

Warren Communications News  
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Federal Communications Commission  
Office of the Secretary

Richard L. Sippel  
Chief Administrative Law Judge,  
Federal Communications Commission  
via e-mail and to be hand-delivered April 25, 2011  
MB docket 10-204

Judge Sippel:

We respectfully request that members of the public, including the media, be allowed to attend the entire hearing of *Tennis Channel v. Comcast*. The hearing of this program access case is of interest to the public and to readers of *Communications Daily*, published by Warren Communications News.

We believe it is essential that members of the public have an opportunity to observe the proceedings as they occur. Members of the public and the news media have demonstrated an interest in the past batch of program access complaints that you heard oral testimony on in 2009: *WealthTV v. Bright House Networks, Comcast, Cox Communications and Time Warner Cable*; *NFL Network v. Comcast*; and *Mid-Atlantic Sports Network v. Comcast*.

It is our understanding that the plaintiff and defendant may have an agreement that the entire hearing be closed to all but participants in the case. Regardless of any agreement - verbal, written or otherwise - between any parties to the case, we believe that the public interest in this proceeding trumps the desire of any participant to prevent members of the public and media from observing the hearing.

We believe that confidential and/or proprietary information can be protected from inadvertent public release, without taking the unnecessary step of closing the case to the public. Indeed, during the three cases you heard oral testimony on two years ago, at least part of each case was open to the public. We are not aware of any confidential and/or proprietary information having been made public during those proceedings. Members of the public, including

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media, were asked to leave the hearing when those testifying and/or their counsel believed that confidential and/or proprietary information would be discussed.

We do not believe that it is in the public interest for redacted transcripts of the hearing of *Tennis Channel v. Comcast* to be made available to the media and public after oral testimony is given, in lieu of allowing the public to attend the hearing. In the last three program access cases before you, there was a substantial delay between when testimony was given and when the transcripts were made available to the media, exceeding 24 hours and often exceeding 48 hours. And transcripts, no matter how quickly released, do not convey the tone of oral testimony and questioning by counsel and by yourself, nor what body language was used.

Thank you for your attention to this matter. A representative of Warren Communications News, Jonathan Make, will be at the hearing on Monday morning, April 25, for any questions that you may have.

Sincerely,

Jonathan Make  
Assistant Managing Editor

Michael Feazel  
Executive Editor

Dan Warren  
President

cc: Mary Gosse, ALJ administrative officer  
Marlene Dortch, FCC secretary  
Stephen Weiswasser, counsel to Tennis Channel  
Michael Carroll, counsel to Comcast  
James Casserly, counsel to Comcast  
David Solomon, counsel to Comcast