

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Applications of Comcast Corporation,)
General Electric Company, and) MB Docket No. 10-56
NBC Universal, Inc.)
)
For Consent to Assign or Transfer Control of)
Licenses or Authorizations)

To: Chief, Media Bureau

**OBJECTION TO DISCLOSURE OF CONFIDENTIAL AND
HIGHLY CONFIDENTIAL INFORMATION**

Comcast Corporation (“Comcast”), pursuant to the *Compliance Protective Orders* issued in the above-captioned proceeding,¹ hereby objects to the disclosure of Comcast’s Confidential and Highly Confidential Information to Outside Counsel for Bloomberg L.P. (“Bloomberg”).

The *Compliance Protective Orders* were adopted to ensure that Confidential and Highly Confidential Information Comcast may submit in connection with its compliance with the Commission’s Memorandum Opinion and Order in the captioned proceeding² is afforded adequate protection.³ To date, Comcast has submitted two items subject to the *Compliance Protective Orders*: (1) a letter describing changes made to NBCUniversal’s management rights

¹ *Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. for Consent to Assign or Transfer Control of Licenses or Authorizations*, Protective Order, 26 FCC Rcd 2045 (MB 2011) (“*First Protective Order*”); Second Protective Order, 26 FCC Rcd 2052 (MB 2011) (“*Second Protective Order*”) (jointly the “*Compliance Protective Orders*”).

² *Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. for Consent to Assign or Transfer Control of Licenses or Authorizations*, Memorandum Opinion and Order, 26 FCC Rcd 4238 (2011) (“*Comcast/NBCU Order*”).

³ *See First Protective Order*, 26 FCC Rcd at 2045; *Second Protective Order*, 26 FCC Rcd at 2052-53.

in Hulu and reporting the number of standalone Broadband Internet Access Service (“BIAS”) lines Comcast had provisioned as of January 21, 2011;⁴ and (2) the Hulu LLC Agreement.⁵

On July 6, 2011, the law firm Patton Boggs LLP, on behalf of Bloomberg, submitted 24 Acknowledgements of Confidentiality under the *Compliance Protective Orders*.⁶ Parties executing such Acknowledgments may access Confidential and Highly Confidential information submitted to the Commission only for purposes of “verifying compliance with the conditions of the [*Comcast/NBCU Order*] and for the preparation and prosecution of any administrative proceeding before the Commission” related to Comcast’s compliance.⁷ Bloomberg, however, has not demonstrated how granting it access to Comcast’s materials submitted under the *Compliance Protective Orders* will serve these permissible purposes.

While Bloomberg does have a complaint pending before the Commission alleging that Comcast is not in compliance with Condition III.2 (the “News Neighborhooding Condition”),⁸ Bloomberg fails to offer any explanation as to how information related to NBCUniversal’s management rights under the Hulu LLC Agreement, the Hulu LLC Agreement itself, or

⁴ See Letter from Michael H. Hammer, Willkie Farr & Gallagher LLP, Counsel for Comcast, to Marlene H. Dortch, Secretary, Federal Communications Commission, MB Docket No. 10-56 (Feb. 22, 2011).

⁵ See Letter from Brien C. Bell, Willkie Farr & Gallagher LLP, Counsel for Comcast and NBCUniversal Media, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, MB Docket No. 10-56 (Apr. 11, 2011).

⁶ Letter from Janet Moran, Patton Boggs LLP, Counsel for Bloomberg, to William Lake, Chief, Media Bureau, Federal Communications Commission, MB Docket No. 10-56 (July 6, 2011).

⁷ See *First Protective Order*, 26 FCC Rcd at 2047; *Second Protective Order*, 26 FCC Rcd at 2054.

⁸ *Bloomberg L.P. v. Comcast Cable Communications, LLC*, MB Docket No. 11-104 (filed June 13, 2011).

Comcast's subscriber numbers for standalone BIAS is even remotely relevant to its allegations that Comcast is not in compliance with the News Neighborhooding Condition.

Moreover, Bloomberg provides no basis to conclude that it is seeking Comcast's Confidential and Highly Confidential Information in order to verify Comcast's compliance with any other condition of the *Comcast/NBCU Order*. The *Comcast/NBCU Order* does not even prescribe the number of standalone BIAS subscribers. In any event, it is unclear what interest Bloomberg has in either the number of Comcast's standalone BIAS subscribers or the specifics of Comcast's management rights with regard to Hulu.

Absent any basis to conclude that Bloomberg is seeking access to Comcast's Confidential and Highly Confidential Information for a permissible use under the *Compliance Protective Orders*, the Media Bureau ("Bureau") should deny Bloomberg access to Comcast's Confidential and Highly Confidential Information, at least at this time. The *Compliance Protective Orders* are designed to protect Comcast's Confidential and Highly Confidential Information⁹ – they should not be interpreted as a tool for parties merely to satisfy their curiosity by engaging in a potentially seven year-long fishing expedition as to the contents of any or all of Comcast's Confidential and Highly Confidential filings. Rather, the *Compliance Protective Orders* should be interpreted only to allow parties to access protected, sensitive information where there is a demonstrated nexus between the information the party is seeking, a condition adopted in the *Comcast/NBCU Order*, and the condition's impact upon the party seeking access.

To that end, the Bureau should take this opportunity to make clear that any request for access to Confidential or Highly Confidential Information must identify the specific information the party is seeking, the party's interest in that information, and the anticipated use of such

⁹ See *supra* note 3.

information. The Bureau should also recognize that Comcast has a right to object to each such request. To do otherwise, would enable any party executing the appropriate Acknowledgments of Confidentiality to access any Confidential or Highly Confidential Information Comcast files with the Commission in the docket for the next seven years, while restricting Comcast's right to object only to a single three-day window.

For the foregoing reasons, Comcast requests that the Bureau deny Bloomberg access to Comcast's Confidential and Highly Confidential materials submitted pursuant to the *Compliance Protective Orders*. Denying Bloomberg access is necessary to preserve and enforce the limitations and protections established by the *Compliance Protective Orders*.

Respectfully submitted,

COMCAST CORPORATION

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July 11, 2011

CERTIFICATE OF SERVICE

I, Marc D. Knox, hereby certify that, on July 11, 2011, copies of the forgoing Objection to Disclosure of Confidential and Highly Confidential Information were served by hand delivery (with courtesy copies by email) to the following:

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/s/ Marc D. Knox

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