

May 11, 2011

VIA ELECTRONIC FILING

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

Re: In re Leased Commercial Access; Development of Competition and Diversity in Video Programming Distribution and Carriage, MB Docket No. 07-42

Dear Ms. Dortch:

On May 10, 2011, Jim Coltharp, Chief Policy Advisor for FCC & Regulatory Policy at Comcast Corporation (“Comcast”), and David Murray and the undersigned of Willkie Farr & Gallagher LLP, representing Comcast, met with Joshua Cinelli, Media Advisor to Commissioner Michael Copps, and Rosemary Harold, Media Legal Advisor to Commissioner Robert McDowell. On May 11, 2011, Jim Coltharp of Comcast, and David Murray and Michael Hurwitz of Willkie Farr & Gallagher LLP, met with David Grimaldi, Chief of Staff and Media Legal Advisor to Commissioner Mignon Clyburn. In each meeting, we discussed issues related to the Commission’s notice of proposed rulemaking on program carriage.

Specifically, we noted that there is currently a program carriage item on the agency’s circulation list, notwithstanding that the comment cycle closed in 2007 and very few filings have been made since late 2008. We pointed out that, since that time, there have been numerous program carriage complaint proceedings at the agency and one program carriage arbitration litigated pursuant to the *Adelphia Order*. We noted that the parties’ experiences in some of the recent program carriage cases, and other intervening industry developments, may be highly relevant to any revised or additional program carriage rules, and suggested that the agency would likely benefit from an expedited reopening and refreshing of the record.

In addition, we made the following points:

- Expeditious decisions benefit all parties by reducing costs, so long as the due process rights of the parties are respected. To that end, we urged the Commission, in any action it takes, to consider adopting more exacting pleading requirements and better enforcement of existing rules governing the initial pleadings. For example, the Commission should require

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complainants to submit supporting evidence and documentation to support the assertions and arguments in the complaint. Defendants would be required to do the same.

- The current pleading cycle could be improved to ensure that the Media Bureau has the information it needs to make a timely determination as to whether a complainant has made a prima facie case. For example, the current rules give a complainant as much as a year to prepare its complaint and supporting evidence, but only permit a defendant 30 days to answer, including responding to any expert reports the complainant has submitted. Allowing defendants 45 or 60 days to answer complaints would permit a fuller response and more probing analysis of the evidence and data proffered by the complainant, which may promote more efficient and expeditious prima facie determinations by the Media Bureau.
- The Commission should decline invitations to expand the program carriage rules in ways that would cause uncertainty and delay, increase the costs and burdens of disputes, or raise significant First Amendment concerns, for example, by mandating carriage before the Commission has determined a violation has occurred, allowing unsupervised party-to-party discovery, or broadening the program carriage attribution standard beyond the statutory scope and purpose.

Kindly direct any questions regarding this matter to my attention.

Sincerely,

/s/ Ryan G. Wallach

Ryan G. Wallach

Counsel for Comcast Corporation

cc: Joshua Cinelli
David Grimaldi
Rosemary Harold