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January 29, 2015

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

Re: *Application of Comcast Corporation, 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 Ms. Dortch:

On January 27, 2015, Randall Boe, Executive Vice President and General Counsel of Monument Sports & Entertainment (“MSE”) and two outside legal counsel, Lyndsey Grunewald and the undersigned, met with the FCC staff copied below regarding the above-captioned proceeding.

Mr. Boe provided background on MSE, which owns the Verizon Center and three Washington, DC area professional sports teams—the Capitals (NHL), Wizards (NBA), and Mystics (WNBA). As indicated in MSE’s comments in this proceeding,¹ MSE has, at various times, contracted with Comcast Sports Net Mid-Atlantic (CSNMA) to produce and exhibit the games of these three teams. Mr. Boe explained how the proposed merger will harm competition in the market for professional sports production and exhibition rights. Specifically, Mr. Boe explained that (1) the total number of potential bidders for these rights will decrease from four to three,² (2) there are high barriers to entry into the regional sports network (“RSN”) market,³ and (3) various practices of Comcast and its affiliate regional sports network (the “Comcast Sports

¹ Comments of Monumental Sports and Entertainment (filed Aug. 25, 2014) (“Comment”); Reply Comments of Monumental Sports and Entertainment (filed Dec. 23, 2014) (“Reply Comment”).

² Comment at 1; Reply Comment at 5.

³ Reply Comment at 6-9.

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Network” or “CSN”) make it difficult for sports organizations to transfer the production and exhibition rights for their teams from CSN to a competitor or new entrant RSN.⁴

Mr. Boe also explained the public harm caused by Comcast’s ability to use its dominant position in the MVPD and regional sports programming market to demand below-market fees for sports teams’ production and exhibition rights.⁵ Specifically for NHL and NBA teams, local production and exhibition rights fees are a significant portion of the teams’ total revenue and an important factor in being able to maintain the quality of the sporting events enjoyed by the public.

Mr. Boe also proposed conditions on approval of the merger that would alleviate some of the anticompetitive effects of this merger on the market for local sports production and exhibition rights. Specifically, Comcast should be required, as a condition of approval of the merger, to agree:

1. To eliminate its corporate policy requiring online exhibition rights to be included in all programming or exhibition rights agreements;
2. To not enforce CSN backend rights provisions in any current sporting event production and exhibition rights agreement and not to include these backend rights in any future agreements;
3. To not retaliate against a major sports team⁶ for ending a rights agreement with CSN and moving its sporting events to a non-Comcast affiliated RSN by (1) refusing to carry that unaffiliated RSN on its cable system in the market, (2) relegating that programming to a programming tier other than the one on which CSN is carried, or (3) refusing to pay reasonable fees to that RSN for carriage rights for its programming; and
4. If an RSN files a complaint regarding the type of retaliation described above with the FCC under the Commission’s program carriage complaint procedures, 47 C.F.R. § 76.1302, Comcast agrees to provisionally carry that RSN during the pendency of the

⁴ *Id.*

⁵ Comments at 5-6.

⁶ This would include a sports team that is a member of Major League Baseball, the National Basketball Association, the National Football League, the National Hockey League, NASCAR, NCAA Division I Football, or NCAA Division I Basketball.

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complaint procedures upon the RSN showing that it carries the programming of a major sports team that CSN carried in the prior season and Comcast has engaged in one of the three retaliatory actions described above.

Sincerely,


Tom W. Davidson

cc: Jim Bird
Ty Bream
Hillary DeNigro
Bill Dever
Marcia Glauberman
William Lake
Jeffrey Neumann
Julie Saulnier
Sarah Whitesell
Andrew Wise