

August 29, 2013

VIA ELECTRONIC FILING

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

Re: Applications of Comcast Corp., General Electric Co. and NBCUniversal, Inc. For Consent to Assign Licenses and Transfer Control of Licensees, MB Docket No. 10-56

Dear Ms. Dortch:

On August 27, 2013, on behalf of Comcast Corporation (“Comcast”) and NBCUniversal Media, LLC (“NBCUniversal”), Kathy Zachem, Senior Vice President, Regulatory and State Legislative Affairs, Lynn Charytan, Vice President, Legal Regulatory Affairs and Senior Deputy General Counsel, and the undersigned met with Alex Hoehn-Saric, Policy Director, and Priscilla Argeris, Legal Advisor to Commissioner Rosenworcel, to discuss the Media Bureau’s *Clarification Order* in the above-captioned proceeding.¹

Consistent with Comcast and NBCUniversal’s prior comments and pleadings in this matter,² we discussed how the *Clarification Order* provided a much-needed and sensible clarification regarding the Benchmark Condition in the *Comcast-NBCUniversal Order*.³ We went through the history of the

¹ *Applications of Comcast Corp., General Electric Co. and NBCUniversal, Inc. For Consent to Assign Licenses and Transfer Control of Licensees*, Order, 27 FCC Rcd. 15053 (MB Dec. 4, 2012) (“*Clarification Order*”).

² Opposition of Comcast Corp. & NBCUniversal Media, LLC to Content Companies’ Application for Review, MB Docket No. 10-56 (Jan. 18, 2013); Opposition of Comcast Corp. & NBCUniversal Media, LLC to Content Companies’ Request for Stay, MB Docket No. 10-56 (Dec. 26, 2012); Reply Comments of Comcast Corp. & NBCUniversal Media, LLC, MB Docket No. 10-56 (Apr. 17, 2012); Letter from David P. Murray, Willkie Farr & Gallagher LLP, to William T. Lake, Chief, Media Bureau, FCC, MB Docket No. 10-56 (Feb. 17, 2012).

³ *Applications of Comcast Corp., General Electric Co., and NBCUniversal, Inc. For Consent to Assign Licenses and Transfer Control of Licensees*, Memorandum Opinion & Order, 26 FCC Rcd. 4238, App. A, § IV.A.2.b (2011).

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Benchmark Condition, which essentially requires NBCUniversal to “match” the programming content and economic terms and conditions of a license agreement that an OVD has made with a peer studio or programmer. NBCUniversal cannot satisfy that obligation unless it has appropriate access to the peer deal it is supposed to match. We reiterated that the need for access to a peer deal is implicit from the nature and purpose of the Benchmark Condition itself. The *Clarification Order* only specifies an appropriate *process* and *timing* for disclosure of a peer deal, ensuring that NBCUniversal has reasonable access to a peer deal necessary for good faith commercial negotiations.

We also discussed the stringent confidentiality safeguards for the treatment of peer deals adopted in the Third Protective Order for Compliance (“TPO”). The TPO restricts access to a peer deal to outside counsel and experts solely for the purpose of assisting NBCUniversal in complying with the condition. No NBCUniversal personnel are permitted access to the peer deal. In addition, the TPO restricts outside counsel and experts from engaging in competitive decision-making activities and future employment involving Comcast or NBCUniversal. These restrictions are enforceable, including penalties and the assessment of costs and expenses. And, unlike in other contexts, disclosures here will generally be limited to a single peer deal.

For these and other reasons explained in our pleadings, we emphasized that the *Clarification Order* strikes a fair and reasonable balance between the competing interests and concerns at issue and is consistent with well-established Commission policies regarding confidential information, including programming contracts involving third parties. The process for disclosure of peer deals specified in the *Clarification Order* is fully consistent with the language and purpose of the Benchmark Condition, will enable NBCUniversal to comply with its obligations, and should make it more efficient for OVDs to obtain programming content as the Commission intended.

Please contact me if you have any questions regarding this matter.

Sincerely,

/s/ David P. Murray

David P. Murray

Willkie Farr & Gallagher LLP

*Counsel for Comcast Corporation and
NBCUniversal Media, LLC*

cc: Alex Hoehn-Saric
Priscilla Argeris