COVINGTON

BEIJING BRUSSELS LONDON LOS ANGELES
NEW YORK SAN FRANCISCO SEOUL
SHANGHAI SILICON VALLEY WASHINGTON

Mace Rosenstein

Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 5460
mrosenstein@cov.com

REDACTED -- FOR PUBLIC INSPECTION

April 2, 2015

By Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street SW
Washington, D.C. 20554

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

Dear Ms. Dortch:

Pursuant to the Second Amended Modified Joint Protective Order in this proceeding[1] and the instructions set out in the Commission's letter and accompanying "Request for Information" dated February 25, 2015,[2] we submit herewith on behalf of Time Warner Inc. the enclosed ***unredacted***, ***Highly Confidential Information*** in response to the Request for Information.

The enclosed response consists throughout of ***Video Programming Confidential Information***. Accordingly, the submission is entitled to protection from disclosure to any third parties and is being made available for inspection and review solely by Commission staff

---

[1] *Applications of Comcast Corporation and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations*, Second Amended Modified Joint Protective Order, 20 FCC Rcd 13799 (Nov. 12, 2014) (the "Second Amended Modified Joint Protective Order").

[2] Letter from William T. Lake, Chief, Media Bureau, to Paul T. Cappuccio and attached Request for Information to Time Warner Inc. (Feb. 25, 2015) (collectively, "Request for Information").

pursuant to the terms of the Second Amended Modified Joint Protective Order and the order of the U.S. Court of Appeals for the D.C. Circuit in *CBS Corp. v. Federal Communications Commission*, No. 14-1242 (Nov. 21, 2014).

Separately, also pursuant to the Second Amended Modified Joint Protective Order and as directed by FCC staff, Time Warner Inc. is submitting (1) one copy of the response in an encrypted .pdf file to Vanessa Lemmé of the Media Bureau, and (2) a redacted, public version of this response *via* ECFS.

Please direct any questions regarding this submission to the undersigned.

Respectfully submitted,

/s/

Mace Rosenstein

Counsel for Time Warner Inc.

APRIL 2, 2015

RESPONSES OF TIME WARNER INC. TO THE INFORMATION REQUESTS OF THE FEDERAL COMMUNICATIONS COMMISSION DATED FEBRUARY 25, 2015

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

Time Warner Inc. ("Time Warner") submits the following written responses to the Information Requests of the Federal Communications Commission ("FCC") issued to Time Warner on February 25, 2015, in connection with the FCC's review of the applications referenced above. These responses relate to the highly confidential terms of agreements for the licensing and distribution of Time Warner's video programming and to the negotiation and implementation of such agreements. Accordingly, as acknowledged in the transmittal letter of William T. Lake, Chief of the FCC's Media Bureau, to Time Warner, the following responses constitute Video Programming Confidential Information ("VPCI") subject to the Second Amended Modified Joint Protective Order issued in MB Docket No. 14-57 and the Order entered on November 21, 2014, in *CBS Corp., et al. v. FCC & United States*, No. 14-1242 (D.C. Cir.).

Introduction and Summary

<u>Responses to Specifications</u>

1. Identify and list each agreement between (a) the Company and an Applicant, or (b) the Company and the Announced OVD Services, relating to the licensing of the Company's Video Programming that has been effective at any time during the period beginning January 18, 2011, through the date of this Request.

2. Identify any provision in each agreement listed in response to Specification 1(a) that limits or reduces the Company's incentive or ability to:

a. license its Video Programming to an OVD (including an Announced OVD Service) or to offer Video Programming directly to consumers via the Internet, including, but not limited to, any economic or non-economic Most-Favored-Nations obligations, provisions relating to exclusive distribution or further distribution by another Person or through the use of windows, limits on distribution on a specific platform (e.g. Cable System, via the Internet), limits on the Applicant's subscribers' ability to view the Company's Video Programming through an authentication process or on a particular device, limits on the number of promotions, stunts or clips that the Company can distribute, and limits on the number of Video Programming networks that can be aggregated on a single website or single application; and

b. sell advertising for, or otherwise monetize its Video Programming through distribution to an OVD or by the Company offering its Video Programming via the Internet directly to consumers.

3. Describe each provision identified in response to Specification 2, and describe:

a. the negotiation of the provision;

b. the events or acts that trigger the application of the provision, and the acts taken or the restriction imposed when the provision is triggered or otherwise becomes effective;

c. the efforts taken by the relevant Applicant, if any, to enforce the provision, including but not limited to discussions between the Company and the Applicant about the enforcement of the provision, the Company's response thereto and the results of those efforts; and

d. whether similar provisions exist in the Company's agreements with other MVPDs.

Time Warner's TV Networks

Time Warner has two operating subsidiaries that produce video programming in the form of cable TV networks: Turner and HBO.

Turner produces basic cable TV networks, including TBS, TNT, CNN, Cartoon Network, TruTV, Turner Classic Movies, and others, and it earns revenues both through the sale of national advertising and through fees generated from licensing agreements with TV distributors—primarily MVPDs like Applicants.

HBO produces premium cable TV networks, including HBO- and Cinemax-branded networks that feature original programming, recently released movies, and other premium video content. HBO earns revenues primarily through fees from MVPDs for the licensing of its video programming; its premium networks do not generate revenue through advertising.

4. Describe all provisions relating to restrictions or limitations on distribution of the Company's Video Programming, including but not limited to windowing, device approval, and authentication that were proposed by an Applicant during negotiations that the Company successfully sought to exclude from the Video Programming distribution agreement it ultimately entered into with the Applicant, and the reason given by the Applicant for the provision.

5. Describe all oral and written communications relating to any statement by Comcast that the provisions identified in response to Specification 2 were either no longer effective or would not be enforced as a result of the Comcast-NBCU Order or the Final Judgment entered in U.S. v. Comcast Corp. and NBC Universal, Inc., Civ. Action No. 1:11-cv-00106 (D.D.C. 2011).

6. If an action by the Company triggered any of the Most-Favored-Nations provisions identified in response to Specification 2, identify the provision and describe the acts taken by the Company to comply with the requirements of the provision, and the Applicant's response thereto.

7. For each provision identified in response to Specification 2 that prevented, affected or limited the nature or scope of the license for Video Programming that the Company entered, was willing to enter, or was able to enter with the Announced OVDs, identify the provision and describe in detail how the provision influenced the Company's licensing decision. Describe all communications between the Company and the relevant Applicant relating to negotiation of any agreement listed in response to Specification 1(b), including, but not limited to, negotiations to modify the impact of any provision identified in response to this Specification on the Company's ability to license the Video Programming covered by the provision to an Announced OVD, and the results of those discussions.

8. Identify each provision identified in response to Specification 2 that could inhibit the Company's ability to license its Video Programming to an OVD which proposes to employ new or different business models than those that have been offered to consumers to date, and describe the provision's effect and impact on the Company's licensing practices.

9. Describe any efforts or actions, not otherwise described, that relate to the use or potential use of current or prospective Video Programming agreements or negotiations between the Company and an Applicant, in a manner that would limit the ability of the Company to provide its Video Programming to an MVPD, OVD or by the Company directly to consumers.

10. For any OVD service that the Company has considered, plans to provide, or provides:

a. describe each provision identified in response to Specification 2 that influenced the Company's decision to launch, or not launch, such service, or limited the nature or scope of the OVD service that the Company was willing to or able to launch, and describe in detail how the provisions influenced the Company's decision-making;

b. describe any discussions concerning such current or prospective agreements or negotiations with the Applicants about the provisions identified in this subpart a of this Specification relating to such OVD service; and

c. if the Company has launched such service, describe any reaction by the Applicants to the service and any discussions with the Applicants about such service to the extent they concern the existence or prospective creation of Video Programming agreements or negotiations.

11. Identify and describe the Applicants' obligations, and limits thereon, contained in the agreements listed in response to Specification 1(a) to provide the Company the metrics and data relating to views of the Company's Video Programming by the Applicants' subscribers, and describe how the information received pursuant to the provision impacts the Company's ability to effectively monetize its Video Programming and sell advertising.

12. With respect to each provision identified in response to Specification 2, describe any consideration or other benefit that was either offered by an Applicant or accepted by the Company in exchange for the Company's agreement to include the provision in the agreement.

13. Describe any material differences among the Company's agreements with each of the Applicants, including differences among any provisions identified in response to Specification 2, and whether the terms of any one Applicant's agreements with the Company, taken in the aggregate, could be characterized as more favorable to the relevant Applicant than the Company's affiliation agreements with other Applicants.

14. Describe all communications between the Company and the Applicants related to the negotiation of any agreement listed in response to Specification 1(a) that discuss:

a. the importance to the Company of reaching a minimum level of penetration for the Company's Video Programming;

b. the importance to the Company of being carried on a particular programming tier;

c. the need to obtain carriage for the Company's Video Programming from another MVPD prior to obtaining carriage from the relevant Applicant; and

d. the importance of achieving distribution for the Company's Video Programming in in any specific geographic markets, including, but not limited to, any discussions related to the Company's ability to reach a critical mass of subscribers to launch a new network, attract national or regional advertisers, maintain long-term viability, or compete effectively with other video programmers.

EXHIBIT A

1. *Identify and list each agreement between (a) the Company and an Applicant, or (b) the Company and the Announced OVD Services, relating to the licensing of the Company's Video Programming that has been effective at any time during the period beginning January 18, 2011, through the date of this Request.*

2. Identify any provision in each agreement listed in response to Specification 1(a) that limits or reduces the Company's incentive or ability to:

a. license its Video Programming to an OVD (including an Announced OVD Service) or to offer Video Programming directly to consumers via the Internet, including, but not limited to, any economic or non-economic Most-Favored-Nations obligations, provisions relating to exclusive distribution or further distribution by another Person or through the use of windows, limits on distribution on a specific platform (e.g. Cable System, via the Internet), limits on the Applicant's subscribers' ability to view the Company's Video Programming through an authentication process or on a particular device, limits on the number of promotions, stunts or clips that the Company can distribute, and limits on the number of Video Programming networks that can be aggregated on a single website or single application; and