

STEPTOE & JOHNSON^{LLP}
ATTORNEYS AT LAW

Pantelis Michalopoulos
202.429.6494
pmichalo@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202.429.3000
Fax 202.429.3902
steptoe.com

REDACTED – FOR PUBLIC INSPECTION

FILED/ACCEPTED

June 7, 2010

JUN – 7 2010

VIA HAND DELIVERY

Federal Communications Commission
Office of the Secretary

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

**Re: Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc.
for Consent to Assign Licenses or Transfer Control of Licenses, MB Docket No. 10-56**

Dear Ms. Dortch:

DISH Network L.L.C. (“DISH”), through its undersigned counsel, submits the attached redacted version of a declaration providing statistical and economic analysis related to the above-referenced proceeding.

In December 2008, DISH and Fisher Broadcasting (“Fisher”) were involved in a retransmission dispute, which resulted in DISH’s inability to retransmit several of Fisher’s local affiliates, including a number of major network affiliates, between December 17, 2008 and June 10, 2009. Mr. Vincent Kunz, DISH’s Senior Marketing Manager for Reporting and Analytics has measured the effect of DISH’s loss of these rights for DISH’s business during that period.

Mr. Kunz’s analysis contains proprietary and highly confidential information that DISH has kept strictly confidential and is not available from public sources. It contains some of DISH’s most sensitive business data that, if released to DISH’s competitors, would allow those competitors to gain a significant advantage in the marketplace. We are therefore filing Mr. Kunz’s declaration under the *Second Protective Order* adopted by the Commission for this proceeding, DA 10-371.¹

¹ Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses or Transfer Control of Licenses, MB Docket No. 10-56, *Second Protective Order*, DA 10-371 (rel. March 4, 2010).

REDACTED – FOR PUBLIC INSPECTION

Marlene H. Dortch
June 7, 2010
Page 2

Pursuant to the procedures established in the *Second Protective Order*, two copies of both the confidential and the redacted versions of the declaration are being filed with the Commission. Pursuant to 47 C.F.R. § 0.459(e), DISH requests that the Commission return the relevant portions of the submissions if its request for confidentiality is denied.²

Respectfully submitted,

/s/

Pantelis Michalopoulos
Christopher Bjornson
Counsel for Dish Network L.L.C.

Enclosure

² See 47 C.F.R. § 0.459(e).

REDACTED – FOR PUBLIC INSPECTION

DECLARATION OF VINCENT KUNZ

I, Vincent Kunz, being over 18 years of age, swear and affirm as follows:

1. I make this declaration in support of the confidential submission of DISH Network L.L.C. (“DISH”) to the Federal Communications Commission (“FCC”) in connection with the FCC’s review of Comcast Corporation’s proposed purchase of a controlling interest in NBC Universal.
2. I make this declaration based upon personal knowledge, information, and belief.
3. I am Senior Marketing Manager, Reporting and Analytics at DISH and have been in this role since December 28, 2007.
4. In my role of Senior Marketing Manager, Reporting and Analytics, I oversee analytics and reporting for acquisition and retention marketing. In performing my duties, I have access to and regularly review data related to DMAs in which DISH has a presence, including, without limitation, penetration, churn, marketing spend, and other information.
5. Fisher Broadcasting (“Fisher”) owns or owned eight ABC, CBS, and/or Fox affiliates and 2 Univision affiliates in the following DMAs in the western region: Bakersfield, California; Boise, Idaho; Eugene, Oregon; Idaho Falls et al., Idaho; Portland, Oregon; Seattle-Tacoma, Washington, and Yakima et al., Washington. In December 2008, DISH and Fisher were involved in a retransmission dispute, which resulted in DISH’s inability to carry Fisher’s local affiliates between December 17, 2008 and June 10, 2009 (the “Channel Loss Period”).
6. I was asked to measure the impact to DISH’s business as a result of DISH’s loss of the right to distribute Fisher’s local network channels during the Channel Loss Period. My conclusions: [REDACTED]

[REDACTED]

7. To measure the impact of the loss of the Fisher channels during the Channel Loss Period, we compared data between each of the 7 DMAs in which Fisher offered local channels that became unavailable during the Channel Loss Period and four comparable DMAs (25 total comparable DMAs reviewed because there were three overlaps) during the same Channel Loss Period. These DMAs are specifically comparable to the Fisher DMAs in terms of the following factors:

[REDACTED]

REDACTED – FOR PUBLIC INSPECTION

[REDACTED]

[REDACTED]

[REDACTED] An explanation of the method used is attached as Exhibit A. DISH uses similar methods to identify comparable DMAs for other market analysis purposes. On these criteria, each Fisher DMA is more comparable to each of the four comparable DMAs listed below than to any other non-Fisher DMA.

8. Based upon these factors, the comparable DMAs for each of the 7 Fisher DMAs are depicted below and the comparative analysis relative to each of these factors is attached hereto as Exhibit B:

Fisher DMA	Comparable DMAs Selected
Boise, Idaho	[REDACTED]
Idaho Falls, Idaho	[REDACTED]

REDACTED – FOR PUBLIC INSPECTION

Fisher DMA	Comparable DMAs Selected
Bakersfield, California	[REDACTED]
Eugene, Oregon	[REDACTED]
Yakima et al., Washington	[REDACTED]
Seattle-Tacoma, Washington	[REDACTED]
Portland, Oregon	[REDACTED]

MARKET PENETRATION [REDACTED]

9. After selecting the 4 comparable DMAs for each Fisher DMA, we compared our market penetration in each comparable DMA with the Fisher DMA and discovered that the penetration numbers demonstrated [REDACTED]

10. The data with respect to the market penetration are attached as Exhibit C hereto. With respect to average market penetration, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11. [REDACTED]

[REDACTED]

12. The average market penetration comparison mirrors accurately comparisons of each of the Fisher DMAs to the comparable DMAs. [REDACTED]

[REDACTED]

[REDACTED]

Eugene, Oregon

a. In particular, in the Eugene, Oregon DMA (Fisher DMA), [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Yakima et al., Washington

- b. Similarly, in the Yakima et al, Washington DMA (another Fisher DMA), [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Bakersfield, California

- c. Similarly, in the Bakersfield, California DMA (another Fisher DMA), [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

Boise, Idaho

d. Similarly, in the Boise, Idaho DMA (another Fisher DMA), [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Idaho Falls, et al. Idaho

e. Similarly, in the Idaho Falls et al., Idaho DMA (another Fisher DMA), [REDACTED]

[REDACTED]

[REDACTED]

Portland, Oregon

f. Similarly, in the Portland, Oregon DMA (another Fisher DMA), [REDACTED]

[REDACTED]

[REDACTED]

Seattle-Tacoma, Washington

- g. Similarly, in the Seattle-Tacoma, Washington DMA (another Fisher DMA), [REDACTED]

REDACTED – FOR PUBLIC INSPECTION

14. In particular, during the Channel Loss Period, [REDACTED]

[REDACTED]

15. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16. Moreover, the average data discussed above is again mirrored in each of the Fisher DMAs. [REDACTED]

[REDACTED]

REDACTED - FOR PUBLIC INSPECTION

[REDACTED]

Bakersfield, California

- a. For example, in the Bakersfield, California DMA (Fisher DMA), [REDACTED]

[REDACTED]

[REDACTED]

Boise, Idaho

b. Similarly, in the Boise, Idaho DMA (another Fisher DMA), [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Eugene, Oregon

c. Likewise, in the Eugene, Oregon DMA (another Fisher DMA), [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

Idaho Falls et al., Idaho

- d. Similarly, in the Idaho Falls et al., Idaho DMA (another Fisher DMA), [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Portland, Oregon

- e. Likewise, in the Portland, Oregon DMA (another Fisher DMA), [REDACTED]

[REDACTED]

[REDACTED]

Seattle-Tacoma, Washington

- f. Similarly, in the Seattle-Tacoma, Washington DMA (another Fisher DMA), [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Yakima et al., Washington

g. Likewise, in the Yakima et al., Washington DMA (another Fisher DMA), [REDACTED]

[REDACTED]

[REDACTED]

REDACTED - FOR PUBLIC INSPECTION

[REDACTED]

17. Moreover, as a result of the loss of local channels in the Fisher DMAs during the Channel Loss Period, [REDACTED]

[REDACTED]

18. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19. [REDACTED]

20. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21. [REDACTED]

[REDACTED]

OTHER GENERAL IMPACTS

22. [REDACTED]

[REDACTED]

23. [REDACTED]

[REDACTED]

REDACTED – FOR PUBLIC INSPECTION

24.

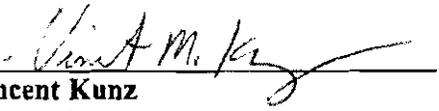
[REDACTED]

[REDACTED]

[REDACTED]

REDACTED – FOR PUBLIC INSPECTION

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information and beliefs. Executed on June 7, 2010.


Vincent Kunz
Senior Marketing Manager
Reporting and Analytics
DISH Network L.L.C.

REDACTED – FOR PUBLIC INSPECTION

EXHIBIT A

[REDACTED IN ITS ENTIRETY]

REDACTED – FOR PUBLIC INSPECTION

EXHIBIT B

[REDACTED IN ITS ENTIRETY]

REDACTED – FOR PUBLIC INSPECTION

EXHIBIT C

[REDACTED IN ITS ENTIRETY]

REDACTED – FOR PUBLIC INSPECTION

EXHIBIT D

[REDACTED IN ITS ENTIRETY]

REDACTED – FOR PUBLIC INSPECTION

EXHIBIT E

[REDACTED IN ITS ENTIRETY]

REDACTED – FOR PUBLIC INSPECTION

EXHIBIT F

[REDACTED IN ITS ENTIRETY]