

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
)  
Applications of )  
)  
Comcast Corporation and Time Warner Cable Inc. ) MB Docket No. 14-57  
Charter Communications Inc. and SpinCo, )  
)  
for Consent to Assign Licenses )  
or Transfer Control of Licensees )

**OBJECTION TO REQUEST FOR ACCESS TO HIGHLY CONFIDENTIAL  
INFORMATION AND VIDEO PROGRAMMING CONFIDENTIAL INFORMATION**

Pursuant to the Modified Joint Protective Order in the captioned proceeding,<sup>1</sup> Discovery Communications LLC (“Discovery”) hereby objects to the requests for access to Highly Confidential Information (“HCI”) and Video Programming Confidential Information (“VPCI”) submitted by or on behalf of each individual listed on **Exhibit A** hereto (“Submitting Individuals”).

The Submitting Individuals have each filed an Acknowledgement of Confidentiality seeking access to HCI and VPCI submitted to the Commission in this proceeding.<sup>2</sup> The Acknowledgements were posted to the Commission website on October 9, 2014. Discovery objects to the disclosure of such confidential information to the Submitting Individuals (and any

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<sup>1</sup> *In the Matter of Application of Comcast Corp. and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorization*, Modified Joint Protective Order, MB Docket No. 14-57, DA 14-1464 (Oct. 7, 2014). All capitalized terms not otherwise defined herein are defined in the Modified Joint Protective Order.

<sup>2</sup> A copy of the Acknowledgments (and the cover letter that accompanied the Acknowledgments) is attached hereto as **Exhibit B**.

of the Submitting Individuals' respective employees, as those terms are defined in Paragraph 13 of the Modified Joint Protective Order).<sup>3</sup>

**I. None of the Submitting Individuals Should Be Permitted To Access HCI or VPCI.**

Discovery objects to permitting *any* individual to access its highly confidential carriage agreements with the transaction parties and related negotiation materials. Instead, the Bureau should follow the same approach the Commission has successfully implemented in other proceedings pursuant to which Commission personnel review VPCI in the custody of the Department of Justice. Alternatively, the Bureau should place only the relevant portions of VPCI in the public record and redact and/or anonymize certain of the information contained in those materials. This is especially appropriate here, where none of the Submitting Individuals has made a particularized, good-faith showing as to why each needs access to VPCI. The substance of this objection is set forth more fully in the Application for Review filed in the captioned proceeding on October 14, 2014.

**II. Discovery Objects to Disclosure of VPCI to Certain Submitting Individuals Representing DISH Network**

Sarah K. Leggin, Georgios A. Leris, Andrew W. Guhr, and Stephanie A. Roy have sought access to HCI and VPCI on behalf of DISH Network.<sup>4</sup> Even if some individuals are permitted to access HCI or VPCI, there are additional reasons why these Submitting Individuals representing DISH Network ("DISH Submitting Individuals") should not be permitted to access such material. Each of these DISH Submitting Individuals has been or is currently involved in

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<sup>3</sup> Under the Modified Joint Protective Order, Discovery is entitled to object to the Submitting Parties' requests for access because it is a Third Party Interest Holder and has confidentiality interests in certain of the documents to which access is sought.

<sup>4</sup> Andrew W. Guhr, Georgios A. Leris, and Sarah K. Leggin have also sought access on behalf of Netflix. *See* Exhibit B, Acknowledgments.

Competitive Decision-Making and is therefore expressly prohibited under the terms of the Modified Joint Protective Order from viewing HCI or VPCI.

Sarah K. Leggin, Georgios A. Leris, Andrew W. Guhr, and Stephanie A. Roy are each affiliated with the law firm Steptoe Johnson LLP. Steptoe advises clients on distribution and retransmission consent matters.<sup>5</sup> Significantly, at least one of the DISH Submitting Individuals, Stephanie Roy, has requested access to HCI or VPCI but also is or has been directly involved in retransmission consent matters.<sup>6</sup> To counsel on retransmission consent matters, attorneys necessarily must consult with their clients and colleagues concerning Competitive Decision-Making matters. Thus it is highly unlikely that counsel who lobby and advocate on retransmission matters for DISH would have no interaction on Competitive Decision-Making matters with their client.

Indeed, DISH's counsel at Steptoe itself has urged the Commission to protect sensitive, proprietary information in the context of a different proposed merger. In connection with a proposed transaction to which DISH was a party, its counsel warned that the "inadvertent or intentional" disclosure of proprietary data to competitors "would have a devastating effect on [DISH's] business and place the companies at a significant competitive disadvantage."<sup>7</sup> Discovery shares that very concern with regard to disclosure of HCI and VCPI in this proceeding.

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<sup>5</sup> Steptoe Johnson LLP, 2013 Lobbying Disclosure Act Report, No. 16.

<sup>6</sup> *In the Matter of Satellite Television Extension and Localism Act of 2010, Section 302 Report to Congress*, Comments of DISH Network LLC, Docket No. RM 2010-10 (Apr. 25, 2011).

<sup>7</sup> *In the Matter of Consolidated Application of EchoStar Communications Corporation, General Motors Corporation and Hughes Electronics Corporation for Authority to Transfer Control*, CS Docket No. 01-348, Ex Parte Notice, Submitted by Steptoe & Johnson LLP on behalf of EchoStar Communications Corporation, (Apr. 22, 2002).

For the reasons stated herein, Discovery objects to providing HCI and VPCI to each of the Submitting Individuals. A copy of this Objection is being provided to each Submitting Individuals' counsel, placing his or her employees on notice that they may not access HCI and VPCI until this Objection (including the Application for Review referenced in this Objection) is finally resolved by the Commission and any court of competent jurisdiction.

Respectfully submitted,

**DISCOVERY COMMUNICATIONS LLC**

By: /s/ Mace Rosenstein  
Mace Rosenstein  
Laura Flahive Wu  
COVINGTON & BURLING LLP  
1201 Pennsylvania Ave., N.W.  
Washington, DC 20004-2401  
(202) 662-6000

*Its counsel*

October 15, 2014

**EXHIBIT A**  
**Submitting Individuals**

1. Sarah K. Leggin, Outside Counsel to Netflix & DISH Network
2. Georgios A. Leris, Outside Counsel to Netflix & DISH Network
3. Andrew W. Guhr, Outside Counsel to Netflix & DISH Network
4. Stephanie A. Roy, Outside Counsel to DISH Network

## **EXHIBIT B**

Andrew W. Guhr  
202 429 1359  
aguhr@steptoe.com

**Steptoe**  
STEPTOE & JOHNSON LLP

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
202 429 3000 main  
www.steptoe.com

October 8, 2014

*BY ECFS*

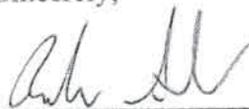
William Lake  
Chief, Media Bureau  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

**Re: Acknowledgments of Confidentiality, Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations, MB Docket No. 14-57**

Dear Mr. Lake:

On behalf of DISH Network Corporation ("DISH") enclosed are executed copies of the Acknowledgments of Confidentiality required by the Media Bureau's Modified Joint Protective Order (DA 14-1464) for access to Confidential and Highly Confidential documents filed in the above-referenced docket. The executors of the enclosed Acknowledgments are outside counsel for DISH who are refiling their Acknowledgements pursuant to the Modified Joint Protective Order in order to obtain access to Confidential and Highly Confidential Information.

Sincerely,



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Andrew W. Guhr  
*Counsel for DISH Network Corporation*

Enclosures

## ATTACHMENT B

## Acknowledgment of Confidentiality

MB Docket No. 14-57

I am seeking access to [ ] only Confidential Information or [X] Confidential and Highly Confidential Information.

I hereby acknowledge that I have received and read a copy of the foregoing Modified Joint Protective Order in the above-captioned proceeding, and I understand it.

I agree that I am bound by the Modified Joint Protective Order and that I shall not disclose or use Stamped Confidential Documents, Stamped Highly Confidential Documents, Confidential Information or Highly Confidential Information except as allowed by the Modified Joint Protective Order.

I acknowledge that a violation of the Modified Joint Protective Order is a violation of an order of the Federal Communications Commission (Commission). I further acknowledge that the Commission retains its full authority to fashion appropriate sanctions for violations of this Modified Joint Protective Order, including but not limited to suspension or disbarment of Counsel or Consultants from practice before the Commission, forfeitures, cease and desist orders, and denial of further access to Confidential or Highly Confidential Information in this or any other Commission proceeding.

I acknowledge that nothing in the Modified Joint Protective Order limits any other rights and remedies available to a Submitting Party or a Third Party Interest Holder at law or in equity against me if I use Confidential or Highly Confidential Information in a manner not authorized by this Modified Joint Protective Order.

I certify that I am not involved in Competitive Decision-Making.

Without limiting the foregoing, to the extent that I have any employment, affiliation, or role with any person or entity other than a conventional private law firm (such as, but not limited to, a lobbying or advocacy organization), I acknowledge specifically that my access to any information obtained as a result of the Modified Joint Protective Order is due solely to my capacity as Counsel or Outside Consultant to a party or as a person described in paragraph 13 of the Modified Joint Protective Order and agree that I will not use such information in any other capacity.

I acknowledge that it is my obligation to ensure that Stamped Confidential Documents and Stamped Highly Confidential Documents are not duplicated except as specifically permitted by the terms of the Modified Joint Protective Order and to ensure that there is no disclosure of Confidential Information or Highly Confidential Information in my possession or in the possession of those who work for me, except as provided in the Modified Joint Protective Order.

I certify that I have verified that there are in place procedures at my firm or office to prevent unauthorized disclosure of Confidential Information and Highly Confidential Information.

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Modified Joint Protective Order.

Executed this 8th day of October, 2014.



Sarah K. Leggin  
Associate  
Steptoe & Johnson LLP  
202-429-6252

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Executed this 8th day of October, 2014.



\_\_\_\_\_  
Georgios A. Leris  
Attorney  
Steptoe & Johnson LLP  
202-327-6940

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Executed this 8th day of October, 2014.



Andrew W. Guhr  
Associate  
Steptoe & Johnson LLP  
202-429-1359

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MB Docket No. 14-57

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I certify that I am not involved in Competitive Decision-Making.

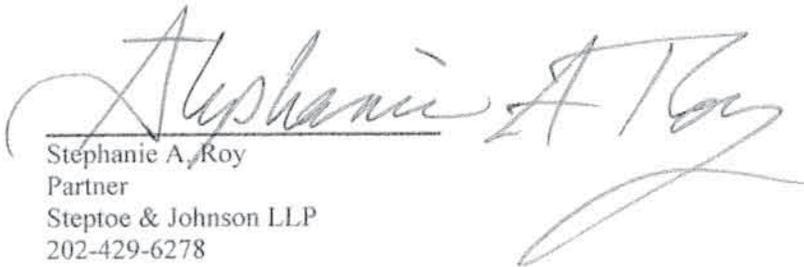
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Executed this 8th day of October, 2014.

  
Stephanie A. Roy  
Partner  
Steptoe & Johnson LLP  
202-429-6278

**CERTIFICATE OF SERVICE**

I, Mace Rosenstein, hereby certify that on this 15th day of October, 2014, I caused true and correct copies of the foregoing Objection to Request for Access to Highly Confidential Information and Video Programming Confidential Information to be served by Federal Express or electronic mail to the following:

Matthew A. Brill  
LATHAM & WATKINS LLP  
555 11th Street, NW, Suite 1000  
Washington, DC 20004  
matthew.brill@lw.com  
*Counsel for Time Warner Cable, Inc.*

Francis M. Buono  
WILLKIE FARR & GALLAGHER LLP  
1875 K Street, NW  
Washington, DC 20006  
fbuono@willkie.com  
*Counsel for Comcast Corp.*

John L. Flynn  
JENNER & BLOCK  
1099 New York Ave., NW  
Washington, DC 20001  
jflynn@jenner.com  
*Counsel for Charter Communications, Inc.*

Andrew W. Guhr  
STEPTOE & JOHNSON LLP  
1330 Connecticut Ave., NW  
Washington, DC 20036  
*Counsel for DISH Network and Netflix*

By: /s/ Mace Rosenstein  
Mace Rosenstein