

April 15, 2011

VIA ECFS FILING

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

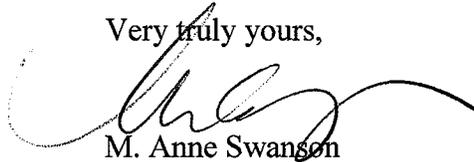
Re: Notification of *Ex Parte* Communication
MB Docket No. 10-91

Dear Ms. Dortch:

This is to advise you, in accordance with Section 1.1206 of the FCC's rules, that on April 14, 2011, the representatives of Tribune Media Services, Inc., Debtor-In-Possession ("TMS"), listed on Attachment A met with Sherrese Smith, Legal Advisor for Media, Consumer and Enforcement Issues to Chairman Genachowski, and William Lake, Media Bureau Chief. In the meeting, TMS expressed support for an AllVid approach under which MVPDs would make their services available to consumer electronics devices over an open interface that would use Internet Protocol-based communications as long as (i) the FCC does not impose restrictive technical standards on electronic program guide content, and (ii) the intellectual property of electronic program guide publishers is protected. TMS provided Ms. Smith and Mr. Lake with the attached handout.

As required by Section 1.1206(b), as modified by the policies applicable to electronic filings, an electronic copy of this letter is being submitted in the above-referenced docket.

Very truly yours,



M. Anne Swanson

Attachments

cc w/attach. (by email):

William T. Lake, Esquire
Sherrese Smith, Esquire

Attachment A – TMS Representatives

Jay Fehnel, SVP and COO, Entertainment Products (by phone)

Tribune Media Services, Inc., Debtor-in-Possession

Salvador Karottki, Assistant General Counsel (by phone)

Tribune Company, Debtor-In-Possession

Elisabeth M. Washburn, Assistant General Counsel (by phone)

Tribune Company, Debtor-In-Possession

M. Anne Swanson

Dow Lohnes PLLC

Derek H. Teslik

Dow Lohnes PLLC

Tribune Media Services, Inc., Debtor-In-Possession
Media Bureau Docket No. 10-91 – April 14, 2011

Intellectual property protection is essential to the Electronic Program Guide (“EPG”) content publishing industry

- ❖ The EPG content publishing industry licenses the information it compiles, creates, and publishes to companies that provide navigation devices to consumers. The industry relies on the intellectual property protection provided by copyright law and the terms of its content licenses.
 - EPG content is protected by copyright. A substantial amount of original research and content creation (*e.g.*, program descriptions and plot summaries) is involved with the production of EPG content, and individual content elements are independently protected by copyright.
 - EPG content is used by navigation device providers pursuant to licensing agreements.
- ❖ **Industry Structure**
 - EPG publishers (TMS, Rovi, etc.) first *create and compile content* about video programming (program titles, episodes, production dates, actors, synopsis, guest star appearances, etc.) and scheduling on various video programming service providers, on a market-by-market, channel-by-channel basis.
 - EPG publishers then *classify the content* to make it more useful to end users.
 - EPG publishers *license the content* for use by navigation device providers who, in turn, display the licensed content in their devices. For example, TMS licenses its data to major MVPDs (such as cable system operators and satellite services) for use in their set-top boxes and to competitive navigation device providers, such as TiVo, for the same purpose.
 - TMS also licenses content to newspapers and publishes its own direct-to-consumer program listings service, Zap2It.

The FCC should not require the unlicensed redistribution of copyrighted EPG content.

- ❖ The EPG industry functions well as it is, and the FCC should avoid adopting rules or requirements that damage it, interfere with the IP rights of EPG content providers, and disrupt EPG publishers' reasonable business expectations and prospects.
 - No evidence exists that disaggregation of EPG content would enhance consumer welfare. To the contrary, the record demonstrates that abundant EPG content is available through navigation devices provided by MVPDs and other competitors. Disaggregation is unnecessary to advance the mandate of Section 629.
 - An EPG disaggregation requirement would upset a complex, efficient, and well-functioning content publishing industry unnecessarily. If publishers of EPG content were not compensated fairly for the value of their product, they likely would cease creating and publishing such EPG content. Each MVPD would be forced to separately develop such EPG content, and this inefficient duplication would increase charges to MVPD customers without providing any compensating benefits. The EPG industry has been successful precisely because it provides EPG content more efficiently and cheaply than MVPDs could themselves.

TMS supports an open approach to AllVid since it does not impose technical standards on EPG content.

- ❖ TMS supports an approach that involves making video content available to client devices using an open application programming interface (“API”) over an IP-based interface as long as EPG publishers' intellectual property is protected.
- ❖ Restrictive EPG technical standards are wholly unnecessary and would do nothing to foster competition in the navigation device equipment market.