

Stephanie A. Roy
202 429 6278
sroy@step toe.com

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

Step toe
STEPTOE & JOHNSON LLP

REDACTED—FOR PUBLIC INSPECTION

By ECFS

January 29, 2015

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation, 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 Ms. Dortch,

Pursuant to the *Second Amended Modified Joint Protective Order*¹ in the above-captioned proceeding, DISH Network Corporation (“DISH”) submits a public, redacted version of the attached ex parte notice dated January 29, 2015. DISH has denoted with “// //” symbols information that it has deemed Video Programming Confidential Information (“VPCI”) pursuant to the *Modified JPO*. The version of the notice containing VPCI is simultaneously being filed with the Commission and will be made available pursuant to the terms of the *Modified JPO*.

Please contact me with any questions.

Sincerely,



Stephanie A. Roy
Counsel to DISH Network Corporation

¹ 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, *Second Amended Modified Joint Protective Order*, DA 14-1639 (Nov. 12, 2014) (“*Modified JPO*”).



*Jeffrey H. Blum
Senior Vice President & Deputy General Counsel
Jeffrey.Blum@dish.com
(202) 293-0981*

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By ECFS

January 29, 2015

EX PARTE PRESENTATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

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

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, DISH Network Corporation ("DISH") submits this letter summarizing a meeting on January 27, 2015 with Hillary Burchuck, Jim Bird, Bill Friedman, and Joel Rabinovitz (by phone) of the Office of General Counsel; Jonathan Levy and Paul LaFontaine of the Office of Strategic Planning & Policy Analysis; Bill Lake, Hillary DeNigro, Sarah Whitesell, Mary Beth Murphy, Jeffrey Neumann, Alison Neplokh (by phone), John Kiefer (by phone), Julie Saulnier, Ty Bream, Jessica Campbell (by phone), Marcia Glauberman, Steven Broeckert (by phone), Elizabeth Cuttaer, Sean Mirzadegan (by phone), Keith Ingram, and Adam Lazaros of the Media Bureau; Allen Barna and Daniel Meyerson (by phone) of the Wireless Telecommunications Bureau; Octavian Carare (by phone) and Bill Dever of the Wireline Competition Bureau; and Brendan Villanueva (by phone) of the Public Safety and Homeland Security Bureau. Present on behalf of DISH were Jeffrey Blum, Senior Vice President and Deputy General Counsel; Josh Clark, Vice President, Programming (by phone); and Hadass Kogan, Associate Corporate Counsel.

During the meeting, DISH explained that a combined Comcast/Time Warner Cable ("TWC") would have greater scale than any other pay-TV provider, giving it the incentive and ability to thwart competing over-the-top ("OTT") and MVPD services. As DISH described in its Petition to Deny, if Comcast's subscriber base increases to include former TWC subscribers, Comcast will be able to employ its increased bargaining power to encourage programmers to withhold their programming from online video distributors ("OVDs") and rival MVPDs, or make

the programming available to these rivals only on relatively unfavorable terms and conditions. This strategy would directly benefit Comcast/TWC because, by restricting the quality and variety of programming available on rival OTT video providers' platforms, Comcast/TWC will be able to thwart the development of these services and charge higher prices for its own services, to the detriment of consumers and competition.¹

DISH also discussed, consistent with its Reply,² how a combined Comcast-TWC could employ a number of contractual tools to limit competing OVDs' ability to access programming. These include:

- Requiring competing OVD programming to be distributed through Comcast-TWC's cable MVPD service at below-market rates;
- Imposing contractual restrictions on third-party content providers to limit OVD access to content;
- Imposing contractual restrictions that limit the ability of OVDs to gain preferential/equal "windowing" of content;
- Imposing contractual restrictions on third-party content providers to limit OVD access to "must-have" or marquee programming; and
- Imposing contractual channel/bundling restrictions on third-party content providers to require OVDs to carry more channels than they otherwise would be required to.

In fact, DISH already has experienced difficulties in obtaining certain OTT rights from third-party programmers, possibly because of restrictive contractual limitations imposed by Comcast on such programmers.

//DISH VPCI Start//

¹ See DISH Network Corp., Petition to Deny, MB Docket No. 14-57, at 83-85 (Aug. 25, 2014).

² See DISH Network Corp., Reply to Opposition, MB Docket No. 14-57, at 123-126 (Dec. 22, 2014).

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//DISH VPCI End//

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Because of its increased scale post-merger, a combined Comcast/TWC would have the increased ability and incentive to engage in anticompetitive conduct and further restrict the ability of third-party programmers to grant online rights to competing OTT services, like DISH's. Post-transaction, Comcast/TWC will be able to sabotage competing OVDs and MVPDs through contractual and other limitations in ways that are subtle, complex and difficult to detect, to the detriment of competition and consumers.

Respectfully submitted,

/s/ Jeffrey H. Blum

Jeffrey H. Blum

cc: Hillary Burchuck
Jim Bird
Bill Friedman
Joel Rabinovitz
Jonathan Levy
Paul LaFontaine
Bill Lake
Hillary DeNigro
Sarah Whitesell
Mary Beth Murphy
Jeffrey Neumann
Alison Neplokh
John Kiefer
Julie Saulnier
Ty Bream
Jessica Campbell
Marcia Glauberman
Steven Broeckaert
Elizabeth Cuttaer
Sean Mirzadegan
Keith Ingram
Adam Lazaros
Allen Barna
Daniel Meyerson
Octavian Carare
Bill Dever
Brendan Villanueva