

March 26, 2015

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
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 Ms. Dortch:

This responds to yesterday's *ex parte* letter from Stop Mega Comcast Coalition ("SMC"),¹ which grossly mischaracterizes certain facts and is based solely on ripped-from-the-headlines innuendo and willfully repeated errors. With each of its filings, SMC invalidates itself further, and its contributions to the above-captioned proceeding, such as they are, should be rejected.²

First, SMC asserts that it "*appears* from press reports that Comcast *may be* withholding" NBCUniversal content from Apple's reported new OVD venture, and that, "*if true*, this conduct is a *potential* violation" of the NBCUniversal Conditions.³ The necessity of couching these allegations in such qualified terms should have been enough to make SMC think twice about making such allegations in the first place in a submission to the Commission. But it seems that SMC is more than comfortable engaging in rank speculation.

¹ See Letter from Stop Mega Comcast Coalition, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 14-57 (Mar. 25, 2015) ("SMC March 25 Letter").

² Comcast previously refuted SMC's prior *ex parte* letter, which aggregated numerous false and incoherent theories of harm. See Letter from Francis M. Buono, Willkie Farr & Gallagher LLP, Counsel for Comcast Corp., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 14-57 (Mar. 11, 2015).

³ See SMC March 25 Letter at 1 (emphasis added).

Notably, the plain facts undermine SMC's latest salvo. Not only has NBCUniversal *not* "withheld" programming from Apple's new venture, Apple has not even *approached* NBCUniversal with such a request. Meanwhile, NBCUniversal *has* licensed substantial amounts of content to Apple in connection with the platforms for which Apple *has* approached NBCUniversal. And of course NBCUniversal provides substantial content to many other OVDs, and recently has licensed programming to Sony for its new linear Vue service.⁴ In short, there is nothing to this allegation SMC seeks to perpetuate.

Second, staying in the realm of baseless allegations, SMC once gain attempts to rewrite history by claiming that NBCUniversal acted in bad faith toward Project Concord, did not provide the service "access" to NBCUniversal programming, and litigated it out of existence.⁵ Unfortunately, the Media Bureau's own order – which SMC cites – as well as the real world facts, contradict these allegations, as Applicants explained in their Opposition and Response.⁶

To reiterate: Contrary to SMC's claim that the Bureau "ruled in favor of Project Concord,"⁷ the very first paragraph of the Order makes clear how the Bureau ruled on the core issue in the case: "[W]e conclude that NBCU has demonstrated by a preponderance of the evidence that licensing certain films and TV programs to PCI would constitute a breach of various NBCU licensing agreements that are 'consistent with reasonable, common industry practice.'"⁸ Just one sentence more in that first paragraph provides the following: "[W]e conclude that NBCU did not engage in 'unreasonable conduct' during the course of the arbitration proceeding that would warrant grant of PCI's request to shift its attorneys' fees and other costs and expenses to NBCU."⁹ And as to being litigated "out of existence," the reality is that just a few months after this Order, Project Concord (renamed "HitBliss") launched with a substantial amount of NBCUniversal programming.¹⁰ Thus, far from sullyng Comcast's track record with respect to OVDs, this one instance of an arbitration under the NBCUniversal Conditions, if anything, reinforces that Comcast has taken its compliance obligations very seriously.

⁴ See Press Release, Sony, Sony Network Entertainment International and Sony Computer Entertainment Unveil PlayStation Vue, A New Cloud-Based TV Service That Pioneers the Future of Television (Nov. 13, 2014), <http://www.prnewswire.com/news-releases/sony-network-entertainment-international-and-sony-computer-entertainment-unveil-playstationvue-a-new-cloud-based-tv-service-that-pioneers-the-future-of-television-282517811.html>; see generally Comcast Corp., Fourth Annual Report of Compliance with Transaction Conditions, MB Docket No. 10-56, at 3-4 (Feb. 27, 2015).

⁵ SMC March 25 Letter at 1-2.

⁶ See Comcast Corp., and Time Warner Cable Inc., Opposition to Petitions to Deny and Response to Comments, at 90 n.255, 247 (Sept. 23, 2014).

⁷ SMC March 25 Letter at 2.

⁸ See *Project Concord, Inc. v. NBCUniversal Media, LLC*, Order on Review, 27 FCC Rcd. 15109 ¶ 1 (MB 2012) (Commission review pending).

⁹ See *id.*

¹⁰ See Jeanine Poggi, *HitBliss Offers Consumers TV, Movie Access in Exchange for Watching Ads*, Advertising Age, Mar. 1, 2013, <http://adage.com/article/media/hitbliss-offers-consumers-money-watch-ads/240099/> ("At launch, HitBliss will offer TV shows and movies from NBCUniversal, Starz and Paramount.").

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In short, SMC's latest letter contributes nothing of value to this proceeding and should be, at a minimum, ignored.

Please direct any questions to the undersigned.

Respectfully submitted,

/s/ Francis M. Buono _____

Francis M. Buono

Counsel for Comcast Corporation