

October 6, 2011

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

Re: MB Docket No. 11-93.

Dear Ms. Dortch:

On October 4, 2011, Jim Coltharp, Chief Policy Advisor for FCC & Regulatory Policy at Comcast Corporation, Jerry Parkins, Director, Technology and Standards at Comcast Cable, Cathy Fox, Senior Counsel at Comcast Corporation, and the undersigned met with the following Commission staff to discuss issues in the Commission's CALM Act Notice of Proposed Rulemaking ("NPRM"): Bill Lake, Chief, Media Bureau; Michelle Carey, Mary Beth Murphy, Nancy Murphy, Alison Neplokh, Lyle Elder, and Shabnam Javid, all of the Media Bureau; and Eloise Gore of the Enforcement Bureau.

At the meeting, we described the substantial efforts Comcast has undertaken to mitigate loudness for commercials that we insert locally in program streams and to ensure that such commercials conform to the A/85 standard. We also discussed our work in this area with individual programmers. In response to questions from staff, we explained that we conduct monitoring of audio and video quality of some video programming delivered over our cable systems and work with individual programmers where we identify problems with audio levels.

With respect to the compliance proposals included in the NPRM, we stated our view that MVPDs should be responsible for the commercials they insert in program streams, but not for commercials inserted upstream by programmers. We also indicated that, to the extent the Commission nonetheless decides to adopt a compliance regime that makes MVPDs responsible for such programmer-inserted commercials, it should consider establishing safe harbors that Comcast (or other MVPDs) would have the discretion to pursue and under which MVPDs would be deemed in compliance with CALM Act requirements and would thereby avoid liability for fines or forfeitures.

We discussed two possible safe harbor concepts. Under the first safe harbor, Comcast could obtain certifications from programmers stating that the programmer complies with the A/85 standard. Such certifications could be obtained via contract or could be provided voluntarily by the programmer.

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The Commission could encourage programmers to provide such certifications, but would not impose any mandates in this regard. Under the second safe harbor, Comcast would pass through loudness mitigation information included in program streams and conduct periodic loudness monitoring in a representative headend or comparable facility to assess compliance with A/85. Under either safe harbor, Comcast would conduct spot checks of program streams where it receives complaints evidencing a pattern and practice of non-compliance.

We explained that it is our expectation that Comcast would be able to work cooperatively and expeditiously with programmers to resolve problems, given our past experience working through these types of issues with programmers. In response to staff questions about “outliers” (i.e., programmers who might be uncooperative), we noted that Comcast generally has contractual, technical, and other tools to address such situations. We reiterated that Comcast should have flexibility to work through compliance issues with programmers without specific mandates from the Commission. In this regard, we underscored that Comcast has strong incentives to address loudness issues promptly and maintain a high-quality customer experience.

With respect to the complaint process, we expressed our strong support for the Commission’s proposal that complaints include all of the information referenced in Paragraph 35 of the NPRM and also suggested that complaints be filed in a timely manner (i.e., within 30 days of airing of the commercial at issue), which would aid with any necessary review of complaints. We also urged that the complaint process be designed with the goal of directing company resources to cases where there appears to be a genuine loudness issue. Complaints about the loudness of particular commercials are inherently subjective and what may appear loud to one customer may not be loud to another customer, and in any event may not raise a CALM Act concern. To address this issue, we suggested that, while Comcast would respond to individual complaints it receives, in-depth evaluations of loudness issues be limited to situations where there is a clear pattern and practice of non-compliance with a particular programmer. We further suggested that MVPDs should have the flexibility to make good faith judgments as to when this threshold has been reached.

Staff also asked about how the compliance framework we discussed in our meeting might impact smaller operators. We agreed that accommodations might have to be made for such operators given their more limited resources. We also underscored that, to the extent Comcast or another larger MVPD works through a compliance issue with an individual programmer (whether that programmer is a national or regional network), the resolution of the issue would redound to the benefit of all MVPDs who carry that programmer and thereby address the Commission’s concerns about potential non-compliance with smaller operators.

Kindly direct any questions regarding this matter to my attention.

Sincerely,

/s/ Jonathan Friedman

Jonathan Friedman

Counsel for Comcast Corporation

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cc: Bill Lake
Michelle Carey
Mary Beth Murphy
Nancy Murphy
Alison Neplokh
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Eloise Gore