



CenturyLink™

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VIA ECFS

EX PARTE

November 14, 2011

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

RE: *In the Matter of The Regional Sports Network Marketplace*, MB Docket No. 11-128

Dear Ms. Dortch:

CenturyLink has a long history in the telecommunications industry, but is a newer entrant in the video distribution industry. CenturyLink currently offers Prism TV, a fully-digital television service offering local, premium and high-definition channels and other interactive features over CenturyLink's advanced, managed network in eight markets. As a new entrant, gaining access to content -- especially Regional Sports Network (RSN) content -- on reasonable rates, terms, and conditions is a critical component for CenturyLink's success in the highly competitive video distribution marketplace.

CenturyLink agrees with other commenters that RSN programming continues to be local programming that is highly desired by consumers and not able to be duplicated.¹ Without access to RSN programming, it is much more difficult -- if not impossible -- for a new entrant to be an effective competitor within the corresponding local markets. Even with access to RSN programming a new entrant has to negotiate pricing and other terms and conditions that may be onerous (even if non-discriminatory).² But, that situation is still preferable to no access at all.

It remains necessary for the Commission to retain appropriate safeguards to insure that video distributors have access to RSN programming affiliated with other distributors on non-discriminatory terms and conditions. The record continues to reflect that regional sports

¹ See, e.g., Reply Comments of OPASTCO, *et al.* at 3; Comments of AT&T at 2-3; Comments of Verizon at 3-11.

² See, e.g., American Cable Association Comments, *generally* (discussing the problems of supra-competitive pricing in the RSN marketplace that smaller competitive MVPDs still have to face); Comments of Verizon at 11-12 (noting high licensing fees for RSN programming).

networks and their affiliated distributors will refuse access to RSN programming if permitted to do so.³ The Commission has taken several positive steps to protect and ensure access by unaffiliated distributors to RSN programming in the last few years including extending the prohibition on exclusive contracts between vertically-integrated cable operators and satellite programming vendors,⁴ conditions adopted in the *Adelphia* and *Comcast Orders* regarding access to affiliated RSN programming by unaffiliated MVPDs,⁵ addressing the terrestrial loophole in the Commission's program access rules,⁶ and most recently affirming the Media Bureau's granting in part petitions by AT&T and Verizon for access to high-definition RSN programming withheld by Madison Square Garden and Cablevision.⁷ Having taken these forward steps to promote competition in the video distribution market, now is not the time to back away from ensuring that access to RSN programming is provided on a non-discriminatory basis so that new entrants, like CenturyLink, can compete in the video market.

³ See, e.g., *In the Matter of AT&T Services v. Madison Square Garden and Cablevision*, File No. CSR-8196-P, Memorandum Opinion and Order, FCC 11-168 (rel. Nov. 10, 2011) (*AT&T Order*) and *In the Matter of Verizon Telephone Companies v. Madison Square Garden and Cablevision*, File No. CSR-8185-P, Memorandum Opinion and Order, FCC 11-167 (rel. Nov. 10, 2011) (*Verizon Order*) (affirming Media Bureau decisions granting AT&T and Verizon access to terrestrially-delivered, high-definition RSN programming withheld by affiliated companies Madison Square Garden and Cablevision).

⁴ *In the Matter of Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act: Sunset of Exclusive Contract Prohibition*, MB Docket No. 07-29, *Review of the Commission's Program Access Rules and Examination of Programming Tying Arrangements*, MB Docket No. 07-198, Report and Order and Notice of Proposed Rulemaking, 22 FCC Rcd 17791 (2007).

⁵ *In the Matter of Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corp., Assignors to Time Warner Cable, Inc., Assignees, et al.*, Memorandum Opinion and Order, 21 FCC Rcd 8203 (2006); *Application of Comcast Corp., General Electric Co. and NBC Universal, Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 4238 (2011).

⁶ *In the Matter of Review of the Commission's Program Access Rules and Examination of Programming Tying Arrangements*, First Report and Order, 25 FCC Rcd 746 (2010).

⁷ *AT&T Order; Verizon Order.*

Marlene H. Dortch
November 14, 2011
Page 3

The Commission should continue to ensure that the objectives of the program access provisions of the Act are met by maintaining the existing requirements that protect unaffiliated MVPDs' access to RSN programming, continuing its oversight in the developments of the RSN marketplace, enforcing program access rules with respect to RSN programming, and ensuring that any disputes over access to RSN programming are resolved quickly.

Sincerely,
/s/ Melissa Newman

Copy (via email) to:
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