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EX PARTE PRESENTATION

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

Re: Ex Parte Presentation in MB Docket No. 10-56, ***Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses or Transfer Control of Licensees***

Dear Ms. Dortch:

On October 28, 2010, Jeff Blum and the undersigned of DISH Network ("DISH), along with Susan Eid and Stacy Fuller of DIRECTV and DIRECTV's counsel William Wiltshire, met with the following Commission staff regarding the proposed acquisition by Comcast Corporation ("Comcast") of NBC Universal ("NBCU"): John Flynn, James Bird, Neil Dellar, and Michael Steffen of the Office of General Counsel; and William Beckwith and Jennifer Tatel of the Media Bureau. DISH and DIRECTV provided the attached materials to staff during the meeting.

During the meeting, DISH and DIRECTV reiterated their support for requiring arbitration when negotiations fail to produce a mutually acceptable set of prices, terms and conditions for carriage of Comcast/NBCU-affiliated content distributed by any means. Consistent with the attached materials, DISH and DIRECTV reviewed with staff a series of proposed improvements to the arbitration regime imposed by the Commission as a condition of approving several recent transactions. These improvements should be implemented to make the arbitration process more expeditious and cost-effective for all concerned.

Respectfully submitted,

/s/ Alison Minea
Alison Minea

cc: John Flynn
William Beckwith
James Bird
Neil Dellar
Michael Steffen
Jennifer Tatel

Enclosure

ARBITRATION STREAMLINING PROPOSALS

The arbitration regime imposed by the Commission as a condition of approving several recent transactions has proven a useful backstop to its other rules in several respects. In particular, the use of "baseball style" arbitration forces the parties to make more reasonable offers (which often results in settlement), while continued carriage during the arbitration proceeding ensures that consumers do not lose high-value programming while carriage disputes are resolved.

DIRECTV and DISH Network submit that such arbitration should be available when negotiations fail to produce a mutually acceptable set of price, terms and conditions for carriage of Comcast/NBCU-affiliated content distributed by any means, including but not limited to(1) a retransmission consent agreement with a local broadcast television station that Comcast or NBCU owns and operates or on whose behalf it negotiates retransmission consent, (2) carriage of RSN programming affiliated with Comcast or NBCU,(3) carriage of national cable network programming affiliated with Comcast or NBCU, or (4) access to online content affiliated with Comcast or NBCU.

In addition, the following improvements should be implemented to make the arbitration process more expeditious and cost-effective for all concerned.

- Establish a presumption that discovery shall be limited to carriage agreements. (For this purpose, the elements identified in the simple database discussed below would be included within this presumption.)

- Require Comcast and NBCU to submit all carriage agreements (both as programmer and as distributor) to a central repository, unredacted and including all exhibits and/or related agreements. Upon initiation of arbitration, the complainant shall be given access to this material for use in the proceeding, subject to a protective order.

- Require any complainant to produce relevant carriage agreements (both as a programmer and as a distributor, if applicable) in the arbitration, unredacted and including all exhibits and/or related agreements, subject to a protective order.

    - For purposes of determining which carriage agreements are discoverable in a particular arbitration proceeding, establish that carriage agreements of the same type as the one under consideration in a given proceeding should be produced (*i.e.*, RSN contracts for RSN arbitrations, retransmission consent agreements for retransmission consent arbitrations, *etc*.). The fact that a particular agreement relates to more than one type of programming shall not be a basis for limiting its production or allowing redaction of its contents.

- Require Comcast/NBCU to maintain a simple electronic database related to their carriage agreements in force during a rolling five-year period – saves time and expense of data entry and provides a common baseline for analysis. Elements should include, at a minimum:

    - Parties involved
    - Begin and end date of the contract
    - Rates
    - Number of subscribers per month during the relevant period for the MVPD party to the contract
    - Ratings
    - Product guarantees (including rebate provisions for loss of product)
    - Packaging and penetration requirements (*i.e.*, tiering), including "pay on" requirements or guaranteed minimum subscribers
    - Most favored nations provisions

- Require any party seeking additional evidence from the other party to demonstrate that the likely probative value of such evidence clearly outweighs the burden of searching for and producing it. Electronic discovery generally should not be authorized, and should only allowed in the most compelling of circumstances and in the most narrowly circumscribed terms possible.

- Eliminate the provision that sets the programmer's costs as a floor on fair market value, and establish that the programmer's cost structure is not relevant to the fair market value determination. The Commission's arbitration regime should not act as guarantor for a vertically integrated programmer's profitability.

- Promulgate a model protective order for use in all arbitration proceedings.

- Authorize award of affirmative relief where Comcast has improperly influenced NBCU's decision to make content available to MVPDs for innovative new offerings.

- Require each party to submit written direct testimony of expert witnesses, as well as any supporting report or analysis, at least 45 days before the arbitration hearing, and any rebuttal expert testimony and supporting report or analysis at least 15 days before the arbitration hearing.

- Require each party to present direct testimony of lay witnesses by written submission at least 30 days in advance of the hearing.

- Require each party to submit any exhibits and other evidence in its possession that it intends to use in its affirmative case at least 20 days before the arbitration hearing.

- At the arbitration hearing, the parties shall be entitled to cross-examine their opponent's lay and expert witnesses, and also present redirect testimony of their own witnesses solely to address matters raised in cross-examination.

- Require the arbitrator to issue his decision within 240 days from the date that the arbitrator is appointed.

- The parties may agree to modify any of the time limits set forth above and any of the procedural rules of the arbitration; absent agreement, however, the rules specified herein apply. The parties may not, however, modify the requirement that they engage in final-offer arbitration.

NBCU and COMCAST NATIONAL NETWORKS
DISTRIBUTION

NBCU Network	Total Subscribers
CNBC	100.3
The Weather Channel	99.8
USA	99.1
CNBC World	97.4
SyFy	96.4
MSNBC	95.9
Bravo	93.6
Oxygen	74.8
Sleuth	52.1
Chiller	36.1
Telemundo	31.0
Mun2	27.1
Universal HD	21.7

Comcast Network	Total Subscribers
E!	97.3
GOLF	81.4
VERSUS	75.4
G4	65.6
STYLE	63.7
SPROUT	50.9