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October 18, 2004

W. Kenneth Ferree
Bureau Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *In the Matter of A la Carte Themed Tier Programming and Pricing Options for Programming Distribution on Cable Television and Direct Broadcast Satellite Systems*, MB Docket No. 04-207

Dear Mr. Ferree:

As the FCC continues to analyze the implications of a la carte pricing, I am compelled to correct erroneous statements made in this proceeding about distribution of Discovery's networks. I trust the FCC will find the corrected record of use in preparing its report to Congress.

As you may know, Discovery, similar to assertions others have made in this proceeding, discussed in its a la carte comments the related issue of retransmission consent negotiations for local broadcast signals and the fact that such negotiations effectively require carriage of broadcaster-affiliated networks that distributors otherwise would not carry. As a result, many networks not affiliated with broadcasters are excluded from carriage on operators' systems.

In its reply comments, the National Association of Broadcasters (NAB) challenged the veracity of Discovery's assertion that its programming has been excluded from distribution by broadcast-affiliated networks where capacity was limited. In fact, NAB criticized Discovery for not citing any examples of such exclusion and claimed that the presence of Discovery's networks in the Manhattan market contradicted Discovery's contentions.

Ironically, one need look no further for an example of exclusion than the very market NAB references. In the Manhattan market, Discovery has been unable to gain carriage on the expanded basic level of service of either Animal Planet or the Travel Channel, two of Discovery's leading and consistently highly rated networks. The vast majority of channel capacity on the tier is taken up by the operator's need to carry other programming, almost 60 percent of which is broadcast-affiliated. A review of the total line-up, including digital programming, in Manhattan is similarly telling as broadcast stations and their affiliated networks comprise approximately 43 percent of the channels in the line-up.

Thus, a true accounting of the Manhattan market--one that considers not only broadcast stations themselves but also their affiliated networks--illustrates that broadcasters have and do

exercise significant market power with respect to both expanded basic and digital tiers, often to the detriment of non-affiliated programmers. Absent corrective action by the Commission, we fear the trend will continue, depriving consumers of quality programming at reasonable rates. Therefore, for all of the reasons stated in our previously filed comments, we respectfully request that the Commission take action to remedy this situation.

Sincerely,



Bill Goodwyn
President, Affiliate Sales and Marketing

cc: Chairman Michael K. Powell
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein

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