

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Bloomberg L.P.,)
Complainant)
)
v.)
)
Comcast Cable Communications, LLC,)
Defendant)

MB Docket No. 11-104

ACCEPTED/FILED

JUL 23 2014

Federal Communications Commission
Office of the Secretary

PETITION FOR WAIVER

Bloomberg L.P. (“Bloomberg”) requests a waiver of the Commission’s *Neighborhood Order*¹ to permit the full execution of a settlement agreement reached between Bloomberg and Comcast Cable Communications, LLC (“Comcast”) resolving the issues in this proceeding. Pursuant to the settlement agreement, Comcast will, at Bloomberg’s request, place Bloomberg Television (“BTV”) in a channel position proximate to CNBC but outside of an existing news neighborhood, as defined by the *Order*, on a small number of Comcast lineups covered by the *Order*. Comcast supports this request.

The Commission released the *Order* on September 26, 2013, directing Comcast to carry BTV “in standard definition within a standard definition news neighborhood on each headend in the top-35 most populous Nielsen Designated Market Areas that (i) carries BTV in standard definition, and (ii) has a grouping of at least four standard definition news channels within a

¹ *Bloomberg L.P. v. Comcast Cable Communications, LLC*, 28 FCC Red. 14346 (2013) (“*Order*”).

cluster of five adjacent channel positions.”² Comcast complied with the *Order*. In addition, Bloomberg and Comcast both sought judicial review of the *Order* on separate grounds.³

Bloomberg and Comcast since have reached an agreement settling the dispute and addressing BTV’s channel placement on Comcast’s lineups.⁴ Pursuant to that agreement, Comcast will, at Bloomberg’s request, place BTV proximate to CNBC in certain of Comcast’s systems. In many cases, the agreement results in BTV being moved from its current news neighborhood to one that contains CNBC, which placement will remain consistent with the *Order*’s directive. In a small number of cases covered by the *Order*, however, fulfilling Bloomberg’s request will require moving BTV outside of a “news neighborhood,” because CNBC is not in a news neighborhood on the relevant system. In Bloomberg’s view, proximity to CNBC, its chief competitor, is preferable to placement in a news neighborhood that lacks CNBC. Bloomberg also has requested that these placements (and repositionings) take place as soon as possible, and Comcast consented to fulfill that request, subject to grant of the requested waiver.⁵

Bloomberg therefore requests that the Commission grant a waiver of the *Order* to permit the full execution of this agreement.⁶ The Commission may waive its rules for good cause

² *Id.*

³ See *Bloomberg L.P. v. FCC* and *Comcast Cable Communications v. FCC*, consolidated Docket No. 13-3788 (2d Cir.).

⁴ In connection with that agreement, Comcast and Bloomberg filed stipulations withdrawing their petitions for review of the *Order*. The United States Court of Appeals for the Second Circuit entered an order on the stipulations on March 28, 2014. See *id.*, Order (Mar. 28, 2014).

⁵ As part of the agreement, Bloomberg has agreed not to seek enforcement of the *Order* so long as Comcast remains in compliance with the agreement.

⁶ Given that this settlement agreement involves placing BTV in a channel position proximate to CNBC at Bloomberg’s request, Bloomberg believes that the FCC could consider this petition as a mere request for clarification of the *Order*. Understood as a clarification, such a request would clarify that Comcast’s execution of such better terms will not subject Comcast either to enforcement action or to a negative inference relative to Comcast’s compliance with the *Order*.

shown, particularly where strict compliance with a rule is inconsistent with the public interest when taking “into account considerations of hardship, equity, or more effective implementation of overall policy.”⁷ In this case, a waiver of the *Order* would allow Comcast, at Bloomberg’s request, to place BTV on a limited number of systems in a channel position that Bloomberg believes to be superior to the one otherwise mandated by the *Order* due to its proximity to CNBC. Such a result will further the overall policy goal of the condition—protecting independent news programmers—more so than would strict compliance with the rule.

Respectfully submitted,

BLOOMBERG L.P.

By: 

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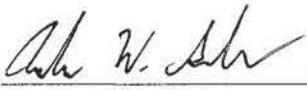
July 23, 2014

⁷ 47 C.F.R. § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

CERTIFICATE OF SERVICE

I, Andrew W. Guhr, hereby certify that on this 23rd day of July, 2014, I caused true and correct copies of the foregoing to be served by electronic mail to the following:

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