

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

FCC 14M-13

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

ORDER

Issued: April 17, 2014

Released: April 17, 2014

I

Game Show Network, LLC (“GSN”), Cablevision Systems Corp. (“Cablevision”) (together “the discovering parties”), and the Enforcement Bureau filed their Joint Status Report on April 10, 2014. In the Report, GSN described its discovery needs, guided by the D.C. Circuit’s panel decision in *Comcast Cable Communications v. FCC*.¹ There, the D.C. Circuit provided instruction as to the types of evidence that would be relevant to proving that a multichannel video programming distributor unlawfully discriminated against an independent, unaffiliated video programming vendor.²

GSN, the party that is assigned the burden of proof, must have full opportunity to discover evidence relevant to meeting its burden. That opportunity must include the ability to learn and benefit from the D.C. Circuit’s latest guidance. Further, the Presiding Judge will not unnecessarily interfere with the general discovery strategy of a party acting in good faith. Discovery will accordingly be reopened as preliminarily scheduled by GSN.

Discovering parties must take every opportunity to cooperate with each other in working out any discovery glitches before seeking relief from the Presiding Judge. It is therefore expected that GSN will narrow its discovery efforts to seek discovery that accords with the guidance provided by the D.C. Circuit, or that updates the existing record. Cablevision will limit its

¹ *Comcast Cable Commc’ns, LLC v. FCC*, 717 F.3d 982, 985-87 (D.C. Cir. 2013).

² *See id.* at 985-87.

objections to instances where the parties have exhausted all means to mutually resolve their disagreements.

Finally, the Presiding Judge will consider tempered argument that supplementary discovery is unnecessary only where a specific objection is made to a specific discovery demand.

II

Discovery shall proceed as follows:

1. GSN may proceed with its discovery on **May 1** in accord with its proposed schedule.
2. Cablevision also may initiate its own discovery on **May 1**, which may include (but is not limited to) updating previously discovered evidence that it may seek to introduce at trial.
3. Interrogatories shall be focused on seeking specific responses, such as the identity of officers, directors, employees, consultants, corporate business documents, studies, business strategies and plans. Essay-style answers should not be invited or volunteered.
4. Discovering parties shall identify each testifying and non-testifying expert retained or employed to assist or testify on or before **June 2**.
5. Each of the discovering parties shall submit a schedule of depositions of testifying witnesses, including experts, to the Presiding Judge on or before **June 2**. Each witness that will testify must have been deposed. If practicable, a Joint Deposition schedule will be prepared.
6. Discovering parties shall submit a Joint Glossary of Terms on or before **June 30**. To the extent feasible, the discovering parties shall take particular care in defining any terminology drawn from the D.C. Circuit's decision.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION³



Richard L. Sippel
Chief Administrative Law Judge

³ Courtesy copies are being sent to counsel *via* e-mail on date of issuance.