



The Discovery File
of the Federal Communications Commission
File No. 03-562-7134

ORIGINAL

EX PARTE OR LATE FILED

RECEIVED

AUG 11 2003

Federal Communications Commission
Office of Secretary

August 11, 2003

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

Re Ex Parte Presentation in CS Docket No 98-120

Dear Ms Dortch

On August 11, 2003, Discovery Communications, Inc. delivered the attached written ex parte letter from Discovery Chairman and CEO John Hendricks to each FCC Commissioner, with a carbon copy to his/her advisor.

In accordance with the Commission's Rules, two copies of each letter are attached and are being filed with your office.

Sincerely,

Alexa Verveer

Attachments

071



One Discovery Place
Silver Spring, Maryland, 20910

T 240 662 5200
F 240 662 5252

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Ex Parte

John S. Hendricks
Chairman and Chief Executive Officer

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Ex Parte Presentation

Commissioner Kevin Martin
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Federal Communications Commission
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Re: Ex Parte Presentation in CS Docket No. 98-120

Dear Commissioner Martin:

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I commend the FCC's commitment to advancing the digital transition. Efforts to do so, however, by granting broadcasters dual must carry and/or multicast must carry rights, will result in the following unfortunate unintended consequences: (1) Independent programmers like Discovery will lose distribution as the broadcast networks gain ever more leverage and market power; (2) the quality of programming will suffer; and (3) cable rates will be artificially inflated.

In today's marketplace, broadcast networks have a tremendous amount of leverage. One need look no further than the cable line-up in any major market to learn that a vast number of networks carried on the cable system are broadcast networks and their affiliated cable channels. The number of carried networks operated by independent, high-quality programmers like Discovery is limited.¹ Permitting the must carry

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August 11, 2003

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Indeed, the quality of programming will suffer as independent programmers lose capacity. In a dual must carry environment, networks like Discovery en Español, which offers Spanish-speaking audiences programs that celebrate their heritage and diversity, and Discovery Kids, which provides children with educational and informational programming, including preschool programming entirely devoid of commercial messages and underwriting, would be in serious jeopardy of losing carriage. In place of such quality networks, consumers largely would be offered digital versions of broadcasters' analog programming. That kind of redundant content will not speed the transition.

A multicast must carry regime, post-transition, similarly will impede the availability of compelling digital programming. If broadcasters have to compete for carriage of programming above and beyond their primary video programming stream, they are more likely to create quality programming. However, there is no such incentive for broadcasters to create compelling programming when carriage is guaranteed. Further, because operators will be hard-pressed to carry niche networks with similar themes, operators may end up being forced to sacrifice critically acclaimed, award-winning independent networks for lesser quality broadcast networks. For example, an operator required to carry a Spanish language broadcast network and/or a children's broadcast network may drop or delay launch of Discovery en Español and/or Discovery Kids.

Finally, a grave byproduct of expanded must carry rights would be increased cable fees for consumers. During the next five years, there will be some very understandable rate increase pressures on the basic cable bill as the nation moves from analog to digital transmission. However, increasing broadcasters' leverage has the potential to raise rates beyond what is legitimately necessary, a consequence the FCC surely does not favor.

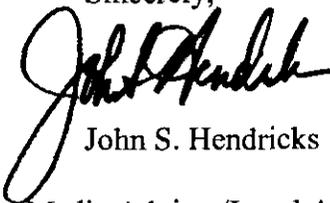
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John S. Hendricks

cc: Daniel Gonzalez, Acting Media Advisor/Legal Advisor



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Silver Spring, Maryland, 20910
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Ex Parte

John S. Hendricks
Chairman and Chief Executive Officer

August 11, 2003

Ex Parte Presentation

Commissioner Kathleen Abernathy
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Presentation in CS Docket No. 98-120

Dear Commissioner Abernathy:

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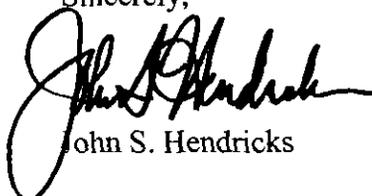
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John S. Hendricks

cc: Stacy Robinson, Mass Media Legal Advisor



One Discovery Place
Silver Spring, Maryland, 20910
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John S. Hendricks
Chairman and Chief Executive Officer

August 11, 2003

Ex Parte Presentation

Commissioner Jonathan Adelstein
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Presentation in CS Docket No. 98-120

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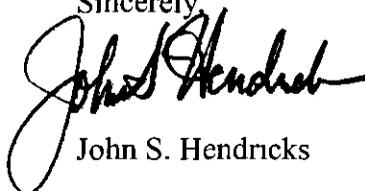
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cc: Barry Ohlson, Acting Media Advisor/Legal Advisor



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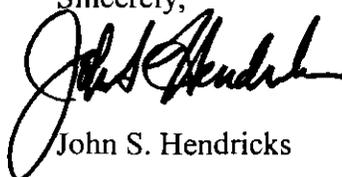
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cc: Jordan Goldstein, Senior Legal Advisor



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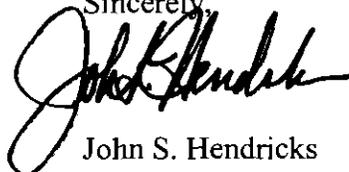
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cc: Marsha J. MacBride, Chief of Staff