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October 23, 2007

Via Hand Delivery

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

FILED/ACCEPTED

OCT 23 2007

Federal Communications Commission
Office of the Secretary

Re: Consolidated Application of News Corporation and the DIRECTV Group, Inc.,
Transferors, and Liberty Media Corporation, Transferee, for Authority to
Transfer Control, MB Docket No. 07-18

Dear Ms. Dortch:

This letter responds to the request of the Commission's transaction team on October 12, 2007 for updated and additional information regarding the ownership and corporate governance of Discovery Holding Company LLC ("DHC"). We provide below the requested ownership and corporate governance information and also a discussion of the relevant program access and other protections for access to "Discovery" programming.

A. Updated Ownership Information

The Consolidated Application for Authority to Transfer Control, filed on January 29, 2007, reported at 11 that DHC then owned 50% of Discovery Communications, Inc. ("DCI") and that the remaining 50% was divided equally between Cox Communications, Inc. ("Cox") and Advance Newhouse Programming Partnership ("Advance/Newhouse"). As reported in DHC's response to the Commission's Information Request No. III.A.1, filed on July 9, 2007, DHC's interest in DCI,¹ which is held indirectly through Discovery Communications Holding LLC ("Discovery LLC"), increased to 66% when Discovery LLC acquired Cox's 25% interest. The current ownership interest of DHC in Discovery LLC and Discovery is outlined in the chart annexed as Exhibit 1. DHC also included in its response to the Commission's

¹ On May 14, 2007, DCI converted from a corporation to a limited liability company and is now referred to as Discovery Communications LLC ("Discovery").

Information Request No. III.A.1 a copy of the supermajority voting provisions of the Amended and Restated Limited Liability Company Agreement of Discovery Communications Holdings LLC, dated as of May 14, 2007, which require an 80% vote of the shareholders (thereby giving Advance/Newhouse negative control) for the matters enumerated in the Agreement.

As disclosed in an SEC Form 8-K Report, filed by DHC on September 21, 2007, DHC and Advance/Newhouse are engaged in preliminary discussions concerning an exchange of Advance/Newhouse's interests in Discovery LLC for shares of DHC. Those discussions include "matters relating to valuation and governance" as well as other "significant business and legal issues," and DHC can provide "no assurance as to the probability, timing or terms (financial or otherwise) of any such transaction." *Id.*

B. Corporate Governance

DHC is a public company whose shares are traded on the Nasdaq Global Select Market. The Board of Directors of DHC currently is comprised of five members: Dr. John C. Malone; Robert R. Bennett; Paul A. Gould; M. LaVoy Robison; and J. David Wargo. A majority of the Board is comprised of independent directors (Messrs. Gould, Robison and Wargo). DHC's Corporate Governance Guidelines provide that "[c]andidates for nomination or reelection to the Board will be identified by a majority of independent directors" and recommended to the full Board for approval. *See* DHC Corporate Governance Guidelines, adopted May 3, 2005, at §2 (copy annexed as Exhibit 2). Although the size of the DHC Board may vary between three and nine members, "a majority of the Board will consist of directors who are independent." *Id.* The Audit Committee of the Board is comprised of the three independent directors. *See* DHC Board of Directors and Committee Members (copy annexed as Exhibit 3).

Dr. Malone serves as Chairman of DHC's Board, and he holds DHC stock (including Series A and Series B shares) equal to approximately 5.47% of all outstanding shares and 31.08% of the overall voting power of DHC as of July 31, 2007. The shares upon which the above ownership percentages were calculated include: (a) shares owned by Dr. Malone; (b) shares owned by his wife, Leslie Malone (as to which shares Dr. Malone has disclaimed beneficial ownership); (c) shares held by two trusts with respect to which Dr. Malone is the sole trustee; and (d) shares that are subject to options which were exercisable as of, or within 60 days of, July 31, 2007 (and, with respect to certain options to purchase Series B shares, as to which Dr. Malone has the right to convert such options into options to purchase an equivalent number of Series A shares). Dr. Malone also serves and has one vote on the three-person Executive Committee of DHC. The other two Executive Committee members are Robert R. Bennett, President of DHC, and Paul A. Gould, an independent director, each of whom has one vote.

Discovery is now a limited liability company wholly owned by its sole member, Discovery LLC. Discovery does not have a board of directors and is managed by Discovery LLC. The business and affairs of Discovery LLC are managed by its members, DHC, Advanced/Newhouse and John Hendricks. Each member is required to designate one individual to act as its representative at each meeting of the members of Discovery LLC. At the most recent meeting of Discovery LLC members, the member representatives were Robert R. Bennett (DHC), Robert Miron (Advance/Newhouse) and John Hendricks.

C. Program Access and Other Protections

In addition to the Corporate Governance structure and supermajority voting provisions set forth above, there are a number of other regulatory, legal and practical protections eliminating any potential competitive issue relating to the programming services offered by Discovery. First, Discovery is subject to the Commission's program access rules by virtue of the ownership interest of Advance/Newhouse in Discovery LLC and the attribution of Dr. Malone's ownership and positional interests in Liberty Global, Inc., which owns a cable television system in Puerto Rico.

The Commission consistently has found that its program access rules provide adequate protection for vertically-integrated, nationally-distributed programming services. *General Motors Corporation and Hughes Electronics Corporation, Transferors, and The News Corporation, Transferee*, 19 FCC Rcd. 473 (2004) ("*News Corp. Order*"), at ¶124; *Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation, Assignors and Transferors, Comcast Corporation and Time Warner Inc., Assignees and Transferees*, 21 FCC Rcd. 8203 (2006) ("*Adelphia Order*"), at ¶168. For example, in the *Adelphia Order*, the Commission found that no additional protections were required for nationally-distributed programming:

With respect to nationally distributed programming, we find that the existing program access rules will ensure that competing MVPDs have access to programming networks that are affiliated with Comcast or Time Warner and that the terms and conditions of that access do not unfairly disadvantage competing MVPDs. All of the national programming networks affiliated with Comcast and Time Warner are delivered by satellite and are therefore subject to the program access rules.

21 FCC Rcd. 8203, at ¶168. Since then, the Commission has modified the program access rules to increase their effectiveness and currently is considering further changes to provide additional protections to unaffiliated multichannel video programming distributors ("MVPDs").

Second, Liberty Media already has agreed to accept the conditions imposed upon News Corp. in the *News Corp. Order*. Among other things, those conditions: (a) prohibit DIRECTV from entering into an exclusive distribution arrangement with any “Affiliated Program Rights Holder;” and (b) state that neither News Corp. nor DIRECTV may “unduly or improperly influence (i) the decision of any Affiliated Program Rights Holder to sell programming to an unaffiliated MVPD; or (ii) the prices, terms and conditions of sale of programming by any Affiliated Program Rights Holder to an unaffiliated MVPD.” *News Corp. Order* at Appendix F. If these conditions are applied to Liberty Media in this transaction, Discovery would be deemed to be an “Affiliated Program Rights Holder” under the applicable definition² because Dr. Malone would hold attributable interests in both Liberty Media (by virtue of his ownership and director position) and Discovery (by virtue of his ownership and director position in DHC).

Finally, the presence of Advance/Newhouse, whether as the current one-third shareholder of Discovery LLC or potentially as the largest single shareholder of DHC, affords practical and legal protections against any potential action by Dr. Malone or any other DHC director for the benefit of DIRECTV. As a sophisticated, self-interested and substantial shareholder, Advance/Newhouse simply would not acquiesce in any action by Dr. Malone or any other DHC director for the benefit of other entities in which they hold an interest. In addition, approximately 32% of the equity (and approximately 23% of the outstanding voting power) of DHC is held by four large asset management companies, each of which clearly has the knowledge and resources to protect and enforce its shareholder rights.

Conclusion

The Commission’s program access rules and the conditions set forth in the *News Corp. Order*, which Liberty Media agreed to accept from the outset of this proceeding, provide ample regulatory protection for competitive access to Discovery’s programming services. The presence of a majority of independent directors on the DHC Board and the fiduciary obligations imposed by law on all DHC directors provide internal safeguards against any conduct unduly favoring DIRECTV. Finally, the supermajority voting rights and mere presence of Advance/Newhouse as a one-third owner of Discovery Communications Holdings LLC, and the existence of several other large, sophisticated and unaffiliated asset managers as shareholders in DHC, would provide powerful third-party checks on any attempt by DHC directors to discriminate in favor of DIRECTV. Under well-established Commission

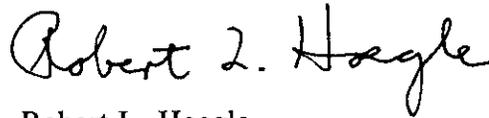
² The term “Affiliated Program Rights Holder” is defined to include: (a) a program rights holder in which News Corp. or DirecTV holds a non-controlling “Attributable Interest” (as determined in the FCC’s program access attribution rules); and (b) a program rights holder in which an entity holding a non-controlling Attributable Interest in News Corp. or DirecTV holds an Attributable Interest, provided that News Corp. or DirecTV has actual knowledge of such entity’s Attributable Interest in such program rights holder.” *Id.* at Appendix F, n.1.

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precedent, no further regulatory protections are necessary or appropriate in the context of the proposed transaction.

If the Commission staff has any further questions concerning these matters, please contact us.

Respectfully submitted,



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RLH/TJF:kjk
Enclosures

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EXHIBIT 1

**Discovery Holding Company
Ownership Structure**

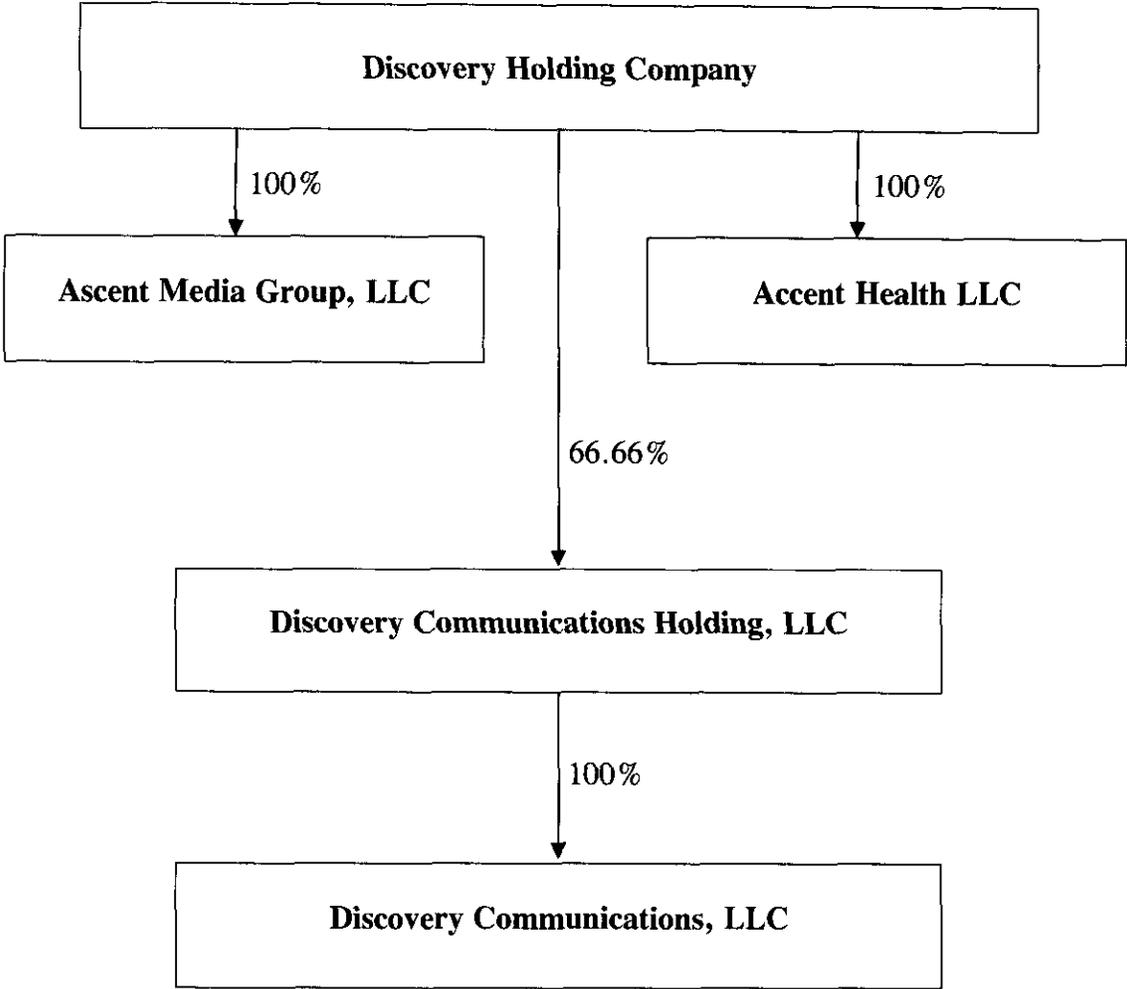


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Corporate Governance

Discovery Holding Company Corporate Governance Guidelines

Adopted May 3, 2005

The Board of Directors (the "Board") of *Discovery Holding Company* (the "Corporation") has adopted these Corporate Governance Guidelines as a framework for Board governance over the affairs of the Corporation for the benefit of its shareholders.

1. Roles Of Management And The Board

The Corporation's officers and employees, under the direction of its Chief Executive Officer and the oversight of the Board, conduct the Corporation's business with the goal of enhancing the long-term value of the Corporation for the benefit of its shareholders. The Board is elected by the shareholders to oversee the management of the Corporation and to help assure that the interests of the shareholders are served.

2. Board Composition

Under the Corporation's charter documents, the Corporation is to have a staggered board comprised of not less than three nor more than nine members, with the exact number to be fixed from time to time by the Board (subject to the rights of holders of any series of preferred stock which the Corporation may issue in the future). While the Board currently believes that the

optimal number of members of the Board is between five and nine, it retains the discretion to change the number of members from time to time as changing circumstances may warrant.

Candidates for nomination or reelection to the Board will be identified by a majority of the independent directors (as determined in accordance with the "Criteria for Director Independence" attached to these Corporate Governance Guidelines as *Annex A*) and recommended to the Board for approval.

Each director should meet the qualifications for Board membership set forth in Paragraph 3 below.

Subject to the phase in period applicable to a company listing its securities on the Nasdaq National Market in connection with an initial public offering, a majority of the Board will consist of directors who are independent, as determined in accordance with the "Criteria for Director Independence" attached to these Corporate Governance Guidelines as *Annex A* , as the same may be amended by the Board from time to time.

3. Director Qualification

Candidates for nomination or reelection to the Board should possess the following qualifications, among others:

- the highest level of personal and professional ethics, integrity and values;
- expertise that is useful to the Corporation and complementary to the background and expertise of the other members of the Board;
- a willingness and ability to

and ability to devote the time necessary to carry out the duties and responsibilities of Board membership;

- a desire to ensure that the Corporation's operations and financial reporting are effected in a transparent manner and in compliance with applicable laws, rules and regulations; and

- a dedication to the representation of the best interests of the Corporation and all of its shareholders.

4. Director Responsibilities

The business and affairs of the Corporation will be managed under the direction of the Board in accordance with applicable law. To promote the discharge of this responsibility and the efficient conduct of the Board's business, the Board has developed a number of specific expectations of directors.

- **Commitment and Attendance:** Directors should make every effort to attend, whether in person or telephonically, meetings of the Board and meetings of Board committees on which they serve. Directors are expected to review all materials provided at or in advance of meetings of the Board and its committees.

- Participation in

Meeting: Each director should be sufficiently familiar with the business of the Corporation and its subsidiaries to facilitate active and effective participation in the deliberations of the Board and of each committee on which he or she serves.

- **Ethics and Conflicts of Interest:** The Corporation has adopted a Code of Business Conduct and Ethics. Directors are expected to be familiar with and to adhere to that Code, including, for example, its provisions governing conflicts of interest. If a director has an actual or potential conflict of interest (which includes being a party to a proposed "related party transaction"¹), the director should promptly inform the CEO and the Chairman of the Audit Committee. Directors should recuse themselves from any discussion or decision by the Board or a Board committee that involves or affects their personal, business or professional interests. An independent committee of the Board designated by the Board will resolve any conflict of interest issue involving a

director or the CEO or any other executive officer of the Corporation. No related party transaction may be effected by the Corporation without the approval of the independent committee of the Board designated by the Board to resolve conflicts of interest. The CEO or a senior officer designated by the CEO will resolve any conflict of interest issue involving any other employee.

- Other Relationships: The Corporation values the experience directors bring from their separate business endeavors and from other boards on which they serve. However, the Corporation recognizes that these commitments may also present demands on a director's time and availability and may present conflicts, or potential conflicts, of interest. Directors should advise the Chairman of the Board before accepting membership on other boards of directors or committees thereof or making changes in other significant commitments involving affiliations with other businesses, charitable organizations or

organizations or governmental entities.

- **Confidentiality:**
The proceedings and deliberations of the Board and its committees are confidential. Each director should maintain the confidentiality of information received in connection with his service as a director.

¹"Related party transaction" refers to any transaction which the Corporation would be required to disclose pursuant to Item 404 of Regulation S-K.

5. Director Access To Management

Each director will have unabridged access to senior management and other employees of the Corporation in order to become and remain informed about the Corporation's business and for any other purpose relevant to the fulfillment of the responsibilities of a member of the Board.

6. Reporting Violations Or Other Concerns

Anyone who wants to report a concern relating to the Corporation's Code of Business Conduct and Ethics or the Corporation's accounting, internal accounting controls or auditing matters may communicate that concern directly to the Audit Committee of the Board or to any one or more of the non-employee directors of the Corporation. Any such communication may be confidential or anonymous and may be made by mail, phone or fax or via a web-based reporting system, in each case to the addresses, phone or fax

to the addresses, phone or fax numbers or website addresses specified on the Corporation's website. Questions or concerns relating to accounting, internal controls, auditing or officer conduct will be sent to the Chairman of the Audit Committee or another non-employee director designated by the Board and at the same time will be reviewed and addressed by one or more members of management in the same way that other concerns are addressed by the Corporation. The status of all outstanding concerns addressed to non-employee directors will be reported to the Chairman of the Audit Committee on a regular basis. The Chairman of the Audit Committee (or another non-employee director designated by the Board) may direct that a matter be presented to the Board, the Audit Committee or another committee designated by the Board and may direct that various actions, including the retention of one or more outside advisors or counsel, be taken to assure that a concern is properly addressed.

7. Retention Of Advisors

The Board may engage the services of independent consultants or advisors, at the Corporation's expense.

8. Director Compensation

The Board should annually review the form and amount of all types of compensation to be paid by the Corporation to or on behalf of members of the Board, including, without limitation, cash fees, stock incentives and contributions to charities at the behest of Board members. Board compensation should be customary, reasonable and competitive, as determined by the Board. Directors who are employees of the Corporation will not receive additional compensation for service on the Board or any committee of the Board.

9. Orientation Of New Directors

The Board or a committee designated by the Board may develop and oversee an orientation program for new members of the Board. The orientation program should provide new directors with comprehensive information about the Corporation's business, performance, policies and procedures and the responsibilities and expectations of members of the Board.

10. Continuing Education

The Corporation will facilitate the participation of all Board members in continuing education programs, at the expense of the Corporation, that are relevant to the business and affairs of the Corporation and the fulfillment of the directors' responsibilities as members of the Board.

11. Management Succession Planning

At least annually, the Board will review and develop a succession plan for selecting a successor to the Chief Executive Officer, both in the event of an emergency and in the ordinary course of business. The succession plan should include an assessment of the experience, performance and skills of possible successors.

12. Self-Evaluation

Each year, the Board will conduct a self-evaluation to determine whether it is functioning effectively. In connection therewith, a committee consisting of a majority of independent directors will be responsible for seeking from each director his evaluation of the performance of the Board. The Board will discuss these evaluations and determine what, if any, action should be taken to improve its performance.

13. Flexibility

The Board believes that the policies and procedures

policies and procedures described in these Corporate Governance Guidelines should remain flexible to facilitate the Board's ability to respond to changing circumstances and conditions in fulfilling its responsibilities to the Corporation and its shareholders. Accordingly, the Board reserves the right to amend these Corporate Governance Guidelines or grant waivers hereunder, from time to time. Any such amendment or waiver will be disclosed in accordance with applicable securities laws and regulations and the Corporate Governance Rules of The Nasdaq Stock Market, Inc.

Annex A

[To Corporate Governance Guidelines]

Criteria for Director Independence

Adopted May 3, 2005

1. Qualifications

The Board of Directors (the "Board") of Discovery Holding Company (the "Corporation") has determined that a director will be deemed to be an independent director if such director:

- is not an employee or member of management of the Corporation or any of its subsidiaries;
- has no material relationship with the Corporation (either directly or as a partner, shareholder or officer of an organization that has a relationship with the Corporation); for this purpose material relationships can,

for example, include commercial, industrial, banking, consulting, legal, accounting, charitable and familial relationships;

- has no other relationship with the Corporation or its subsidiaries that would interfere with the exercise of independent judgment as a director; and

- does not accept any consulting, advisory or other compensatory fee from the Corporation, except fees received for services as a director (including, without limitation, serving on a committee of the Board).

2. Disqualifying Relationships

The Board has determined that a director will not be an independent director if such director:

- Is or during the three years preceding the determination date (such period, the "Determination Period") was employed by the Corporation or any "parent or subsidiary"² of the Corporation, or has a "family member"² who is or was during the Determination Period an executive officer of the Corporation

or any parent or subsidiary of the Corporation;

- is an executive officer, a partner or a controlling shareholder, or has a family member who is an executive officer, a partner or a controlling shareholder, of an organization that makes or during the last three fiscal years made payments to or receives or during the last three fiscal years received payments from the Corporation for property or services in an amount which in the year in which the payment is or was made exceeds or exceeded, as the case may be, the greater of \$200,000 or 5% of the recipient's consolidated gross revenues, other than payments arising solely from investments in securities or payments under non-discretionary charitable contribution matching programs;

- is receiving or during the Determination Period received, or has a family member who is receiving or during such period received, payments in excess of \$60,000 per year from the Corporation or any parent or subsidiary of the Corporation,

other than director and committee fees, payments arising solely from investments in securities, compensation paid to a family member who is a non-executive employee of the Corporation or any parent or subsidiary of the Corporation, benefits under a tax qualified retirement plan, non-discretionary compensation or, except as to audit committee members, loans that are not prohibited by Section 13(k) of the Securities Exchange Act of 1934;

- is, or has a family member who is, a partner of the present external auditor of the Corporation or any of its subsidiaries, or was during the Determination Period, or has a family member who was during the Determination Period, a partner or employee of the external auditor of the Corporation or any of its subsidiaries who worked on the audit of the Corporation or any of its subsidiaries at any time during the Determination Period; or

- is or during the Determination Period was, or has a family member who is or during the

Determination Period was, employed as an executive officer by a company as to which an executive officer of the Corporation serves or during the Determination Period served as a director and member of the compensation committee of such other company.

3. Waivers; Overrides

If the Board determines to waive or otherwise override any criteria described above with respect to any director, such waiver or override will be disclosed in accordance with applicable securities laws and regulations and the Corporate Governance Rules of The Nasdaq Stock Market, Inc.

2 The term "parent or subsidiary" shall be interpreted in accordance with rule 4200(a) of the Corporate Governance Rules of The Nasdaq Stock Market, Inc. and the associated interpretative materials.

3 The term "family member" shall be interpreted in accordance with rule 4200(a) of the Corporate Governance Rules of The Nasdaq Stock Market, Inc. and the associated interpretative materials.

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Corporate Governance

Discovery Holding Company Board Of Directors & Committee Members

The DHC Board Of Directors:

John C. Malone
Robert R. Bennett
Paul A. Gould
M. LaVoy Robison
David J. Wargo

Executive Committee:

John C. Malone
Robert R. Bennett
Paul A. Gould

Audit Committee:

Paul A. Gould
M. LaVoy Robison
David J. Wargo

Compensation Committee:

Paul A. Gould
M. LaVoy Robison
David J. Wargo

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