

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Game Show Network, LLC,	)	MB Docket No. 12-122
Complainant,	)	File No. CSR-8529-P
	)	
v.	)	
	)	
Cablevision Systems Corp.,	)	
Defendant	)	

**PARTIES' JOINT STATUS REPORT**

Pursuant to the order of the Chief Administrative Law Judge dated June 25, 2013, Cablevision Systems Corp. (“Cablevision”) and Game Show Network, LLC (“GSN”) (collectively, the “parties”) submit the following joint status report in the above-captioned action.

**A.   Background**

On June 7, 2013, GSN and Cablevision jointly moved for a continuance of the hearing in this matter, on the grounds that a continuance would allow the parties an opportunity to consider the potential impact of the D.C. Circuit’s May 28, 2013 panel decision in *Comcast Cable Communications v. FCC*, No. 12-1337 (D.C. Cir. filed August 1, 2012) (the “*Comcast Cable* action”) on the above-captioned proceeding. In response to that request, the Presiding Judge issued *Order*, FCC 13M-12, cancelling *sine die* the hearing scheduled for July 16, 2013 and ordering the parties to submit monthly joint status reports that “describe the tasks currently being taken on to prepare for hearing and estimates as to the amount of time it would take to complete those tasks.” The instant pleading is responsive to that request, providing the second of three monthly reports.

**B. Status Report of the Parties**

1. GSN

GSN is currently awaiting further guidance from the *Comcast Cable* proceeding in order to assess how the evidentiary standards set forth in the panel's opinion impact the type of evidence GSN will present at trial. On July 12, 2013, Tennis Channel filed a petition for rehearing or rehearing *en banc* of the panel's decision, and eleven days later, the D.C. Circuit ordered Comcast to file a response to that petition by August 7, 2013. As of the date of this report, Comcast has not yet filed its response, and the D.C. Circuit has not ruled on Tennis Channel's petition for rehearing.

The meaning and reach of the evidentiary standards set forth in the decision are thus potentially subject to review. Without clarity on how any further review might impact those standards and how they will apply to Section 616 litigants, GSN cannot fully determine whether the material already submitted in this proceeding or gathered through discovery will be sufficient. That guidance may be available during the summer, and GSN would then be better able in later status reports to provide a specific proposal regarding the necessary evidentiary record.

2. Cablevision

Cablevision continues to monitor activity in the *Comcast Cable* action in response to the D.C. Circuit's opinion. On July 12, 2013, Tennis Channel submitted a petition for rehearing *en banc* in that action. On July 23, 2013, the D.C. Circuit ordered Comcast to file a response by August 7, 2013. There is also a pending appeal before the Second Circuit Court of Appeals in the *Time Warner Cable* case, which addresses Section 616.<sup>1</sup> As noted in our prior

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<sup>1</sup> *Time Warner Cable Inc. v. FCC, et al.*, No. 11-4138 (2d Cir. filed June 26, 2012).

report, further appellate rulings in either case may affect the parties' approach at trial in the instant action, and we expect to gain greater guidance by the fall.

In the interim, Cablevision continues to evaluate its written direct testimony from both its lay and expert witnesses, its trial brief and its potential documentary evidence to determine what, if anything, needs to be modified or supplemented in light of the D.C. Circuit's opinion in *Comcast Cable*. Cablevision will have a better sense of any necessary modifications in September.

Finally, we reiterate that Cablevision will also have to understand and react to any proposal by GSN in view of the *Comcast Cable* decision, particularly if GSN seeks to re-open the existing evidentiary record or to amend or bolster any expert or lay witness testimony. Accordingly, Cablevision continues to request that it be permitted to respond to any effort by GSN to modify or supplement the existing record so that the Court can decide whether such changes are warranted and/or set a reasonable schedule for accomplishing any necessary work.

Respectfully submitted:

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Dated: July 31, 2013

## CERTIFICATE OF SERVICE

I, Rebecca E. Baneman, hereby certify that on July 31, 2013, copies of the foregoing were served by electronic mail upon:

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