden (the “Proponent”) is the beneficial owner of common stock of Fox Corporation (“Fox” or the “Company”) and has filed a shareholder proposal (the “Proposal”) with the Company concerning the risks of inadequate differentiation of its news and opinion content. On July 2, 2024, Lyuba Goltser of Weil, Gotshal & Manges LLP wrote to the Commission on behalf of the Company requesting that it concur in the Company’s view that the Proposal may be properly excluded from its upcoming proxy statement (the “Company Letter”).

The Company Letter argues that the Proposal may be excluded from the Company’s 2024 proxy statement because it concerns the Company’s ordinary business. The Company also argues that a graphic included with the proposal is misleading and should be omitted. The Company has no basis under Rule 14a-8 for exclusion of the Proposal or of the graphic. As such, the Proponent respectfully requests that the Staff inform the Company that it cannot concur with the Company’s request.

A copy of this letter is being emailed concurrently to the Company through its counsel.

SUMMARY

The Proposal requests that Fox report on the risks posed to the Company by the inadequate differentiation between news and opinion content on Fox News. The stakes of the problem identified by the Proposal were recently laid bare by the \$787.5 million dollars the company paid to Dominion Voting Systems to settle a defamation lawsuit stemming from statements made by Fox’s on-air entertainment personalities that the 2020 election was illegitimate and that Dominion’s voting equipment contributed to such outcome. The Dominion settlement came after the court rejected Fox’s legal defense that the statements at issue were “pure opinion” because, as the Court noted, the statements came from “newscasters holding themselves out to be adequate sources of information.”¹ Subsequent lawsuits have been filed against Fox, including a defamation lawsuit from Smartmatic for \$2.7 billion. Recently, the judge overseeing that case rejected Fox’s attempts to dismiss the case.² Yet another case by an individual allegedly

¹ <https://www.cnn.com/2023/03/31/media/fox-news-dominion-lawsuit/index.html>

² <https://www.cnn.com/2024/01/24/media/fox-corporation-smartmatic/index.html>

scapegoated for the January 6 insurrection by Fox's on-air personalities has filed suit for defamation and alleges actual malice, a standard that poses the risk of punitive damages.³

Not only does the inadequate differentiation of on-air news and entertainment programming create significant and demonstrable risk to Fox, it also poses a clear threat to the informed electorate necessary to American democracy. Studies demonstrate that Fox viewers are more likely than viewers of competitors' news products to be misinformed about significant issues including election integrity, COVID-19, and climate change. This is readily attributable to the fact that Fox's on-air *opinion* personalities spread falsehoods on these topics without making clear that they are not *reporting facts*.

The Company seeks to exclude the Proposal under Rule 14a-8(i)(7) as relating to the Company's ordinary business. However, because the Proposal raises a significant social policy issue and does not seek to micromanage the Company's business, there is no basis to exclude the Proposal under this Rule.

The Company also argues that a graphic included with the Proposal as an exemplar of how the Company could differentiate news and opinion should be excluded under Rule 14a-8(i)(3)'s prohibition against vague and indefinite statements. However, as the Company acknowledges, the graphic is merely (and explicitly) intended to serve as an "illustration" of a potential measure the Company could take to differentiate on-air news and opinion content. Such an example does not muddle the Proposal's clear request, and no reasonable investor presumed to have read the proposal could possibly be confused.

THE PROPOSAL

WHEREAS: The ongoing perception by Fox News viewers that non-news shows are actual journalism, poses significant risks to Fox Corp. and to U.S. democracy. Last year, Fox settled a lawsuit with Dominion Voting Systems for **\$787.5 million** because of statements made on Fox News alleging illegitimacy of the 2020 election results due to Dominion's systems.¹ The settlement came after a court rejected Fox's legal defense that the statements about Dominion were "pure opinion." The Court found instead that the statements "were made by newscasters holding themselves out to be sources of accurate information."² The 2023 Dominion lawsuit highlights the risk of a news organization inadequately differentiating its news reporting from its opinion and entertainment programming.

Failure to differentiate between journalism and opinion also poses a clear threat to an informed electorate and a thriving American democracy. Studies show that Fox viewers are more likely to be misinformed about issues including elections and the integrity of voting systems, COVID -19,

³ See <https://www.msn.com/en-us/news/us/ray-epps-takes-fox-news-to-court-extremist-mass-killings-on-the-rise/ar-AA1dR3vy>

¹ <https://www.cnn.com/2023/04/18/media/fox-dominion-settlement/index.html>

² <https://www.cnn.com/2023/03/31/media/fox-news-dominion-lawsuit/index.html>

climate change, and other issues.³ Typically, it is Fox's opinion shows that are identified as the basis for the misinformation.⁴

Blurred lines between opinion and journalism also introduce significant business risk from potential reputational damage. Twenty-one percent of Fox News viewers said they trusted the network less in light of evidence revealed by the Dominion lawsuit.⁵

A clear differentiation between Fox's opinion and news shows can mitigate ongoing risks to the Company, shareholders, and its audience without limiting the free speech of hosts or the programming that Fox News provides.

RESOLVED: Shareholders request that the Fox Corporation Board prepare and publish a report, excluding confidential information, assessing the potential negative social impact and risks to the Company from continuing to inadequately distinguish between Fox's on-air news content and its opinion content, and the viability and benefits of providing public differentiation between its news and the entertainment-based nature of its non-news shows.

SUPPORTING STATEMENT: Shareholders request that the report include:

- Analysis of risk mitigation from a third-party expert that includes legal, financial, and reputational risk;
- Identification of likely strategies that increase the distinction between news and opinion content, such as replacing the on-screen "Fox News" branding during opinion shows to highlight opinion-content.
- Third-party testing of methods that communicate opinion content to independent viewers (such as the example of branding differentiation, provided below).

³ <https://www.prii.org/research/competing-visions-of-america-an-evolving-identity-or-a-culture-under-attack/>; <https://www.kff.org/coronavirus-covid-19/press-release/covid-19-misinformation-is-ubiquitous-78-of-the-public-believes-or-is-unsure-about-at-least-one-false-statement-and-nearly-at-third-believe-at-least-four-of-eight-false-statements-tested/>; <https://www.independent.co.uk/climate-change/news/misinformation-denial-fox-news-media-b2225682.html>

⁴ <https://www.washingtonpost.com/news/monkey-cage/wp/2018/11/06/blame-fox-not-facebook-for-fake-news/>; <https://www.salon.com/2020/07/17/fox-news-peddled-misinformation-about-the-coronavirus-253-times-in-five-days-study/>

⁵ <https://variety.com/2023/tv/news/fox-news-dominion-lawsuit-viewers-less-trust-1235554399/>



On-screen logo may be used to clarify content and reduce litigation risk

ANALYSIS

I. THE PROPOSAL TRANSCENDS ORDINARY BUSINESS

Fox argues that the Proposal may be excluded under Rule 14a-8(i)(7) because it relates to the Company's ordinary business operations concerning programming and because it does not raise a significant social policy issue. However, the Proposal transcends the Company's ordinary business.

A. Rule 14a-8(i)(7) Standard

Rule 14a-8 permits the exclusion of a subset of proposals that "deal[] with a matter relating to the company's ordinary business operations." Rule 14a-8(i)(7). But not every shareholder proposal that touches in any way upon a company's business operations is excludable. Rather, Proposals do not fall within Rule 14a-8(i)(7) if they: (a) relate to *non-ordinary* aspects of a company's business, or (b) raise a significant social policy issue that transcends the Company's ordinary business.

The first exception is inherent in the text and reasoning of the Rule. As the Commission has explained, the ordinary business rule applies when a proposal would interfere with "[c]ertain tasks . . . so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." SEC, *Release*

No. 34-40018 (May 21, 1998) (“1998 Release”). But not every proposal relating to a company’s business meets this criterion. Proposals that “involve substantial corporate policy considerations that go beyond the conduct of the [c]ompany’s ordinary business operations” are not excludable under Rule 14a-8(i)(7). *Pacific Group Telesis* (Feb. 2, 1989). As the Staff has explained, the issues addressed by such proposals are “not a matter relating to the conduct of [a company’s] ordinary business operations, but rather, an important issue that is appropriate for stockholders to address at a meeting.” *Broadridge Financial Solutions, Inc.* (Sept. 22, 2021).

Consistent with this principle, the Staff has declined to exclude proposals dealing with plant closings or relocations, *id.*; option repricing, *see General DataComm Industries, Inc.* (Dec. 9, 1998); pension plan conversion, *IBM Corp.* (Feb. 16, 2000); director compensation, *Reebok* (Mar. 16, 1992); CEO succession planning, *Whole Foods Market, Inc.* (Nov. 10, 2009); and decommissioning of individual nuclear power plants, *DTE Energy Company* (Dec. 18, 2017). *See also* SEC, *Exchange Act Release No. 34-12999* (Nov. 22, 1976) (stating, for example, that a proposal that a power company not construct a nuclear plant raises “economic and safety considerations attendant to nuclear power plants . . . of such magnitude that a determination of whether to construct one is not an ‘ordinary’ business matter”).

The second exception applies when proposals relate to company ordinary business “but focus[] on sufficiently significant social policy issues” that “transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” 1998 Release. Under this rule, “a proposal may transcend a company’s ordinary business operations even if the significant policy issue relates to the ‘nitty-gritty’ of its core business.” Staff Legal Bulletin No. 14H (Oct. 22, 2015).

Under these related principles, the Staff has routinely declined to concur in the exclusion of proposals concerning significant issues of corporate policy, particularly when they touch on significant social policy matters. For instance, the Staff has declined to concur in the exclusion under Rule 14a-8(i)(7) of proposals:

- Requesting that the company produce a report on the use of artificial intelligence in its business operations, *Apple, Inc.* (Jan. 3, 2024); *The Walt Disney Co.* (Jan. 3, 2024); and *Paramount Global* (Apr. 19, 2024);
- Requesting that the company audit the economic and humanitarian impacts of its climate policies on emerging nations, *JPMorgan Chase & Co.* (Mar. 29, 2024);
- Requesting that the company report on compensation and health benefit gaps addressing dysphoria and “detransitioning care,” *The Walt Disney Co.* (Feb. 1, 2024);
- Requesting that the company issue a report on the congruency of its privacy and human rights policy positions with its actions, *Apple, Inc.* (Jan. 2, 2024);
- Requesting that company commission independent report on material risks of continuing operations without restrictions on animal-sourced products associated with animal cruelty, *The TJX Companies* (Feb. 3, 2020);
- Requesting that company commission a report on the externalized public health costs created by its food and beverage business, *PepsiCo, Inc.* (Mar. 12, 2021)

- Requesting that pharmaceutical company report on governance changes implemented to more effectively respond to opioid crisis, *Walgreens Boots Alliance, Inc.* (Nov. 20, 2018);
- Requesting that company adopt a paid sick leave policy, *CVS Health Corp.* (Mar. 18, 2022);
- Requesting that insurance companies alter their product offerings to ensure that the companies did not “support new fossil fuel supplies,” *see Chubb Ltd. (Green Century)* (Mar. 26, 2022);
- Requesting that company commit to ending the use of gestational crates for pigs in its supply chain, *The Wendy’s Company* (Mar. 16, 2022);
- Requesting the creation of an overarching stormwater management policy for the company’s operations, *Lowes Companies, Inc.* (Mar. 16, 2011); and
- Requesting that company implement a code of conduct, inclusive of suppliers and sub-contractors, committing to the International Labor Organization’s Declaration on Fundamental Principles and Rights at Work, *McDonald’s Corp.* (Mar. 22, 2007);
- Requesting that company adopt a policy that “will ensure that no fur products are acquired or sold,” *Coach, Inc.* (Aug. 19, 2010).

B. The Proposal Raises Significant Issues of Corporate and Social Policy.

The Company’s argument misapplies the Rule 14a-8(i)(7) standard and misidentifies the significant social policy issue raised by the Proposal.

The Company first argues that the Proposal may be excluded because it interferes with “the right of media and entertainment companies to operate their businesses without the intervention of stockholders directly into such ordinary business decision.” Company Letter at 5-6. However, proposals that raise transcendent policy matters are not excludable “even if the significant social policy issue relates to the ‘nitty-gritty of [a company’s] core business.’” Staff Legal Bulletin No. 14L. This exception is essential for preserving shareholders’ right to raise important issues by means of the company’s proxy statement, while also recognizing the board’s authority over most day-to-day business matters. *See id.*

The Proposal transcends the Company’s ordinary business because it involves significant issues of corporate and social policy. The Company Letter’s portrayal of the Proposal as “impos[ing] the Proponent’s own views on Fox News’s programming strategy and content,” Company Letter at 6, mistakes the purpose of the Proposal: ensuring the Company is properly managing the reputational, competitive, and legal risks generated by misinformation from its on-air entertainers. This is not mere “programming strategy,” but rather a transcendent corporate policy issue, akin to opioid-related pharmaceutical policies, plant closings, sick leave, stormwater management, or supplier codes of conduct. *See supra.*

Fundamentally, seeking assurance that the Company is properly assessing the demonstrable risks posed by misinformation from its on-air entertainment personalities is a matter of overarching corporate policy well within the appropriate ambit of shareholder oversight. This becomes particularly clear when comparing the Proposal with that in, for example, *The TJX Companies*. *See supra.* There, the proposal asked the company to report on the material risks of continuing

operations without restrictions on animal-sourced products associated with animal cruelty. In format, effect, and relationship to the issuer's ordinary business, the *TJX Companies* proposal and this Proposal are substantively identical. Each asks the company to report on the risks of failing to take action to address a significant source of material risk in the company's core business.

By comparison, the precedents cited in the Company Letter differ greatly, even though they touch on programming by media companies. Significantly, most of the excluded proposals cited by the Company Letter requested implementation of substantive action that was either very specific or unclear, difficult to interpret or viewpoint-oriented. The proposal in *Time Warner, Inc.* (Mar. 13, 2018) and *The Walt Disney Company* (Dec. 12, 2017) requested the adoption of a policy requiring the company's news operations "always tell the truth," an extremely unclear directive. The proposals in *General Electric Co.* (Dec. 10, 2009) and (Feb. 1, 1999) demanded that the company "cease all its liberal editorializing," and prohibit all unbiblical programming, respectively. The proposal in *Comcast Corp.* (Mar. 24, 2015) demanded that the company amend its charter to address products that were allegedly "offensive to the family and community values." These proposals bear little resemblance to the Proposal here, which requests that the Company *report* on the risks generated by inadequate differentiation of news- and opinion-based content, and on potential opportunities to mitigate those risks. It does not demand that the Company always tell the truth or adopt any particular policy with respect to news programming, nor — as the Proposal takes pains to emphasize — does it seek to alter the on-air content of Fox's programming at all. This likewise distinguishes the Proposal from *Netflix, Inc.* (Mar. 14, 2016). There, the proposal demanded a report on how the company "identifies, analyzes, and oversees" reputational risk associated with offensive or inaccurate portrayals of indigenous peoples. However, the proposal in Netflix demanded disclosure of sensitive business practices relating to a specific, substantive topic of content creation, unlike the Proposal here, which does not seek disclosure of sensitive business practices, but rather seeks a broader analysis of the risks associated with the Company's failure to adequately differentiate its news from its entertainment content.

Moreover, the Proposal clearly addresses a significant issue of social policy — the deleterious effects of misinformation in a representative democracy. The Staff has previously recognized that misinformation amounts to a significant issue of social policy. In *Alphabet, Inc.* (Apr. 12, 2022), the proposal requested a report on the "Company's existing policies and practices to address the human rights impact of its content management policies to address misinformation and disinformation across its platforms. The Company's no-action request was denied despite its argument that the proposal implicated "the core of the Company's business and operations," as the Staff concluded that the proposal transcended the Company's ordinary business. Additional Staff precedents from this season conclusively demonstrate that proposals addressing the core business of media and entertainment companies are not excludable where they touch on a significant social policy issue, such as artificial intelligence. *See Walt Disney, Paramount, and Apple, supra. See also Meta Platforms, Inc.* (Mar. 30, 2022) (declining to concur in exclusion of proposal requesting company publish independent report on the human rights impacts of its targeted advertising practices despite company's argument that "substantially all of the Company's revenue is generated from advertisements" because proposal transcended ordinary business).

Despite the Company's *pro forma* objection, the Proposal clearly addresses a significant policy issue: the responsible behavior of large media companies like Fox in light of the dangers that misinformation poses to Fox News and American democracy. Misinformation from non-journalist, on-air personalities working for a major media company like Fox is a persistent subject of widespread commentary and debate.¹ A 2021 poll found that ninety-five percent of Americans identified the rampant spread of misinformation as a problem,² and a 2022 follow-up found that three-quarters of Americans believed that it was leading to increased political extremism and hate crimes.³ Studies have suggested that commentary from Fox's non-journalist commentators had a meaningful impact on the polarized early response to the COVID-19 pandemic,⁴ and that misinformation from Fox's primetime lineup likewise likely had a meaningful impact on COVID-19 vaccination rates.⁵ The role that Fox's non-journalist personalities played in promoting falsehoods about the 2020 election is well-documented.⁶ Similarly, Fox's non-journalist hosts routinely state falsehoods about climate change,⁷ leading to meaningful, non-partisan differences in belief among news viewers.⁸

The Company Letter's argument that the Proposal "references the social implications of news on society and politics," but does not relate to "any particular policy issue," therefore, misunderstands the point. The dis- and misinformation presented by Fox News' hosts, and its negative impact on critical social policy issues such as health, climate, and democracy, is the significant policy issue raised by the Proposal. Indeed, the Staff has already acknowledged that the role that major media platforms play in spreading misinformation is a significant policy issue that transcends ordinary business. *See, e.g., Alphabet, Inc., supra.*

In sum, the Proposal addresses a significant policy issue and does not seek to impose "direct shareholder oversight" over any aspect of the Company's "day-to-day tasks."

II. THE PROPOSAL DOES NOT MICROMANAGE.

The Company Letter argues briefly that the Proposal seeks to micromanage the Company. This argument is unpersuasive, as evidenced by the wholly inapposite precedent relied on by the Company Letter. The Company Letter relies primarily on *Deere & Company* (Jan. 3, 2022), *Verizon Communications Inc.* (Mar. 17, 2022), and *American Express* (Mar. 11, 2022), each of

¹ *E.g.*, <https://www.ft.com/content/78826749-892b-42b6-9053-ef613016ae93>;
<https://www.washingtonpost.com/politics/2021/11/08/unique-role-fox-news-misinformation-universe/>;
<https://www.nytimes.com/2023/04/16/business/media/fox-news-dominion-trial.html>;

² <https://apnews.com/article/coronavirus-pandemic-technology-business-health-misinformation-fbe9d09024d7b92e1600e411d5f931dd>

³ <https://apnews.com/article/religion-crime-social-media-race-and-ethnicity-05889f1f4076709c47fc9a18dbec818a>

⁴ <https://www.cambridge.org/core/services/aop-cambridge-core/content/view/6B0EB93F6BA17608D82B4D23EDA75E50/S0008423920000396a.pdf/how-right-leaning-media-coverage-of-covid-19-facilitated-the-spread-of-misinformation-in-the-early-stages-of-the-pandemic-in-the-us.pdf>

⁵ <https://cepr.org/voxeu/columns/impact-fox-news-us-covid-19-vaccination-campaign>;
<https://www.washingtonpost.com/politics/2022/10/10/vaccines-coronavirus-fox-news/>

⁶ <https://www.cnn.com/2020/11/05/media/fox-news-prime-time-election/index.html>;
<https://www.cbsnews.com/news/rupe-murdoch-fox-dominion-defamation/>

⁷ <https://www.citizen.org/news/climate-change-denial-dominates-86-of-fox-news-climate-segments/>

⁸ https://www.wilsonquarterly.com/quarterly/_republicans-who-watch-cnn-believe-in-global-warming-fox-news-nope

which involved the same proposal. The proposal demanded the disclosure by the companies of every piece of employee-training material produced or procured by the companies and supplied to employees, at all levels of company employment. The Staff concluded that the extreme granularity of the proposal justified its exclusion. These precedents have no bearing on the Proposal here.

Other precedents cited in the Company Letter fare little better. Each involved proposals requesting the receiving company release intricately detailed reports or disclosures. In *Amazon.com Inc.* (Apr. 1, 2024), the proposal requested a “living wage report” that prescribed the report’s contents in detail. In *Delta Air Lines, Inc.* (Apr. 24, 2024), the proposal requested the disclosure of intricate details about the company’s anti-union expenditures. And in *Paramount Global* (Apr. 19, 2024), the proposal requested the disclosure of a list of every recipient of corporate charitable contributions. By contrast, the Proposal here is a standard report asking the Company to discuss how it manages a material risk. Such requests are common and are not held to micromanage. *See, e.g., Paramount, Walt Disney, and Apple, supra* (artificial intelligence transparency reports not found to micromanage); *Republic Services, Inc.* (Mar. 27, 2024) (proposal requested company report on how it addresses the impact of its climate strategy on relevant stakeholders, found not to micromanage).

The Company Letter also misrepresents the Proposal. The Company argues that its process with respect to news reporting and presentation “is the result of numerous, daily decisions and considerations by experienced individual managers and professional journalists.” Company Letter at 8. While this may be true, it is irrelevant. The Proposal does not require the Company to report its news in a specific way. It simply requests a report on the risks of inadequately differentiating between news and non-news content. Nor does the Proposal seek shareholder involvement or oversight in the delivery of on-air content. It requests that the Company report on the risks associated with its current practices of mixing news and opinion and whether there are opportunities to mitigate those risks. The Company is free to choose how to do so.

In this respect, once more, the proposal is largely indistinguishable from the one at issue in *Alphabet, Inc.* (Apr. 12, 2022). That proposal sought a report “evaluating the efficacy of the Company’s existing policies and practices to address the human rights impacts of its content management policies to address misinformation and disinformation across its platforms.” The Staff concluded the report did “not seek to micromanage the Company” despite the company’s insistence, like Fox’s here, that the proposal interfered with “complex business, policy, and technical considerations pertaining to its content offerings.” Accordingly, there is no basis to exclude the Proposal under Rule 14a-8(i)(7).

III. THE GRAPHIC IS NOT CONFUSING.

The Company Letter also argues that the Proposal violates Rule 14a-8(i)(3) because, Fox contends, the included graphic “creates significant confusion” and “would lead a reasonable stockholder to conclude that the Proposal requires a vote on a specific alteration to the Company’s on-screen logos or content.” Company Letter at 3. As the Company recognizes, even if this argument were meritorious, the appropriate corrective measure would be the exclusion of just the graphic, rather than of the entire Proposal. *See id.; see also* Staff Legal Bulletin No. 14B

(Sept. 15, 2004) (noting process by which *portions* of supporting statements may be excluded pursuant to Rule 14a-8(i)(3)).⁹

However, the Company has not satisfied its high burden of demonstrating that the graphic creates a “*strong* likelihood that a reasonable shareholder would be uncertain as to the matter on which she is being asked to vote.” Staff Legal Bulletin No. 14B (emphasis added). Indeed, there is virtually *no* likelihood at all that a reasonable shareholder — *i.e.*, one who has actually read the Proposal — would be confused by the inclusion of the graphic. The text of the Proposal explicitly states that the graphic is merely an example of a potential risk mitigation strategy that the Company might consider in its report. In fact, it does so three times:

- “Shareholders request that the report include: . . . Identification of **likely strategies** that increase the distinction between news and opinion content, **such as** replacing the on-screen “Fox News” branding during opinion shows to highlight opinion-content.”¹⁰
- “Shareholders request that the report include: . . . Third-party testing of methods that communicate opinion content to independent viewers (**such as** the **example** of branding differentiation, provided below).
- “On-screen logo **may be used** to clarify content and reduce litigation risk.”

The Company’s argument that “a reasonable stockholder is likely to conclude that the Proposal requires a vote on a specific alteration to the Company’s logos, as opposed to the publication of a report on the general topic of public differentiation as a purported risk mitigation strategy,” Company Letter at 3, is baseless. The Proposal requests a report. The reasonable stockholder — just like the Company, which correctly recognized that the graphic is “meant to be an illustration of what ‘public differentiation’ could look like,” Company Letter at 3 — can read. The Company does not cite any Staff precedent concluding that the inclusion of something explicitly identified as an *example* generates a “strong likelihood” of confusion among stockholders.

IV. THE PROPOSAL IS NOT OTHERWISE VAGUE

The Company Letter also argues that various terms used in the Proposal are vague in violation of Rule 14a-9. Surprisingly, the letter suggests that shareholders cannot understand the difference between “opinion” segments and “news” and “journalism,” or that mixing speakers’ opinions into news segments can lead to “negative social impacts.” Company Letter at 3-4.

Under Rule 14a-8(i)(3), a proposal must not be so vague that “neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.” Staff Legal Bulletin No. 14B (Sept. 15, 2004). The Staff, however, does not lightly assume that shareholders are incapable of grasping the array of often complex issues which affect their investments. Staff Legal Bulletin No. 14B itself is dedicated in large part to the “unintended and unwarranted extension of rule 14a-8(i)(3)” by companies. Thus, the emphasis must be on

⁹ The Company’s 14a-8(i)(7) arguments about ordinary business and micromanagement rely heavily on the inclusion of the graphic in the Proposal. *See* Company Letter at 6, 7. If the Staff were to conclude that omission of the graphic were appropriate under Rule 14a-8(i)(3), the Proposal should be analyzed under Rule 14a-8(i)(7) *without* the graphic weighing on that analysis.

¹⁰ The phrase “such as” is “used to introduce an example.” <https://www.merriam-webster.com/dictionary/such%20as>

whether a proposal is “so inherently vague or indefinite” that it cannot be determined with “reasonable certainty” what it requires. The standard is not whether a lawyer could identify some tortured reading that renders the proposal minorly ambiguous.

The Company Letter asserts without explaining that the terms “opinion,” “news,” and “journalism,” as used in the Proposal are vague. But these are terms with commonly understood meaning; the idea that a *media company* cannot distinguish between “opinion” and “news” content does not pass the straight-face test. After all, Fox News’s website itself has a separate header for “Opinion” content:



Moreover, the distinctions referenced in the Proposal are the same distinctions Fox has repeatedly invoked to seek to avoid liability for statements made by its on-air personalities. Fox has repeatedly sought dismissals in defamation lawsuits based on its assertion that its on-air personalities were providing “opinion,” not “news.”¹¹

Moreover, Fox’s on-air personalities have likewise demonstrated the ability to make this basic distinction. Sean Hannity declared on-air that he does not “claim to be a journalist,” but that his show is “like the whole newspaper” because it includes “straight news” and “a lot of opinion . . . We’re the news page, the editorial page, the opinion page . . .”¹²

It is clear that the Proposal uses these terms in the same way that the Company, its lawyers, and its on-air personalities have done repeatedly in the past, and in the same way that they are commonly understood. The distinction between “news” and “opinion” content is not a novel invention of the Proposal, and the Company’s assertion that “news” and “opinion” content is not readily distinguishable is belied by its consistently demonstrated ability to distinguish between the two when it suits the Company’s purposes.

The other portion of the Company’s Rule 14a-8(i)(3) argument fares no better. The Company claims that the Proposal is impermissibly vague because it does not define “negative social impact.” But the Proposal is clear that its social concern is with the “threat to an informed electorate and a thriving American democracy” posed by the predictable consequences of its failure to differentiate between fact-based and opinion-based content for its viewers. This is a clear, discrete ask.

Moreover, the Staff has already directly rejected a vagueness challenge to nearly identical language. In *Tractor Supply Co.* (Mar. 9, 2022), the proposal requested that the company report

¹¹ Opinion and Order Granting motion to Dismiss, *McDougal v. Fox News Network, LLC*, No. 1:19-cv-11161, ECF No. 39 (S.D.N.Y. Sept. 24, 2020) (alterations and citations omitted).

¹² <https://www.thedailybeast.com/sean-hannity-i-am-not-a-journalist-im-an-entire-newspaper>

on practices “that prioritize Company financial performance over the economic and social costs and risks created by inequality and racial gender disparities.” The company argued that the Proposal was excludable under Rule 14a-8(i)(3) because the term “economic and social costs and risks” was impermissibly vague. The Staff rejected this argument, stating that it was “unable to conclude that the Proposal, taken as a whole, is so vague or indefinite that it is rendered materially misleading.” *See also BlackRock, Inc.* (Apr. 4, 2022) (company’s 14a-8(i)(3) argument concerning the phrase “externalize social and environmental costs” was rejected); *Meta Platforms, Inc.* (Apr. 2, 2022) (company’s 14a-8(i)(3) argument concerning the phrases “healthy social and environmental systems” and “productive economy” were rejected).

These precedents are much more on-point than any cited in the Company Letter. For instance, in *Walt Disney Co.* (Jan. 19, 2022), the proposal requested that the company prohibit any communications within the company of “politically charged biases,” a phrase that could literally mean anything. By comparison, the meaning of “negative social impacts” is readily discernible from the Proposal and – if the Company so chooses – easily definable at its discretion in any report made pursuant to the Proposal.

Thus, under established Staff precedent, the Company has not demonstrated that the Proposal is so vague as to be materially misleading.

CONCLUSION

Based on the foregoing, the Company has provided no basis for the conclusion that the Proposal is excludable from the 2024 proxy statement pursuant to Rule 14a-8. We urge the Staff to decline to concur in the Company’s no-action request.

Sincerely,



Luke Morgan
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cc:

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