

Leora Hochstein  
Executive Director  
Federal Regulatory



September 6, 2012

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**Ex Parte**

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

**Re: Revision of the Commission's Program Access Rules, MB Docket No. 12-68; News Corporation and the DIRECTV Group, Inc., Transferors, and Liberty Media Corporation, Transferee, for Authority to Transfer Control, MB Docket No. 07-18; 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 No. 05-192**

Dear Ms. Dortch:

Today, Will Johnson and I met with Matthew Berry, Chief of Staff for Commissioner Ajit Pai, and Joseph Calascione, Law Clerk to Commissioner Pai, to urge the FCC to retain the ban on exclusive contracts in full. We emphasized, however, that at a minimum this protection should be retained with respect to must-have, non-replicable programming, such as regional sports networks (RSNs). While the video marketplace has evolved substantially during the past decade, the key facts underlying the exclusive contract prohibition, and the FCC's prior decisions extending that prohibition, have stayed largely unchanged. Today, cable operators are integrated with some of the most popular networks and control roughly half of the RSNs. The FCC has long recognized that live local college and professional sports programming is highly valued by consumers, critical to competition, and impossible to replicate. As illustrated by our successful program access complaint against Cablevision and its affiliate, MSG, cable operators continue to withhold such programming as a means of discouraging competition. We also emphasized that reliance on a case-by-case approach to address the withholding of regional sports programming under Section 628(b) of the Act would be unnecessary and unduly burdensome, given the established record of abuse by cable incumbents in this context. As Verizon's experience shows, the process of litigating such a complaint can allow cable incumbents to reap the rewards of their unfair withholding for months, if not years, while the litigation proceeds, thus denying consumers more meaningful competitive choices.

Sincerely,

A handwritten signature in black ink, appearing to read "Leora Hochstein".

cc: Matthew Berry