



Via ELECTRONIC FILING

January 11, 2006

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

Re: Proposed Acquisition of Adelphia Cable Systems by Comcast and
Time Warner Cable
MB Docket No. 05-192

Dear Ms. Dortch:

EchoStar Satellite L.L.C. ("EchoStar") is hereby requesting authorization from the Media Bureau to submit information on a "Highly Confidential" basis pursuant to the Second Protective Order (DA 05-3226) (rel. Dec. 21, 2005) issued in this proceeding. Under that Order, "only those documents that are specifically authorized by the Bureau to be submitted under it" may be filed by Submitting Parties such as EchoStar. *Id.* at ¶ 7.

The Media Bureau staff has requested that EchoStar submit in this proceeding information on the impact that denial of access to regional sports programming has had on EchoStar's subscriber penetration rates in affected markets. Such information was previously provided to the Commission in the News Corp./DIRECTV merger proceeding on a "Highly Confidential" basis and EchoStar is seeking to resubmit that information in this docket on the same basis.¹ The information being submitted in response to the Bureau's request warrants the additional protection afforded by the Second Protective Order because of the highly sensitive nature of the business data involved. EchoStar's subscriber penetration rates in various markets and the impact of denial of regional sports programming on such rates is extremely sensitive

¹ See "Highly Confidential" Letter from Pantelis Michalopoulos and Rhonda M. Bolton, Counsel for EchoStar Satellite Corp. to Marlene H. Dortch, Secretary, FCC, *filed in* MB Docket No. 03-124 (filed Dec. 15, 2003).

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business information that, if released, would place EchoStar at a significant commercial and competitive disadvantage. First, the release of such information could seriously compromise EchoStar's ability to negotiate with regional sports networks, by enabling them to gauge the impact of withholding their programming from EchoStar and to negotiate accordingly on price and terms. In addition, an understanding of EchoStar's subscriber penetration rates in various markets would enable EchoStar's competitors to ascertain EchoStar's competitive presence in those markets and to act strategically in a manner that could cause significant harm to EchoStar or consumers. EchoStar notes in that respect that many of its competitors, including the two largest cable Multiple System Operators in the country and the other Direct Broadcast Satellite provider, are parties in this proceeding. Comcast and Time Warner also control key programmers from whom EchoStar wishes to shield that information. Review of the data in question by the in-house personnel of any of these parties could therefore prejudice EchoStar competitively.

Accordingly, for all of these reasons, the Media Bureau should authorize EchoStar to submit the requested information under the Second Protective Order.

Respectfully submitted,

/s/

David K. Moskowitz
Executive Vice President and
General Counsel
EchoStar Satellite L.L.C.

cc: (via electronic mail)

Julie Salovaara
Brenda Lewis
Jim Bird
Donna Gregg
Sarah Whitesell
Tracy Waldon
Royce Sherlock