

FOR PUBLIC INSPECTION

Marlene H. Dortch
October 22, 2010
Page 2

REDACTED – FOR PUBLIC INSPECTION

on consumers and other networks, as well as the difficulty and cost of re-tiering and changing myriad channel lineups throughout Comcast's 39 state footprint. Moreover, Bloomberg ignores the diminishing relevance of channel assignments as new navigation and search features are introduced. In addition to these problems, Comcast has shown that Bloomberg's proposed neighborhood condition is both unnecessary and unrelated to the transaction.³

Bloomberg's naïve view is that channel positioning on a grand scale can easily be accomplished by flipping a few switches. Not so. Consider what Bloomberg's "simple" fix would mean in just one of Comcast's systems, Washington, D.C.:

- Looking solely at moving Bloomberg and Fox Business News ("FBN") to channels adjacent to CNBC, under Bloomberg's proposed condition Comcast would be required to move Bloomberg and FBN from Channels 103 and 106, respectively, to channels adjacent to or near CNBC on Channel 39. But Channels 38, 40, and 41 already have been assigned to MSNBC, Travel Channel, and Discovery Channel, respectively. Because MSNBC on Channel 38 is adjacent to Fox News, CNN, and Headline News, the best way to achieve the desired "neighborhooding" would be to move Bloomberg and FBN to Channels 40 and 41.
- Moving Bloomberg and FBN to Channels 40 and 41, however, would require Comcast to find a place to move Travel Channel and Discovery Channel, two popular networks whose channel numbers are likely well known by a significant number of customers. And moving those channels would require moving other channels as well.
- If, for example, Discovery Channel was moved to Channel 45 to place it next to Animal Planet (Channel 44), then Comcast would have to move Cartoon Network, another popular network, from Channel 45 to some other location. Perhaps it could be moved to Channel 49, to place it near Disney (Channel 46), Nickelodeon (Channel 47), and TV Land (Channel 48). But that, in turn, would require moving Turner Classic Movies off of Channel 49. Under Bloomberg's theory, Turner Classic Movies might fit better next to AMC (Channel 53), but that would mean displacing Hallmark (Channel 52) or Lifetime (Channel 54). And so on.
- Similarly, moving Bloomberg and FBN would require moving Travel Channel, which could be relocated to the neighborhood of networks such as HGTV (Channel 55) or Food Network (Channel 56). To move Travel Channel into that neighborhood, Comcast would have to move it to Channel 54 (currently occupied by Lifetime) or Channel 57 (currently occupied by Oxygen). So now Lifetime or Oxygen would have to move, and into the right "neighborhood,"

³ As Comcast has explained, there is no basis or rationale for adopting any of Bloomberg's proposed conditions. See Comcast et al. Opposition to Petitions to Deny and Response to Comments, MB Docket No. 10-56, at 165-67, 171-73 (July 21, 2010) ("Opposition and Response"). The harms Bloomberg claims it will suffer are mere conjecture, conjecture that Comcast's economists have thoroughly refuted. See *id.* Exhibit 2 ¶¶ 134-138, 154-186 (Mark Israel & Michael L. Katz, *Economic Analysis of the Proposed Comcast-NBCU-GE Transaction* (July 20, 2010)). Moreover, the harms Bloomberg alleges might occur are easily remedied by the program carriage rules, which makes Bloomberg's proposed extreme conditions unnecessary.

FOR PUBLIC INSPECTION

Marlene H. Dortch
October 22, 2010
Page 3

REDACTED – FOR PUBLIC INSPECTION

which would require Comcast to find another channel for these displaced networks, and this, of course, would displace yet other channels.

In short, moving just two networks under the Bloomberg plan would have a cascading effect. These channel changes would confuse and upset consumers loyal to the moved networks. Multiplying that out across hundreds of cable systems would result in many unhappy consumers and millions of phone calls.

Of course, this is just the beginning of the channel changes that would be required under Bloomberg's plan because it does not even include the HD versions of any of these networks. And, Bloomberg proposes that Comcast do this for "*all networks that compete with the [NBC-affiliated] networks being acquired.*"⁴ Bloomberg's proposal would result in a dizzying number of channel changes in virtually every Comcast system, as well as the forced carriage of Bloomberg, FBN, and a host of other programming networks in new tiers and HD format.

Bloomberg ignores other practical considerations as well. For example, what about the conflicts that would inevitably arise when other networks are displaced in order to accommodate Bloomberg? Should Discovery Channel have to move to a new channel position just because Bloomberg seeks a special regulatory advantage based on an invented theory of harm about a pre-transaction circumstance? What about broadcast networks' statutory and PEG channels' contractual rights to be located on particular channels? How should Comcast deal with the cost and logistics for providing the formal 30-day notice for each of the channel changes to all affected customers and local franchise authorities in these markets in so vast and complex a channel rearrangement as Bloomberg proposes? And what will happen when Comcast notifies dozens of programming networks that they have to move? In all likelihood, those networks will oppose vigorously any such move.

Bloomberg also fails to mention that its plan would require Comcast to undertake a massive and expensive effort to educate all of its customers about the upcoming channel changes through bill inserts, screen crawls, etc. In addition, after the changes are implemented, Comcast would have to respond to a vast number of customers calling to ask where their favorite channels were moved. And all of these types of practical problems (and the resultant consumer dissatisfaction) occur whether Comcast's cable system is digital or analog. At the end of the day, Bloomberg's plan to have the Commission impose Bloomberg's business desires over the potential objections of consumers, broadcasters, local governments, and all the other networks that would be affected will result in a regulatory and public relations nightmare and would raise First Amendment concerns.⁵

⁴ Bloomberg September 30 Letter at 2 n.4 (emphasis added).

⁵ Bloomberg's claim that the Commission should provide preferential treatment for Bloomberg because it is "the last independent source of news programming" is at odds with the First Amendment. So too is its proposal that the Commission mandate neighborhoods of programming networks. A Commission requirement that preferences Bloomberg because of its content and asserted independence would not only be content-based, but would be viewpoint-based and, thus, subject to the strictest of scrutiny. See, e.g., *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 828 (1995) ("It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys. . .

Marlene H. Dortch
 October 22, 2010
 Page 4

REDACTED – FOR PUBLIC INSPECTION

Bloomberg incorrectly claims that Comcast “changes the channel positions on its cable systems often.” Although Bloomberg asserts that an attachment filed with its Petition provides data and support for its claims, that attachment fails to provide any details about what channels were affected or what Bloomberg counts as a “change in channel position.” Thus, Bloomberg’s “data” provide no support for its claim. Moreover, taking Bloomberg’s numbers at face value would produce absurd results. For example, according to Bloomberg, in the New York DMA – where Bloomberg claims Comcast “had nearly 2000 channels change position since 2001” – Comcast, on average, would have “change[d] channel positions” over 222 times each year during that period. Similarly, under Bloomberg’s theory, Comcast customers in the Philadelphia DMA would have experienced, on average, over 58 channel changes in each year of the past decade. Of course, Comcast did not “change” that many networks’ channel positions, which means Bloomberg’s data are either inaccurate or misleading. Because Bloomberg has not provided the data necessary to determine how it arrives at its calculation, it is impossible to determine whether Bloomberg is improperly including as a channel change any lineup modification – even those where no network actually changed channel positions, e.g., addition of a network, mapping an HD network that is already carried to a second channel number, etc. – or is inflating the number of actual channel changes by counting one network’s change in channel position on, for example, 100 different channel lineups as 100 changes, or both. Accordingly, Bloomberg’s conclusion is not driven by the data.

The Commission should also take into account the fact that interactive program guides and navigation features are evolving. As Comcast explained in its August 12, 2010 meeting and the August 13, 2010 ex parte summarizing that meeting, the importance of channel location is diminishing.⁶ As it stands now, customers already have a number of navigation features that have decreased consumers’ reliance on channel numbers, for example, interactive program guides, the ability to program in “favorites,” and program title searches. Moving forward, search and navigation functionality in the multichannel industry will continue to improve and will further diminish the need

. When the government targets not subject matter, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant.” (citations omitted)). In addition, a condition requiring Comcast to neighborhood similar programming networks would require the Commission to prejudge what networks are similar and should be in the same neighborhood. Such a decision is inherently left to the editorial discretion of Comcast. See *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 636 (1994) (“There can be no disagreement on an initial premise: Cable programmers and cable operators engage in and transmit speech, and they are entitled to the protection of the speech and press provisions of the First Amendment.”) (citing *Leathers v. Medlock*, 499 U.S. 439, 444 (1991)). “Through ‘original programming or by exercising editorial discretion over which stations or programs to include in its repertoire,’ cable programmers and operators ‘see[k] to communicate messages on a wide variety of topics and in a wide variety of formats.’” *Id.* (quoting *Los Angeles v. Preferred Communications, Inc.*, 476 U.S. 488, 494 (1986)).

⁶ Neither Bloomberg’s Petition, Opposition, or ex parte letters rebut that proposition; rather, the sole argument Bloomberg raises in response to that proposition is that Comcast (after responding to a question related to channel positioning posed by the Bureau staff in the August 12, 2010 meeting), chose the “route of an ex parte just before reply filings were due to deny Bloomberg the opportunity to respond to the details of their argument.” Bloomberg September 30 Letter at 5. Of course, Bloomberg was free to respond to the details of Comcast’s argument in its September 30, 2010 ex parte letter, but it chose not to, presumably because it has no basis to dispute Comcast’s assertion that the importance of channel positioning is diminishing.

FOR PUBLIC INSPECTION

Marlene H. Dortch
October 22, 2010
Page 5

REDACTED – FOR PUBLIC INSPECTION

to remember channel numbers, much like Internet search engines have reduced the need for consumers to remember the URL (or web address) for their favorite sites.

Comcast is currently in the process of deploying advanced search features that enable customers to search by title, genre, actor/director, and keyword. It is also in the process of trialing even more advanced navigation and search functionality that will make it even easier for customers to find the programming they want or explore new programming options. Comcast has never denied that placing similar programming in a neighborhood may make sense, especially when it can be done in a way that minimizes consumer disruption. However, traditional cable operators, unlike DBS providers or the telcos, are not working on a clean slate; in the case of traditional established cable operators, many networks secured their positions years ago, and the channels in the same “neighborhood” have long been assigned to other networks.⁷ That is why Comcast is trialing in very limited markets a channel lineup that neighborhoods programming networks in channels over 100, typically digital and HD tiers of service and the channels that are less likely to create significant customer disruption.⁸ The precise purpose of these trials is to gauge how burdensome and disruptive an incremental move to such an environment will be for Comcast and its customers.

In contrast, Bloomberg’s proposal to neighborhood business news networks – let alone all programming networks – is not incremental or limited, nor does Bloomberg in any way account for the effects its proposal would have on consumers or other programming networks. In fact, such a condition would be extremely burdensome and harm consumers and other programming networks. More importantly, the condition is in no way related to the harms Bloomberg theorizes would result from the transaction, and those theories themselves have been rebutted. Although forcing Comcast to move Bloomberg to positions adjacent to more popular programming networks may benefit Bloomberg, the benefit to consumers would likely be outweighed by the disruption, frustration, and burdens that would result. The simple fact is that Bloomberg currently is distributed to the vast majority of Comcast’s customers, and those customers are perfectly capable of finding Bloomberg on their channel lineup if they want it. Accordingly, the Commission should reject Bloomberg’s proposed neighborhood condition.⁹

⁷ According to a recent analysis by Media Business Corp., although DBS providers and newer cable companies like AT&T and Verizon generally have positioned Bloomberg within three channels of CNBC on their channel lineups, the vast majority of traditional cable operators do not. In fact, 7 of the top 10 traditional cable operators position Bloomberg with CNBC less frequently than Comcast does. See *MediaCensus Real Numbers: Bloomberg v. CNBC*, Morning Bridge, Oct. 21, 2010, available at <http://www.mediabiz.com/morningbridge/>.

⁸ Comcast is conducting limited trials of a channel lineup that groups digital and HD networks in genre neighborhoods such as “News & Local,” “Kids,” “Sports,” “Movies,” etc. However, because moving networks from one channel to another is very difficult and any channel movement inevitably results in substantial customer confusion and numerous complaints, Comcast has not changed any channels between 1-99. More information about these trials and a sample lineup is available at <http://www.comcast.com/xfl lineup/>.

⁹ Bloomberg’s contention that it is entitled to the same channel positioning as CNBC is without merit. As Applicants have shown, CNBC is a more successful and established network whose quality, reputation, and longevity far exceed that of Bloomberg. See *Opposition and Response* at 174-175.

Marlene H. Dortch
October 22, 2010
Page 6

REDACTED – FOR PUBLIC INSPECTION

Finally, Comcast would like to address the fact that, despite filing economic reports on behalf of Bloomberg on June 21, 2010 and August 18, 2010, Professor Leslie Marx delayed the production of critical backup material – including her underlying data sources and the computer programs used to process and analyze those data – until October 11, 2010 (with some additional material filed on October 18, 2010). This delay made it impossible for Comcast’s economists, Drs. Israel and Katz, to replicate or fully evaluate Dr. Marx’s work in any reasonable timeframe. Moreover, the backup material Dr. Marx finally did produce was substantially incomplete, meaning that it remains impossible for Drs. Israel and Katz or the Commission’s economists to replicate or fully evaluate her analysis. Among Professor Marx’s numerous tables that made use of Tribune Media Service, Kagan, or MRI data, it appears that she has produced complete backup *only* for Table 15 of her June 21, 2010 report. For all other tables using these underlying datasets, she failed to provide sufficient data processing programs to enable Drs. Israel and Katz to replicate how she reached her final results from the raw data, a minimum standard for acceptable backup materials.

In fact, for some of Professor Marx’s tables, *no backup programs have been provided whatsoever*. Most notably, no backup programs were provided for Table 12 of her June 21, 2010 report, which Professor Marx claims to show, via regression analysis, the changes to Bloomberg and CNBC viewership that arise when the networks are placed in the same channel “neighborhood.” As Drs. Israel and Katz have noted previously, some of the findings in that table “raise doubts about the validity of her analysis.”¹⁰ Yet, to this date, Bloomberg has not submitted backup materials that enable them or others to investigate and fully evaluate those findings. Given that much of Bloomberg’s focus in this proceeding has been on the need for conditions surrounding channel neighborhoods, this omission is fatal.

Kindly direct any questions regarding this matter to my attention.

Respectfully submitted,



Michael H. Hammer
Counsel for Comcast Corporation

cc: Marcia Glauberman
Nicole McGinnis

¹⁰ See Opposition and Response Ex. 2 ¶ 182 (Israel & Katz Economic Analysis).

FOR PUBLIC INSPECTION

WILLKIE FARR & GALLAGHER LLP

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FILED/ACCEPTED

October 22, 2010

OCT 22 2010

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BY HAND DELIVERY

Federal Communications Commission
Office of the Secretary

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

Re: *In the Matter of Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses or Transfer Control of Licensees, MB Docket No. 10-56*
REDACTED – FOR PUBLIC INSPECTION

Dear Ms. Dortch:

Pursuant to the Second Protective Order¹ in the above-referenced proceeding, Comcast Corporation hereby submits two copies of the redacted version of an ex parte notice responding to Bloomberg L.P. that contains Highly Confidential Information. A Highly Confidential, unredacted version is being filed under separate cover.

Sincerely yours,



Michael H. Hammer
Counsel for Comcast Corporation

Enclosures

cc: Vanessa Lemmé

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

FOR PUBLIC INSPECTION

EXHIBIT D

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

In re Complaint of)
)
BLOOMBERG L.P.) File No. _____
)
v.)
)
COMCAST CABLE COMMUNICATIONS, LLC)
)
)
)

DECLARATION OF DANIEL DOCTOROFF

I, Daniel Doctoroff, hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge.

1. I am the President of Bloomberg L.P. (“Bloomberg”). Bloomberg is a worldwide provider of financial news and information.

2. Bloomberg wholly owns Bloomberg Television (“BTV”). BTV provides 24-hour business news programming, seven days a week. BTV is available through Multichannel Video Programming Distributors, including Comcast, and is also available over the Internet.

3. Bloomberg launched BTV in 1994. At that time, the network was only designed to serve professional investors who were already clients of Bloomberg’s computer terminal service.

4. In 2008, however, Bloomberg decided to revamp BTV to appeal to a much broader audience. As part of this strategy, Bloomberg made major capital investments in BTV. Bloomberg also significantly changed and expanded BTV’s personnel and programming. Among other things, Bloomberg established an entirely new management team for BTV. For example, Bloomberg hired Andy Lack to head its television, radio, and interactive divisions as CEO of Bloomberg Media Group. Mr. Lack is former chairman and CEO of Sony Music Entertainment, President and COO of NBC, and President of NBC News. In his position at Bloomberg, Mr. Lack has primary

FOR PUBLIC INSPECTION

responsibility for BTV. Bloomberg also hired Norman Pearlstine, formerly Editor-in-Chief of Time, Inc. and Executive Editor of *The Wall Street Journal*, to be its chief content officer. Mr. Pearlstine's responsibilities include seeking growth opportunities for Bloomberg's television, radio, magazine, and online products and making the most of the company's news operations, including BTV.

5. Today, Bloomberg is among the largest newsgathering organizations in the world, employing more than 2,300 reporters and editors worldwide.

6. BTV is currently the only worldwide 24-hour business and financial television network and is also the last major source of television news in the United States independent of either MVPDs or integrated programmers. BTV's chief competition is CNBC, which is currently the dominant provider of televised business news.

7. Neither Bloomberg nor BTV is affiliated with Comcast Corporation or any of its affiliates or subsidiaries.

8. Neither Bloomberg nor BTV is affiliated with any of the top 15 programming networks in the United States, as measured by annual revenues.

9. On March 3, 2011, I contacted Steve Burke, Executive Vice President of Comcast Corporation, by phone to initiate discussions about implementing the news neighborhooding condition that was contained in the FCC Order approving the Comcast-NBC Universal merger. After I congratulated Mr. Burke on successfully completing the merger, he told me that Comcast expected to comply with all of the conditions contained in the FCC Order but that Neil Smit, who had been recently appointed President of the Comcast Cable Communications, LLC, was the appropriate contact point within Comcast for discussing next steps.

10. On March 9, 2011, Andy Lack and I had a brief telephone conversation with Neil Smit. During this phone call, we attempted to begin substantive discussions with Comcast about implementing the news neighborhooding condition. Mr. Smit, however, indicated that the topic was

FOR PUBLIC INSPECTION

a new issue for him and that he would need time to evaluate it. In order to facilitate future discussions between Bloomberg and Comcast, Mr. Smit asked Bloomberg to send him a letter setting forth our view of what the news neighborhooding condition required Comcast to do with respect to BTV. During this conversation, Mr. Smit reiterated that Comcast fully intended to abide by the conditions set forth in the FCC Order.

11. On March 10, 2011, I sent a letter to Neil Smit explaining that the plain terms of the FCC's news neighborhooding condition required Comcast to move BTV into any news neighborhood that currently exists on any Comcast system. The letter included a list of markets where Comcast currently has news neighborhoods that do not include BTV. As expressly indicated in the letter, this list was not intended to be exhaustive but rather illustrative in order to provide guidance to Comcast in implementing the news neighborhooding condition. The letter concluded by requesting that Comcast place BTV in all news neighborhoods on Comcast cable systems within three months, and indicated that I was looking forward to working with Mr. Smit to effectuate the FCC's Order.

12. Neither Mr. Smit nor anyone else at Comcast ever responded in writing to my March 10, 2011 letter.

13. On March 18, 2011, Andy Lack and I spoke again to Mr. Smit by phone. During this call, Mr. Smit indicated that a number of people at Comcast were studying the news neighborhooding question, including looking into associated technological issues, and that he needed more time to respond to Bloomberg.

14. On April 4, 2011, Andy Lack and I had our last telephone conversation with Neil Smit. During this call, Mr. Smit took the position that the FCC Order did not require Comcast to do anything that it was not already doing with respect to the placement of independent news channels. Therefore, he said that there was nothing to implement with respect to the FCC's news

neighborhooding condition and that Comcast had no interest in discussing implementation of the FCC Order with Bloomberg. Among other things, Mr. Smit took the position that the news neighborhooding condition applied only to news neighborhoods that might be created in the future, not to existing news neighborhoods, and that Comcast currently does not have news neighborhoods on its cable systems.

15. Instead of discussing implementation of the news neighborhooding condition, Mr. Smit stated that Comcast would be willing to enter into commercial negotiations over BTV's channel placement on Comcast's cable systems. Mr. Lack and I responded that Bloomberg had previously engaged in commercial negotiations with Comcast on the issue of neighborhooding and that such negotiations were completely unproductive. Moreover, in light of the FCC Order, we did not believe that it was reasonable for Bloomberg to pay Comcast to do what the FCC had already required Comcast to do. In light of the impasse that had been reached, I asked Mr. Smit to send me his counsel's contact information, which he did the next morning.

16. On May 26, 2011, Bloomberg sent Comcast the "prefiling notice" letter required by the Commission's Rules. Bloomberg informed Comcast that "unless Comcast advise[d] in writing within 10 days that it agree[d] to . . . plac[e] BTV in [Comcast's] existing news neighborhoods on all systems in the 35 most-populous DMAs in the United States within 60 days of this letter, Bloomberg [would] submit 'this dispute to the Commission in accordance with the Commission's program carriage complaint procedures, 47 C.F.R. § 76.1302.'"

17. On June 6, 2011, Comcast responded to Bloomberg's prefiling notice. Comcast's response reflected the same position that Neil Smit relayed to me on April 4, 2011. Comcast claimed that the news neighborhooding condition "only applies in the event Comcast engages in neighborhooding in the future," and that, in any event, Comcast does not currently engage in neighborhooding.

FOR PUBLIC INSPECTION

18. I have reviewed and am familiar with the contents of the foregoing Complaint. The factual assertions made in the Complaint are true to the best of my knowledge and belief.

Dated: June 13, 2011


Daniel Doctoroff

FOR PUBLIC INSPECTION

EXHIBIT E

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Complaint of)
)
BLOOMBERG L.P.) File No. _____
)
v.)
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COMCAST CABLE COMMUNICATIONS, LLC)
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DECLARATION OF ANDREW LACK

I, Andrew Lack, hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge.

1. I am currently the CEO of Bloomberg Media Group. I have held this position since 2008. As CEO of Bloomberg Media Group, I lead Bloomberg L.P.'s (Bloomberg's) television, radio, and interactive divisions.

2. Prior to joining Bloomberg, I held many jobs within the media industry. Among other positions, I served as the Chairman and CEO of Sony Music Entertainment, President and Chief Operating Officer of NBC, and President of NBC News.

3. In my current position, I am responsible for the operations of Bloomberg TV ("BTV"). BTV provides 24-hour business news programming, seven days a week. BTV is available through Multichannel Video Programming Distributors, including Comcast, and is also available over the Internet.

4. BTV is currently the only worldwide 24-hour business and financial television network and is also the last major source of television news in the United States independent of either MVPDs or integrated programmers. In particular, from 6:00 a.m. through 4:00 p.m. in the

FOR PUBLIC INSPECTION

U.S. Eastern Time Zone, BTV's programming is focused on reporting and analysis related to business and public affairs.

5. Given my current position and past experience, I am very familiar with the competitive environment in which BTV operates.

6. The five most-watched cable news channels in the United States right now are Fox News Channel, CNN, HLN, MSNBC, and CNBC.

7. BTV's chief competition is CNBC, which is currently the dominant provider of televised business news. As a result of BTV's recent growth and improvements, BTV is quickly becoming a formidable competitor to CNBC.

8. CNBC is a network that provides business and financial news programming. It is carried by MVPDs. CNBC is owned by NBCUniversal, LLC, which is controlled by Comcast. From 6:00 a.m. through 4:00 p.m. in the U.S. Eastern Time Zone, CNBC's programming is focused on reporting and analysis related to business and public affairs.

9. Fox Business Channel is another network that provides business and financial news programming. It is carried by MVPDs. From 6:00 a.m. through 4:00 p.m. in the U.S. Eastern Time Zone, Fox Business Channel's programming is focused on reporting and analysis related to business and public affairs.

10. CNBC World is a network that provides international business and financial news programming. It is carried by MVPDs. CNBC World is owned by NBCUniversal, LLC, which is, in turn, controlled by Comcast. From 6:00 a.m. through 4:00 p.m. in the U.S. Eastern Time Zone, CNBC World's programming is focused on reporting and analysis related to business and public affairs.

11. MSNBC is a network that provides news programming. It is carried by MVPDs. MSNBC is owned by NBCUniversal, LLC, which is, in turn, controlled by Comcast. From 6:00 a.m.

through 4:00 p.m. in the U.S. Eastern Time Zone, MSNBC's programming is focused on reporting and analysis related to public affairs.

12. Fox News Channel, CNN, and HLN (formerly Headline News) are networks that provide news programming. They are carried by MVPDs. From 6:00 a.m. through 4:00 p.m. in the U.S. Eastern Time Zone, each of these networks' programming is focused on reporting and analysis related to public affairs.

13. CNN International is a network that provides international news programming. It is carried by MVPDs. From 6:00 a.m. through 4:00 p.m. in the U.S. Eastern Time Zone, CNN International's programming is focused on reporting and analysis related to public affairs.

14. C-SPAN, C-SPAN2, and C-SPAN3 are noncommercial networks that provide public affairs programming. They are carried by MVPDs. From 6:00 a.m. through 4:00 p.m. in the U.S. Eastern Time Zone, C-SPAN's, C-SPAN2's, and C-SPAN3's programming focuses on reporting and analysis related to public affairs.

15. It is generally understood within the television industry that an MVPD's grouping of four or more channels of the same genre in substantially adjacent channel positions constitutes a neighborhood. Such channel groupings do not arise by accident but rather result from the decisions of MVPDs to organize their channel lineups by genre.

16. On March 9, 2011, Dan Doctoroff, President and Chief Executive Officer of Bloomberg, and I had a brief telephone conversation with Neil Smit. During this phone call, we attempted to begin substantive discussions with Comcast about implementing the news neighborhooding condition contained in the FCC Order approving the Comcast-NBC Universal merger. Mr. Smit, however, indicated that the topic was a new issue for him and that he would need time to evaluate it. In order to facilitate future discussions between Bloomberg and Comcast, Mr. Smit asked Bloomberg to send him a letter setting forth our view of what the news neighborhooding

FOR PUBLIC INSPECTION

condition required Comcast to do with respect to BTV. During this conversation, Mr. Smit reiterated that Comcast fully intended to abide by the conditions set forth in the FCC Order.

17. On March 18, 2011, Dan Doctoroff and I spoke again to Neil Smit. During this call, Mr. Smit indicated that a number of people at Comcast were studying the news neighborhooding question, including looking into associated technological issues, and that he needed more time to respond to Bloomberg.

18. On April 4, 2011, Dan Doctoroff and I had our last telephone conversation with Neil Smit. During this call, Mr. Smit took the position that the FCC Order did not require Comcast to do anything that it was not already doing with respect to the placement of independent news channels. Therefore, he said that there was nothing to implement with respect to the FCC's news neighborhooding condition and that Comcast had no interest in discussing implementation of the FCC Order with Bloomberg. Among other things, Mr. Smit took the position that the news neighborhooding condition applied only to news neighborhoods that might be created in the future, not to existing news neighborhoods, and that Comcast currently does not have news neighborhoods on its cable systems.

19. Instead of discussing implementation of the news neighborhooding condition, Mr. Smit stated that Comcast would be willing to enter into commercial negotiations over BTV's channel placement on Comcast's cable systems. Mr. Doctoroff and I responded that Bloomberg had previously engaged in commercial negotiations with Comcast on the issue of neighborhooding and that such negotiations were completely unproductive. Moreover, in light of the FCC Order, we did not believe that it was reasonable for Bloomberg to pay Comcast to do what the FCC had already required Comcast to do. In light of the impasse that had been reached, Mr. Doctoroff asked Mr. Smit to send his counsel's contact information.

FOR PUBLIC INSPECTION

20. On May 26, 2011, Bloomberg sent Comcast the “prefiling notice” letter required by the Commission’s Rules. Bloomberg informed Comcast that “unless Comcast advise[d] in writing within 10 days that it agree[d] to . . . plac[e] BTV in [Comcast’s] existing news neighborhoods on all systems in the 35 most-populous DMAs in the United States within 60 days of this letter, Bloomberg [would] submit ‘this dispute to the Commission in accordance with the Commission’s program carriage complaint procedures, 47 C.F.R. § 76.1302.’”

21. On June 6, 2011, Comcast responded to Bloomberg’s prefiling notice. Comcast’s response reflected the same position that Neil Smit relayed to us on April 4, 2011. Comcast claimed that the news neighborhooding condition “only applies in the event Comcast engages in neighborhooding in the future,” and that, in any event, Comcast does not currently engage in neighborhooding.

22. I have reviewed and am familiar with the contents of the foregoing Complaint. The factual assertions made in the petition are true to the best of my knowledge and belief.

Dated: June 13, 2011

A handwritten signature in black ink, appearing to be 'A. Lack', written over a horizontal line.

Andrew Lack

FOR PUBLIC INSPECTION

EXHIBIT F

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Complaint of)
)
BLOOMBERG L.P.) File No. _____
)
v.)
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COMCAST CABLE COMMUNICATIONS, LLC)
)
)
)

DECLARATION OF GREGORY S. CRAWFORD

I, Gregory S. Crawford, hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge.

1. I am currently a Professor of Economics at the University of Warwick in the United Kingdom. I received a Ph.D. in Economics from Stanford University in 1998. I was an assistant professor at Duke University as well as an assistant and later associate professor at the University of Arizona.

2. In 2007-08, I served as Chief Economist of the Federal Communications Commission (the "FCC" or "Commission"), an independent Federal regulatory agency charged with regulating a number of media and communications industries, including cable and satellite television. During my time at the Commission, I provided advice related to a number of topics, including mergers, spectrum auction design, media ownership, network neutrality, and the bundling of video channels.

FOR PUBLIC INSPECTION

3. After my service at the FCC, I joined the Department of Economics at the University of Warwick in the United Kingdom as a full professor. I am also Director of Research for the University's Economics Department.

4. In 2011, I was invited to be a research fellow at the Centre for Economic Policy Research ("CEPR"), one of the leading European research networks in economics.

5. I conduct research on topics in industrial organization as well as law and economics. Much of my research has analyzed the cable and satellite television industries. Particularly relevant for this proceeding, I have published extensively at the intersection of these fields, evaluating conditions of demand and supply within the cable television industry and the consequences of regulation on economic outcomes in cable markets. I have published numerous academic articles in such outlets as the *American Economic Review*, *Econometrica*, the *RAND Journal of Economics*, and the *Journal of Law and Economics*. My works include: "The Impact of the 1992 Cable Act on Household Demand and Welfare," *RAND Journal of Economics*, v.31, n.3 (Autumn 2000), 422-49; "Monopoly Quality Degradation and Regulation in Cable Television" (with Matthew Shum), *Journal of Law and Economics*, v.50, n.1 (February 2007), 181-209; "Bundling, Product Choice, and Efficiency: Should Cable Television Networks Be Offered A La Carte?," (with Joseph Cullen), *Information Economics and Policy*, v.19, n.3-4 (October 2007), 379-404; and "The Welfare Effects of Bundling in Multichannel Television Markets," (with Ali Yurukoglu), forthcoming, *American Economic Review*. I have attached my CV as Appendix A to this Declaration.

6. When the National Bureau of Economic Research ("NBER") commissioned a volume analyzing the consequences of economic regulation across a number of American industries, I was asked to write the chapter on cable television. The NBER is the largest economics research organization in the United States. The chapter is titled, "Cable Regulation in the Satellite

FOR PUBLIC INSPECTION

Era,” Chapter 5 in Rose, N., ed., “Economic Regulation and Its Reform: What Have We Learned?” forthcoming, University of Chicago Press.

7. I was recently asked by Bloomberg L.P. (“Bloomberg”) to evaluate the extent to which Comcast distributes news, business news, and/or public affairs television channels in neighborhoods on its cable systems’ channel lineups.

8. To determine the extent to which Comcast currently neighborhoods such channels, Bloomberg licensed data from Tribune Media Services (“TMS”). TMS collects channel lineup information from individual cable and satellite television systems; verifies, cleans, and standardizes the data; and then licenses it to firms for a variety of reasons, most commonly for the provision of electronic program guides across media.

9. After Bloomberg obtained the data from TMS, I was provided with access to it so that I could conduct my analysis.

10. The data provided to Bloomberg by TMS came in the form of three relational databases. The databases report information maintained by TMS as of May 4, 2011. The first database (“lineup”) reports information at the level of a headend id-device-channel position. A headend is a facility operated by a cable system that, among other things, receives television programming (usually by satellite), organizes that programming into channel lineups, and distributes those lineups to devices (usually) attached to customers’ televisions according to the type of service they have purchased from the system. For example, [REDACTED]

[REDACTED]. There are approximately [REDACTED] headend id-device-channel positions offering more than [REDACTED] stations in the lineup database.

For convenience, I will refer to a headend id as a headend in the balance of this declaration.

FOR PUBLIC INSPECTION

11. The second database (“headend”) reports information at the level of the headend-zip code. It reports, among other things, the zip codes served by each headend, the community served in that zip code (e.g., [REDACTED]), the Designated Market Area (“DMA”) for that zip code (e.g., [REDACTED]), the rank of that DMA among the 210 DMAs in the United States, and the Multiple System Operator (MSO) that owns that headend (e.g., Comcast Cable Communications, LLC). There are approximately [REDACTED] headend-zip codes served by [REDACTED] headends in over [REDACTED] communities by [REDACTED] MSOs in the headend database. A DMA is a definition of television markets maintained by Nielsen Media Research.

12. The third database (“station”) reports information at the level of the station for each of the over [REDACTED] stations offered on any headend. It reports the channel name for that station (e.g., [REDACTED]).

13. To create the raw dataset used in the analysis, I read in each of these relational databases using Stata, a widely used Econometric software package, kept one zip code for each headend, kept only those headends indicated as being owned by Comcast Cable Communications, LLC and merged the databases together according to their common fields (headend id and station number). The result was 405,311 headend-device-channel positions across 1,014 Comcast headends.

14. I next defined the set of possible news, business news, and public affairs channels that were to be the focus of my analysis. I began by identifying the most widely available (national) news, public affairs, and business news channels. This included the most widely available national cable news networks - Cable News Network (“CNN”), Fox News Channel, HLN (formerly Headline News), and MSNBC - national cable public affairs networks - CSPAN, CSPAN2, and CSPAN3 - and national cable business news networks - CNBC, Bloomberg Television (“BTV”), Fox Business Channel, and CNBC World. I also identified High-Definition (“HD”) feeds of those