



October 27, 2014

BY ECFS

Mr. William Lake
Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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

Dear Mr. Lake:

Writers Guild of America, West, Inc. (“WGAW”) hereby responds to the objections filed by Discovery Communications, LLC¹ and the Content Companies (together with Discovery, the “Programmers”)² to requests for access to Highly Confidential Information and Video Programming Confidential Information submitted by or on behalf of WGAW (collectively, the “Objections”).

The Objections raise no material questions of fact about whether WGAW’s in-house expert and outside counsel and experts are engaged in “Competitive Decision-Making,” as defined by the

¹ Objection to Request for Access to Highly Confidential Information and Video Programming Confidential Information of Discovery Communications LLC, MB Docket No. 14-57 (Oct. 16, 2014); Objection to Request for Access to Highly Confidential Information and Video Programming Confidential Information of Discovery Communications LLC, MB Docket No. 14-57 (Oct. 20, 2014).

² Objection to Request for Access to Highly Confidential Information and Video Programming Confidential Information of CBS Corp., Scripps Networks Interactive, Inc., The Walt Disney Company, Time Warner Inc., Twenty First Century Fox, Inc., Univision Communications Inc. and Viacom Inc., MB Docket No. 14-57 (Oct. 16, 2014); Objection to Request for Access to Highly Confidential Information and Video Programming Confidential Information of CBS Corp., Scripps Networks Interactive, Inc., The Walt Disney Company, Time Warner Inc., Twenty First Century Fox, Inc., Univision Communications Inc. and Viacom Inc., MB Docket No. 14-57 (Oct. 20, 2014).

Commission's *Modified Joint Protective Order*.³ Rather, the Programmers contend only (1) that WGAW's Director of Research and Public Policy, Ellen Stutzman, does not qualify as "Outside Counsel or as an Outside Consultant" for purposes of the *Modified Joint Protective Order*,⁴ and (2) more generally, that the Bureau erred in permitting any interested party, including WGAW's outside counsel and experts,⁵ to access Highly Confidential and Video Programming Confidential Information in this proceeding. Neither argument has merit. The Programmers also offer no evidence that these individuals are actually involved in Competitive Decision-Making.

Contrary to the Programmer's contention, Ms. Stutzman falls squarely within the definition of "Outside Consultant." Under the *Modified Joint Protective Order*, the term "Outside Consultant" includes "any consultant or expert employed by a non-commercial Participant in this proceeding, provided that such consultant or expert is not involved in Competitive Decision-Making."⁶ WGAW is a labor union—incorporated as a non-profit tax-exempt corporation—that engages in the representation through collective bargaining of writers of television shows, movies, documentaries and other audiovisual works. This qualifies WGAW as "a non-commercial participant"⁷ for purposes of the *Modified Joint Protective Order*. As WGAW's Director of Research and Public Policy, Ms. Stutzman acts as WGAW's public policy and regulatory expert in proceedings before the Commission and thus falls squarely within the definition of "Outside Consultant."

³ Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations and AT&T, Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations, *Order*, MB Docket Nos. 14-57, 14-90, DA 14-1463 (Oct. 7, 2014) (the "*Order*"); Applications 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) ("*MJPO 14-57*").

⁴ Objection to Request for Access to Highly Confidential Information and Video Programming Confidential Information of Discovery Communications LLC, MB Docket No. 14-57, at 7 (Oct. 16, 2014); Objection to Request for Access to Highly Confidential Information and Video Programming Confidential Information of CBS Corp., Scripps Networks Interactive, Inc., The Walt Disney Company, Time Warner Inc., Twenty First Century Fox, Inc., Univision Communications Inc. and Viacom Inc., MB Docket No. 14-57, at 8 (Oct. 16, 2014).

⁵ Michael A. Forscey, William S. Comanor, and Jon Riddle.

⁶ *MJPO 14-57* ¶ 2 (emphasis added).

⁷ WGAW has filed a Petition to Deny in this proceeding, and therefore qualifies as a participant under the *Modified Joint Protective Order*. *MJPO 14-57* ¶ 2; see Writers Guild of America, West, Inc., Petition to Deny, MB Docket No. 14-57 (Aug. 25, 2014).

CERTIFICATE OF SERVICE

I, Ellen Stutzman, Director of Research and Public Policy for the Writers Guild of America, West, Inc., certify on this 27th day of October, 2014, I caused true and correct copies of the foregoing letter to be served via electronic mail on the following individuals listed below:

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/s/ _____
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