

reaches over 5 million MVPD subscribers, making it one of the largest RSNs in the country.⁴⁸⁸ Comcast notes that it is carrying MASN to approximately [REDACTED] subscribers, or almost [REDACTED] of its subscribers in the MASN Territory,⁴⁸⁹ and there is no evidence that its refusal to carry MASN in the “outer reaches” of Harrisburg and southwestern Virginia has in any way harmed MASN or affected its ability to compete.⁴⁹⁰

6. Alleged Contract-Based, Business and Editorial Justifications for Comcast’s Refusal to Carry MASN on the Unlaunched Systems

111. Comcast offers a number of contract-based and alleged business and editorial justifications for its decision to refrain from carrying MASN on the Unlaunched Systems.

a. Contract-Based Justifications

(i) Term Sheet

(a) Unlaunched Non-Former-Adelphia Systems

112. Comcast argues that the unambiguous terms of the Term Sheet do not obligate it to carry MASN on the Unlaunched Non-Former-Adelphia Systems because those systems are not included in the List of Systems attached to the Term Sheet.⁴⁹¹ Comcast asserts that the exclusion of these systems from the List of Systems was “an important part of the negotiated compromise” that led to the settlement of the carriage dispute between Comcast and MASN.⁴⁹² MASN notes that the Term Sheet, however, commits future carriage decisions to Comcast’s “discretion,” which is constrained by the non-discrimination obligations of the program carriage rules.⁴⁹³ By signing the Term Sheet, MASN claims that it did not forfeit its rights to insist that Comcast abide by its program carriage obligations with respect to any Comcast system within the MASN Territory.⁴⁹⁴

(b) Unlaunched Former-Adelphia Systems

113. Comcast argues that, under the unambiguous terms of the Term Sheet, it is not obligated to carry MASN on the Unlaunched Former-Adelphia Systems because those systems are not included in the List of Systems.⁴⁹⁵ MASN states that it agreed to Comcast’s proposal to exclude certain former Adelphia systems in Roanoke/Lynchburg and other small Virginia communities based on Comcast’s representation that there was not sufficient capacity to carry MASN on these systems at the time.⁴⁹⁶ MASN explains that Comcast represented to the Commission that it would rapidly upgrade the former Adelphia systems it acquired in 2006, a representation that was crucial to the Commission’s approval of

⁴⁸⁸ See *id.*

⁴⁸⁹ See *id.*; Bond Decl. at ¶¶ 13, 15; Ortman Decl. at ¶ 14.

⁴⁹⁰ See Comcast Answer to MASN at ¶¶ 13, 42; *id.* at Exhibit H, Declaration of Jonathan Orszag and Jay Ezrielev, at ¶ 18 (“Orszag Decl.”).

⁴⁹¹ See Comcast Answer to MASN at ¶¶ 4, 17, 18, 28, p. 43 (¶¶ 44, 45), p. 45-46 (¶ 55), p. 46 (¶ 59); Bond Decl. at ¶ 9; Ortman Decl. at ¶¶ 4, 6; Comcast Surreply at 4-5.

⁴⁹² See Comcast Answer to MASN at ¶¶ 4, 17, 18; Bond Decl. at ¶ 4.

⁴⁹³ See MASN Reply to Comcast at ¶¶ 5, 34, and p.19 n.60.

⁴⁹⁴ See MASN Complaint Against Comcast at ¶ 83.

⁴⁹⁵ See Comcast Answer to MASN at n. 46; Bond Decl. at ¶ 5; Comcast Surreply at 4-5.

⁴⁹⁶ See MASN Complaint Against Comcast at ¶ 43; [REDACTED].

the Adelphia transaction.⁴⁹⁷ MASN states that, given assurances made by Comcast to the Commission that it would soon upgrade the Former-Adelphia systems, thereby providing sufficient capacity to MASN, MASN viewed Comcast's representations to the Commission as sufficient protection that MASN would eventually be launched on the Former-Adelphia systems.⁴⁹⁸ Comcast states that it never committed to launch MASN in Roanoke and other Former-Adelphia systems in Virginia once those systems were upgraded, nor is such a commitment reflected in the Term Sheet.⁴⁹⁹ MASN notes that, as with the Non-Former-Adelphia Systems, the Term Sheet commits future carriage decisions to Comcast's "discretion," which is constrained by the non-discrimination obligations of the program carriage rules.⁵⁰⁰ By signing the Term Sheet, MASN claims that it did not forfeit its rights to insist that Comcast abide by its program carriage obligations with respect to any Comcast system within the MASN Territory.⁵⁰¹

(ii) Release

114. Comcast argues that the Term Sheet and Release comprehensively settled MASN's 2005 program carriage complaint against Comcast, in which MASN requested carriage on "all Comcast systems," including the Harrisburg and the southwestern Virginia systems, and thereby relinquished any right MASN may have had to seek any different deal with Comcast covering Comcast's cable systems in the MASN Territory.⁵⁰² MASN notes, however, that the Release covers only conduct "until the date of this Release clause"—that is, up until August 2006.⁵⁰³ MASN's complaint, however, concerns Comcast's refusal to exercise its discretion to carry MASN since 2007 when MASN discovered it was not being carried on the Unlaunched Systems, well after the date of the Release.⁵⁰⁴ Accordingly, MASN contends that the Release does not justify Comcast's decision to refuse to carry MASN on the Unlaunched Systems but to carry its affiliated RSNs.

⁴⁹⁷ See MASN Complaint Against Comcast at ¶¶ 33, 93, 97; MASN Reply to Comcast at ¶ 86.

⁴⁹⁸ See MASN Complaint Against Comcast at ¶ 43; [REDACTED].

⁴⁹⁹ See Comcast Answer to MASN at n. 46; Bond Decl. at ¶ 5.

⁵⁰⁰ See MASN Reply to Comcast at ¶¶ 5, 34, p.19 n.60.

⁵⁰¹ See MASN Complaint Against Comcast at ¶ 83.

⁵⁰² See Comcast Answer to MASN at ¶¶ 3, 5, 15, 19, 20 and p.49 (¶ 84).

⁵⁰³ See MASN Complaint Against Comcast at ¶ 84; MASN Reply to Comcast at ¶¶ 48-49.

⁵⁰⁴ See MASN Complaint Against Comcast at ¶ 84; MASN Reply to Comcast at ¶¶ 48-49; MASN Opposition to Comcast Surreply ¶ 5. Comcast cites two cases to support its claims regarding the Release, both of which MASN claims are readily distinguishable. First, Comcast argues that in *Nova Cellular West v. AirTouch Cellular*, 17 FCC Rcd 15026 (2002), the Commission concluded that the settlement and release covered the new complaint and that Nova Cellular had therefore waived its right to assert that AirTouch's conduct violated the Act. See Comcast Answer to MASN at n.19. MASN contends, however, *Nova Cellular* reaffirmed the Commission's position that release clauses do not cover post-release conduct, but carved out a narrow exception regarding contingent future acts which is not relevant here. See MASN Reply to Comcast at ¶ 55. Second, Comcast cites *Robert L. Kile*, Memorandum Opinion and Order, 5 FCC Rcd 513 (1990), for the proposition that the "validity of a settlement agreement is . . . a private contractual matter best resolved by negotiation of the parties or by the courts." See Comcast Answer to MASN at 10 n.14 (citing *Kile*, 5 FCC Rcd 513 ¶ 11). MASN contends that the Commission in *Kile* took precisely the opposite course and, in fact, restated its longstanding position that "the Commission will not enforce or interpret settlement agreements among cellular applicants," particularly where enforcement of the settlement agreement might interfere with its ability to give full consideration to the public interest." See MASN Reply to Comcast at ¶ 57.

b. Editorial and Business Justifications

115. Comcast argues that its refusal to carry MASN on the Unlaunched Systems was based on its editorial and business judgment that carriage on those systems was not justified in light of a number of factors, including MASN's carriage cost (both licensee fee and bandwidth) and its allegedly low consumer appeal.⁵⁰⁵

(i) License Fee

116. Comcast contends that MASN would be among the most expensive networks carried in its Harrisburg and southwestern Virginia systems.⁵⁰⁶ MASN contends that Comcast has submitted no evidence, however, demonstrating that the cost of carrying MASN is materially greater than the cost of carrying Comcast's affiliated RSNs in the relevant DMAs.⁵⁰⁷ MASN claims that Comcast provides no justification for applying a stricter cost standard to unaffiliated programming than to affiliated programming.⁵⁰⁸ Moreover, while Comcast claims that a network's license fee is a relevant consideration in making carriage decisions, MASN argues that Comcast has not submitted any evidence that its decision-makers compared the cost of MASN to the cost of its affiliated RSNs in deciding to deny carriage to MASN on the Unlaunched Systems but to grant carriage to Comcast's affiliated RSNs.⁵⁰⁹ MASN provides the following evidence which it claims justifies its license fee for carriage on the Unlaunched Systems: (i) the carriage rates proposed by MASN are fair and reasonable in light of the popularity and value of live sports programming that MASN offers;⁵¹⁰ (ii) every other major MVPD in the relevant parts of the MASN Territory other than Comcast (such as Cox, DIRECTV, and DISH Network) has agreed to carry MASN on their basic or expanded basic tier (or equivalent) at the rates MASN has proposed for Comcast;⁵¹¹ (iii) Comcast has agreed to the same carriage terms for MASN on its systems in other areas (some of which are farther away from Baltimore and Washington than the Harrisburg and southwestern Virginia DMAs);⁵¹² and (iv) MASN's rate is comparable to what other RSNs charge and MVPDs pay for comparable extended inner-market programming.⁵¹³

⁵⁰⁵ See Comcast Answer to MASN at ¶ 43; Bond Decl. at ¶ 17; Ortman Decl. at ¶ 7.

⁵⁰⁶ See Comcast Answer to MASN at ¶ 11; Ortman Decl. at ¶ 7.

⁵⁰⁷ See MASN Reply to Comcast at ¶ 64.

⁵⁰⁸ See *id.*

⁵⁰⁹ See *id.*

⁵¹⁰ See MASN Complaint Against Comcast at ¶ 87; [REDACTED].

⁵¹¹ See MASN Complaint Against Comcast at ¶¶ 15; 87; [REDACTED]; MASN Reply to Comcast at ¶ 66. In response, Comcast notes that cable operators aside from Comcast have decided not to carry MASN in Harrisburg, including the Blue Ridge systems in Duncannon and North Lancaster, the Atlantic Broadband system in McClure, and the Nittany Media system in Mifflintown. See Comcast Answer to MASN at n.83; Ortman Decl. at ¶ 12. Moreover, Comcast notes that, with the exception of Cox's carriage of MASN in Roanoke, most other cable operators serving southwestern Virginia, such as Suddenlink, Jet Broadband, Almega Cable, and Citizens Cablevision, have made the same decision as Comcast not to carry MASN. See Comcast Answer to MASN at n.83; Ortman Decl. at ¶ 12. MASN contends that the decisions of a few small cable operators do not cast doubt on MASN's value given the evidence of extensive carriage of MASN by other MVPDs. See MASN Reply to Comcast at 44 n.139; [REDACTED].

⁵¹² See MASN Reply to Comcast at ¶ 65.

⁵¹³ See Wyche Decl. at ¶ 36; MASN Reply to Comcast at ¶ 67.

(ii) Bandwidth

117. Comcast argues that, because the Term Sheet requires carriage of MASN on Comcast's expanded basic tier, Comcast would be required to devote scarce analog capacity to carriage of the network.⁵¹⁴ Moreover, Comcast notes that MASN would require two analog channels to accommodate both the Orioles' and Nationals' games.⁵¹⁵ MASN argues that Comcast has provided no evidence regarding its bandwidth constraints on the Unlaunched Systems.⁵¹⁶ In addition, MASN contends that Comcast has failed to justify why its alleged bandwidth constraints on the Unlaunched Systems justified denying carriage to MASN but granting carriage to Comcast's affiliated RSNs.⁵¹⁷

(iii) Demand

118. Comcast argues that its refusal to carry MASN on the Unlaunched Systems is justified based on MASN's low consumer appeal.⁵¹⁸ Comcast notes that, even in its core Baltimore and Washington, DC markets, MASN has the lowest viewership ratings of any RSN in the country, attracting less than one-third the average number of households of any other RSN.⁵¹⁹ MASN argues that Comcast has submitted no evidence, however, demonstrating that the demand for MASN is materially different than the demand for Comcast's affiliated RSNs in the relevant DMAs.⁵²⁰ MASN also alleges that Comcast provides no justification for applying a stricter demand standard to unaffiliated programming than to affiliated programming.⁵²¹ Moreover, while Comcast claims that demand is a relevant consideration in making carriage decisions, MASN submits that Comcast has not provided any evidence that its decision-makers compared the demand for MASN to the demand for its affiliated RSNs in deciding to deny carriage to MASN on the Unlaunched Systems but to grant carriage to Comcast's affiliated RSNs.⁵²² MASN argues that the following demonstrates consumer demand for its programming on the Unlaunched Systems based on the following factors: (i) the decisions of 21 other major MVPDs throughout the MASN Territory to carry MASN (including Charter, Cox, DIRECTV, DISH Network, RCN, and Verizon);⁵²³ (ii) Comcast's efforts to keep the rights to the Orioles games and to acquire the rights to the Nationals games, both of which are now shown on MASN;⁵²⁴ (iii) prior to the launch of MASN, Comcast's affiliated RSN carried Orioles games in the Harrisburg DMA;⁵²⁵ (iv) every other major MVPD serving Harrisburg

⁵¹⁴ See Comcast Answer to MASN at ¶ 44.

⁵¹⁵ See Comcast Answer to MASN at ¶¶ 11, 44; Bond Decl. at ¶ 17; Ortman Decl. at ¶ 7.

⁵¹⁶ See MASN Reply to Comcast at ¶ 69.

⁵¹⁷ See *id.*

⁵¹⁸ See Comcast Answer to MASN at ¶ 43; Bond Decl. at ¶ 17; Ortman Decl. at ¶ 7.

⁵¹⁹ See Comcast Answer to MASN at ¶¶ 11, 48.

⁵²⁰ See MASN Reply to Comcast at ¶ 73.

⁵²¹ See *id.*

⁵²² See *id.* at ¶ 74.

⁵²³ See *id.* at ¶ 82.

⁵²⁴ See *id.* at ¶ 68.

⁵²⁵ See MASN Complaint Against Comcast at ¶¶ 13, 78, 87; [REDACTED]; MASN Reply to Comcast at ¶ 81; [REDACTED]. Comcast notes that it carried the RSN on a sports tier and that it dropped it prior to the launch of MASN. See Comcast Answer to MASN at ¶¶ 11, 45, p.36-37 (¶ 13), p. 49 (¶ 78); Bond Decl. at ¶ 18; Ortman Decl. at ¶ 9.

(DIRECTV, DISH Network, [REDACTED]) except Comcast has agreed to carry MASN;⁵²⁶ (v) prior to the launch of MASN, Comcast's affiliated RSN carried Orioles games on systems in southwestern Virginia;⁵²⁷ (vi) other major MVPDs serving southwestern Virginia (Cox, DIRECTV, DISH Network) have agreed to carry MASN;⁵²⁸ (vii) evidence that demand for MASN's programming is comparable to or eclipses demand for Comcast's affiliated programming in MASN's core markets on a per-game ratings basis;⁵²⁹ (viii) MASN is among the top RSNs in the country with respect to live major professional sports programming;⁵³⁰ and (ix) MASN carries other programming of interest to subscribers in the Harrisburg and southwestern Virginia DMAs, including sporting events of local colleges.⁵³¹ MASN also argues that Comcast's claim that there is no demand for MASN in Harrisburg is contradicted by the fact that Comcast has launched MASN on other systems in southern Pennsylvania, such as in York, Pennsylvania (25 miles from Harrisburg).⁵³² Moreover, MASN submits that Comcast's claim that there is no demand for MASN on the periphery of the MASN Territory is contradicted by the fact that it carries CSN-MA on the same cable systems in southwestern Virginia despite the fact that CSN-MA's core sports programming of Washington Wizards and Capitals games is also based in the Washington DMA.⁵³³

7. Conclusion

119. In the *Second Report and Order*, the Commission stated that it would identify specific behavior that constitutes discrimination on a case-by-case basis "because the practices at issue will necessarily involve behavior that must be evaluated within the context of specific facts pertaining to each negotiation."⁵³⁴ Any complainant alleging a violation of the prohibition in Section 616(a)(3) on discrimination must demonstrate that the alleged discrimination is "on the basis of affiliation or nonaffiliation" of a vendor, and that "the effect of the conduct that prompts the complaint is to unreasonably restrain the ability of the complainant to compete fairly."⁵³⁵ After reviewing the pleadings and supporting documentation filed by the parties, we find that MASN has established a *prima facie* case in the above-referenced case under Section 76.1301(c). We also find that the pleadings and supporting

⁵²⁶ See MASN Complaint Against Comcast at ¶ 15; [REDACTED]; MASN Reply to Comcast at ¶ 82. Comcast notes some small cable operators in Harrisburg that do not carry MASN. See Comcast Answer to MASN at n.83; Ortman Decl. at ¶ 12. We do not believe that the decisions of few small cable operators cast doubt on MASN's value given the evidence of extensive carriage of MASN by other MVPDs in Harrisburg. See MASN Reply to Comcast at 44 n.139; [REDACTED].

⁵²⁷ See MASN Complaint Against Comcast at ¶¶ 13, 87; [REDACTED]; MASN Reply to Comcast at ¶ 81; [REDACTED].

⁵²⁸ See MASN Complaint Against Comcast at ¶ 15; [REDACTED]; MASN Reply to Comcast at ¶ 82; [REDACTED]. Comcast argues that, with the exception of Cox's carriage of MASN in Roanoke, most other cable operators serving southwestern Virginia, such as Suddenlink, Jet Broadband, Almega Cable, and Citizens Cablevision, have made the same decision as Comcast not to carry MASN. See Comcast Answer to MASN at n.83; Ortman Decl. at ¶ 12. We do not believe that the decisions of certain cable operators cast doubt on MASN's value given the evidence of extensive carriage of MASN by other MVPDs in southwestern Virginia, such as DIRECTV and DISH. See MASN Reply to Comcast at 44 n.139; [REDACTED].

⁵²⁹ See MASN Reply to Comcast at ¶ 75; [REDACTED].

⁵³⁰ See MASN Complaint Against Comcast at ¶ 18.

⁵³¹ See *id.* at ¶ 19; [REDACTED]; MASN Reply to Comcast at ¶ 83; [REDACTED].

⁵³² See MASN Reply to Comcast at ¶¶ 55, 80; [REDACTED].

⁵³³ See MASN Reply to Comcast at ¶¶ 16, 73.

⁵³⁴ *Second Report and Order*, 9 FCC Rcd at 2648.

⁵³⁵ *Id.*; 47 C.F.R. § 76.1302(c)(3).

documentation present several factual disputes as to whether Comcast discriminated against MASN in favor of its affiliated services. Accordingly, we direct the ALJ to make and return a Recommended Decision to the Commission pursuant to the procedures set forth below within 60 days after release of this *Order*.

IV. REFERRAL TO ADMINISTRATIVE LAW JUDGE OR ALTERNATIVE DISPUTE RESOLUTION

120. We direct that an Administrative Law Judge resolve the factual disputes with respect to the claims and return a recommended decision and a recommended remedy, if necessary, to the Commission within 60 days of the date of this *Order*. Pursuant to Section 76.7(g)(2) of the Commission's rules, the parties will have ten days following release of this *Order* to elect to resolve this dispute through ADR.⁵³⁶ Each party will notify the Commission, in writing, of its election within 10 days of release of this *Order* and, in the event that ADR is chosen, will update the Commission monthly on the status of the ADR process.⁵³⁷ If the parties elect to resolve the dispute through ADR, the 60-day period for review by an Administrative Law Judge will be tolled. In the event that the parties fail to reach a settlement through the ADR process, the parties shall promptly notify the Commission in writing, and the 60-day period will resume upon receipt of such notification.

121. Upon receipt of the Administrative Law Judge's recommended decision and remedy, the Commission will make the requisite legal determinations as to whether (i) the defendant has discriminated against the complainant's programming in favor of its own programming, with the effect of unreasonably restraining the complainant's ability to compete fairly in violation of Section 76.1302(c); and (ii) only in the case of *NFL Network v Comcast*, whether Comcast has demanded a financial interest in the NFL's programming in exchange for carriage in violation of Section 76.1302(a). If necessary, the Commission will then decide upon appropriate remedies.

V. ORDERING CLAUSES

A. WealthTV v. TWC

122. Accordingly, **IT IS ORDERED**, that Herring Broadcasting, Inc. d/b/a WealthTV's Complaint against Time Warner Cable Inc. is **DESIGNATED FOR HEARING** at a date and place to be specified in a subsequent order by an Administrative Law Judge.

123. **IT IS FURTHER ORDERED**, that pursuant to Section 616 of the Communications Act of 1934, as amended, 47 U.S.C. § 536, and 47 C.F.R. §§ 76.1300-1302, Herring Broadcasting, Inc. d/b/a WealthTV and Time Warner Cable Inc. submit to the Commission, in writing within ten days of this *Order*, their respective elections as to whether each wishes to proceed to Alternative Dispute Resolution and, in the event that Alternative Dispute Resolution is chosen, monthly update the Commission on the status of that process.

124. **IT IS FURTHER ORDERED**, that the Administrative Law Judge, within 60 days of this *Order*, will resolve all factual disputes and submit a recommended decision and remedy, if appropriate.

125. **IT IS FURTHER ORDERED**, that if the parties elect Alternative Dispute Resolution, the period for Administrative Law Judge review shall be tolled, until such time as the parties notify the Commission that they have failed to reach a settlement through Alternative Dispute Resolution.

⁵³⁶ 47 C.F.R. § 76.7(g)(2).

⁵³⁷ *Id.*

B. WealthTV v. BHN

126. Accordingly, **IT IS ORDERED**, that Herring Broadcasting, Inc. d/b/a WealthTV's Complaint against Bright House Networks, LLC is **DESIGNATED FOR HEARING** at a date and place to be specified in a subsequent order by an Administrative Law Judge.

127. **IT IS FURTHER ORDERED**, that pursuant to Section 616 of the Communications Act of 1934, as amended, 47 U.S.C. § 536, and 47 C.F.R. §§ 76.1300-1302, Herring Broadcasting, Inc. d/b/a WealthTV and Bright House Networks, LLC submit to the Commission, in writing within ten days of this *Order*, their respective elections as to whether each wishes to proceed to Alternative Dispute Resolution and, in the event that Alternative Dispute Resolution is chosen, monthly update the Commission on the status of that process.

128. **IT IS FURTHER ORDERED**, that the Administrative Law Judge, within 60 days of this *Order*, will resolve all factual disputes and submit a recommended decision and remedy, if appropriate.

129. **IT IS FURTHER ORDERED**, that if the parties elect Alternative Dispute Resolution, the period for Administrative Law Judge review shall be tolled, until such time as the parties notify the Commission that they have failed to reach a settlement through Alternative Dispute Resolution.

C. WealthTV v. Cox

130. Accordingly, **IT IS ORDERED**, that Herring Broadcasting, Inc. d/b/a WealthTV's Complaint against Cox Communications, Inc. is **DESIGNATED FOR HEARING** at a date and place to be specified in a subsequent order by an Administrative Law Judge.

131. **IT IS FURTHER ORDERED**, that pursuant to Section 616 of the Communications Act of 1934, as amended, 47 U.S.C. § 536, and 47 C.F.R. §§ 76.1300-1302, Herring Broadcasting, Inc. d/b/a WealthTV and Cox Communications, Inc. submit to the Commission, in writing within ten days of this *Order*, their respective elections as to whether each wishes to proceed to Alternative Dispute Resolution and, in the event that Alternative Dispute Resolution is chosen, monthly update the Commission on the status of that process.

132. **IT IS FURTHER ORDERED**, that the Administrative Law Judge, within 60 days of this *Order*, will resolve all factual disputes and submit a recommended decision and remedy, if appropriate.

133. **IT IS FURTHER ORDERED**, that if the parties elect Alternative Dispute Resolution, the period for Administrative Law Judge review shall be tolled, until such time as the parties notify the Commission that they have failed to reach a settlement through Alternative Dispute Resolution.

D. WealthTV v. Comcast

134. Accordingly, **IT IS ORDERED**, that Herring Broadcasting, Inc. d/b/a WealthTV's Complaint against Comcast Corporation is **DESIGNATED FOR HEARING** at a date and place to be specified in a subsequent order by an Administrative Law Judge.

135. **IT IS FURTHER ORDERED**, that pursuant to Section 616 of the Communications Act of 1934, as amended, 47 U.S.C. § 536, and 47 C.F.R. §§ 76.1300-1302, Herring Broadcasting, Inc. d/b/a WealthTV and Comcast Corporation submit to the Commission, in writing within ten days of this *Order*, their respective elections as to whether each wishes to proceed to Alternative Dispute Resolution and, in the event that Alternative Dispute Resolution is chosen, monthly update the Commission on the status of that process.

136. **IT IS FURTHER ORDERED**, that the Administrative Law Judge, within 60 days of this *Order*, will resolve all factual disputes and submit a recommended decision and remedy, if appropriate.

137. **IT IS FURTHER ORDERED**, that if the parties elect Alternative Dispute Resolution, the period for Administrative Law Judge review shall be tolled, until such time as the parties notify the Commission that they have failed to reach a settlement through Alternative Dispute Resolution.

E. NFL v. Comcast

138. Accordingly, **IT IS ORDERED**, that NFL Enterprises LLC's Complaint against Comcast Corporation is **DESIGNATED FOR HEARING** at a date and place to be specified in a subsequent order by an Administrative Law Judge.

139. **IT IS FURTHER ORDERED**, that pursuant to Section 616 of the Communications Act of 1934, as amended, 47 U.S.C. § 536, and 47 C.F.R. §§ 76.1300-1302, NFL Enterprises LLC and Comcast Corporation submit to the Commission, in writing within ten days of this *Order*, their respective elections as to whether each wishes to proceed to Alternative Dispute Resolution and, in the event that Alternative Dispute Resolution is chosen, monthly update the Commission on the status of that process.

140. **IT IS FURTHER ORDERED**, that the Administrative Law Judge, within 60 days of this *Order*, will resolve all factual disputes and submit a recommended decision and remedy, if appropriate.

141. **IT IS FURTHER ORDERED**, that if the parties elect Alternative Dispute Resolution, the period for Administrative Law Judge review shall be tolled, until such time as the parties notify the Commission that they have failed to reach a settlement through Alternative Dispute Resolution.

F. MASN v. Comcast

142. Accordingly, **IT IS ORDERED**, that TCR Sports Broadcasting Holding, L.L.P., d/b/a Mid-Atlantic Sports Network's Complaint against Comcast Corporation is **DESIGNATED FOR HEARING** at a date and place to be specified in a subsequent order by an Administrative Law Judge.

143. **IT IS FURTHER ORDERED**, that pursuant to Section 616 of the Communications Act of 1934, as amended, 47 U.S.C. § 536, and 47 C.F.R. §§ 76.1300-1302, TCR Sports Broadcasting Holding, L.L.P., d/b/a Mid-Atlantic Sports Network and Comcast Corporation submit to the Commission, in writing within ten days of this *Order*, their respective elections as to whether each wishes to proceed to Alternative Dispute Resolution and, in the event that Alternative Dispute Resolution is chosen, monthly update the Commission on the status of that process.

144. **IT IS FURTHER ORDERED**, that the Administrative Law Judge, within 60 days of this *Order*, will resolve all factual disputes and submit a recommended decision and remedy, if appropriate.

145. **IT IS FURTHER ORDERED**, that if the parties elect Alternative Dispute Resolution, the period for Administrative Law Judge review shall be tolled, until such time as the parties notify the Commission that they have failed to reach a settlement through Alternative Dispute Resolution.

FEDERAL COMMUNICATIONS COMMISSION

Monica Shah Desai
Chief, Media Bureau