

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
NFL Enterprises LLC,) MB Docket No. 08-214
Complainant) File No. CSR-7876-P
v.)
Comcast Cable Communications, LLC,)
Defendant)

To: Marlene H. Dortch, Secretary
Federal Communications Commission

Attn: Richard L. Sippel
Chief Administrative Law Judge

**DEFENDANT’S REPLY IN FURTHER SUPPORT OF ITS
MOTION OPPOSING THE TAKING OF DEPOSITIONS**

With the authorization of the Presiding Judge,¹ Defendant Comcast Cable Communications, LLC (“Comcast”) respectfully submits this Reply in further support of its Motion pursuant to 47 CFR 1.319(a) to object to the taking of the depositions of Brian L. Roberts, Stephen B. Burke and Madison Bond noticed by Complainant NFL Enterprises LLC (the “NFL”) on March 11, 2009.

With its opposition to Comcast’s motion, the NFL’s gambit to harass Comcast’s executives has entered its end-game. Having first *sought* an order from the New York court limiting the subject matter of depositions in the New York proceeding – over Comcast’s objection and based on the NFL’s misstatement that depositions of fact witnesses would not be permitted in this FCC proceeding² – the NFL now relies on that order as the centerpiece of its

¹ Comcast requested authorization from the Presiding Judge to file this Reply. The Presiding Judge granted authorization by e-mail message on March 19, 2009 at 2:46 p.m.

² Defendant’s Motion Opposing the Taking of Depositions (Mar. 17, 2009) at 6, n.8.

argument that Comcast's senior-most executives must sit for a second day of deposition testimony, despite the fact that each of the witnesses has been questioned at length concerning matters relevant to this proceeding.

This deliberate gamesmanship and abuse of procedure – which mirrors the NFL's abuse of FCC regulations to attempt to rewrite the business deal it struck with Comcast in 2004 – should not be condoned. The NFL has had full opportunity to question Comcast's witnesses concerning all matters relevant to this proceeding, both before the NFL sought to put such topics off limits in the New York litigation, and even thereafter when Comcast's counsel made clear that they would not interfere with broad questioning on FCC matters. The NFL's calculated decision to seek an upper hand by foregoing those opportunities is no excuse to force Comcast's senior executives to sit for a second day of testimony in related proceedings both brought by the NFL. And persisting in these same tactics, the NFL now seeks to manipulate the scope of New York discovery based on the rulings of this Presiding Judge, stating in its opposition brief that it will not produce Mr. Tagliabue for his New York deposition unless the Presiding Judge orders depositions in this proceeding of Messrs. Roberts, Burke and Bond.

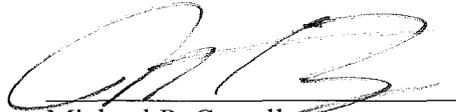
The NFL has demonstrated no need to re-depose these witnesses, and indeed has refused to provide such justification. But to whatever extent the NFL has failed to question these witnesses to its satisfaction, that failure is attributable entirely to the NFL's calculated decisions to forego ample opportunities for discovery and instead to pursue a strategy of unjustified harassment. We respectfully suggest that the Presiding Judge should not condone or reward the NFL's gamesmanship and calculated manipulation of discovery.

CONCLUSION

For these reasons, Comcast respectfully requests that the Presiding Judge order that the depositions of Brian L. Roberts, Stephen B. Burke and Madison Bond noticed by the NFL on March 11, 2009 not be taken. Alternatively, in the event that the Presiding Judge concludes that second depositions are appropriate, Comcast respectfully requests that the Presiding Judge permit it to take second depositions of NFL witnesses.

Respectfully submitted,

**COMCAST CABLE COMMUNICATIONS,
LLC**



Michael P. Carroll
David B. Toscano
Antonio J. Perez-Marques
Jennifer A. Ain
DAVIS POLK & WARDWELL
450 Lexington Avenue
New York, NY 10017
(212) 450-4547

David H. Solomon
L. Andrew Tollin
WILKINSON BARKER KNAUER, LLP
2300 N Street, N.W., Suite 700
Washington, D.C. 20037
(202) 783-4141

James L. Casserly
Michael H. Hammer
WILLKIE FARR & GALLAGHER LLP
1875 K Street, N.W.
Washington, D.C. 20006
(202) 303-1000

Its Attorneys

Dated: March 19, 2009

CERTIFICATE OF SERVICE

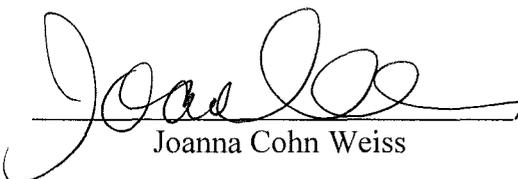
I, Joanna Cohn Weiss, hereby certify that, on March 19, 2009, copies of the attached Defendant's Motion Opposing the Taking of Depositions were served by e-mail on the following individuals:

Jonathan D. Blake
Gregg H. Levy
Paul Schmidt
Robert M. Sherman
Leah E. Pogoriler
Covington & Burling LLP
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Kris Anne Monteith
Gary P. Schonman
Elizabeth Mumaw
William Davenport
Hillary DeNigro
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Mary Gosse*
Office of Administrative Law Judges
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554


Joanna Cohn Weiss

* Courtesy copy