



1200 18TH STREET, NW  
WASHINGTON, DC 20036

TEL 202.730.1300 FAX 202.730.1301  
WWW.WILTSHIREGRANNIS.COM

ATTORNEYS AT LAW

July 23, 2012

**BY ELECTRONIC FILING**

Marlene H. Dortch  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: *Revision of the Commission's Program Access Rules; News Corporation and the DIRECTV Group, Inc., Transferors, and Liberty Media Corporation, Transferee, for Authority to Transfer Control; Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation (and Subsidiaries, Debtors-In-Possession), Assignors, to Time Warner Cable, Inc. (Subsidiaries), Assignees, et al., MB Docket Nos. 12-68, 07-18, 05-192*

Dear Ms. Dortch,

On June 27, 2012, the Commission issued nearly identical requests for additional data from Time Warner Cable Inc. ("Time Warner Cable"), Comcast Corporation ("Comcast"), and Cablevision Systems Corporation ("Cablevision") in the above-referenced proceeding. The Commission asked each of these companies to submit that additional data no later than July 11, 2012.

On July 17, 2012, counsel for DIRECTV, LLC ("DIRECTV") contacted counsel for Time Warner Cable, Comcast, and Cablevision, pursuant to the Protective Orders in the above-referenced proceeding, to request copies of any confidential filings they may have made in response to the Commission's requests. DIRECTV has received the requested confidential materials from Comcast and Cablevision.

Counsel for Time Warner Cable, however, has informed DIRECTV that it did not file any confidential data in response to the Commission's request. Instead, it filed a letter in the above-referenced dockets containing non-confidential information in response to a small number of the Commission's requests. In response to the remainder of the Commission's requests, counsel for Time Warner Cable apparently directed Commission staff to its confidential filings in WT Docket No. 12-4 (the Verizon Wireless-SpectrumCo-Cox proceeding) and to its publicly available SEC filings.

DIRECTV believes that Time Warner Cable's response is patently insufficient. Directing Commission staff to confidential filings in a different Commission proceeding, which is subject to a protective order limiting use of such information solely to that proceeding,<sup>1</sup> cannot satisfy Time Warner Cable's obligation to respond to the Commission's inquiry. The Commission cannot rely on confidential information not available in the record as a basis for action in this proceeding.<sup>2</sup> Time Warner Cable's response also deprives other parties in this proceeding the opportunity to review and analyze the requested information. Accordingly, DIRECTV requests that the Commission direct Time Warner Cable to respond to the Commission's request by submitting the requested data in the above-referenced proceeding, as both Comcast and Cablevision have done.

Should you have any questions, please contact me at (202) 730-1338 or by email at [kdevine@wiltshiregrannis.com](mailto:kdevine@wiltshiregrannis.com).

Yours sincerely,



Kristine Laudadio Devine  
*Counsel for DIRECTV, LLC*

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<sup>1</sup> *Application of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo LLC For Consent To Assign Licenses; Application of Cellco Partnership d/b/a Verizon Wireless and Cox TMI Wireless, LLC For Consent To Assign Licenses*, Protective Order, 27 FCC Rcd. 282, at ¶ 7 (2012); *Application of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo LLC For Consent To Assign Licenses; Application of Cellco Partnership d/b/a Verizon Wireless and Cox TMI Wireless, LLC For Consent To Assign Licenses*, Second Protective Order, 27 FCC Rcd. 289, ¶ 10 (2012). When asked by counsel for DIRECTV for permission to use confidential information submitted in the Verizon Wireless-SpectrumCo-Cox proceeding in this proceeding, counsel for Time Warner Cable denied the request,

<sup>2</sup> *See, e.g., Am. Radio Relay League, Inc. v. FCC*, 524 F.3d 227, 237 (D.C. Cir. 2008) (“It would appear to be a fairly obvious proposition that studies upon which an agency relies in promulgating a rule must be made available during the rulemaking in order to afford interested persons meaningful notice and an opportunity for comment.”).