

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

In the Matter of)	
)	
The Tennis Channel, Inc.,)	MB Docket No. 10-204
Complainant)	
)	File No. CSR-8258-P
v.)	
)	
Comcast Cable Communications, LLC,)	
Defendant)	

Order

Adopted: May 2, 2012

Released: May 2, 2012

By the General Counsel:

1. On December 20, 2011, the Chief Administrative Law Judge issued an Initial Decision in this proceeding granting a complaint filed by The Tennis Channel, Inc. against Comcast Cable Communications, LLC.¹ The Tennis Channel seeks an order compelling Comcast’s immediate compliance with the Initial Decision.² Comcast opposes this request and seeks a conditional stay of the Initial Decision.³

2. The Initial Decision concludes that Comcast violated sections 616 of the Communications Act and 76.1301(c) of the Commission’s rules⁴ by unreasonably discriminating against The Tennis Channel with respect to the terms and conditions of its carriage by Comcast’s cable systems.⁵ As a result, the Initial Decision orders Comcast to pay a forfeiture of \$375,000 and carry The Tennis Channel on the same tier as Comcast’s affiliated sports programming networks, Golf Channel and Versus (now NBC Sports Network).⁶ In addition, the Initial Decision requires Comcast to afford The Tennis

¹ *The Tennis Channel, Inc. v. Comcast Cable Commc’ns, LLC*, Initial Decision of Chief Administrative Law Judge Richard L. Sippel, MB Docket No. 10-204, File No. CSR 8258-P, 26 FCC Rcd 17160 (2011) (Initial Decision).

² The Tennis Channel, Inc., Petition to Compel Comcast’s Compliance with Initial Decision, MB Docket No. 10-204, File No. CSR 8258-P (filed Jan. 13, 2012).

³ Comcast Cable Communications, LLC, Opposition to Tennis Channel’s Petition to Compel Comcast’s Compliance with Initial Decision (filed Jan. 25, 2012); Comcast Cable Communications, LLC, Comcast’s Conditional Petition for Stay (filed Jan. 25, 2012); *see also* The Tennis Channel, Inc., Opposition to Comcast’s Conditional Petition for Stay (filed Feb. 6, 2012); FCC Enforcement Bureau, Enforcement Bureau’s Comments on Conditional Petition for Stay (filed Feb. 6, 2012); Comcast Cable Communications, LLC, Motion for Acceptance of Comcast’s Reply to Tennis Channel’s Opposition to Comcast’s Conditional Petition for Stay (filed Feb. 10, 2012); The Tennis Channel, Inc., Opposition to Motion for Acceptance of Comcast’s Reply, or in the Alternative, Request for Leave to File Surreply (filed Feb. 14, 2012).

⁴ 47 U.S.C. § 536; 47 C.F.R. § 76.1301(c).

⁵ Initial Decision at ¶¶ 105-116.

⁶ *Id.* at ¶¶ 117-119, 121.

Channel “equitable treatment (*vis-à-vis* Golf Channel and Versus) as to channel placement.”⁷ Comcast has filed exceptions to the Initial Decision as well as an application for review of the earlier hearing designation order (HDO) that led to the ALJ’s decision.⁸ The Tennis Channel asserts that, under the Commission’s rules and the terms of the HDO,⁹ the Initial Decision became effective on release.¹⁰ Comcast asserts that, by its own terms, the Initial Decision was automatically stayed by Comcast’s filing of exceptions, but it seeks a stay in the event the Commission determines otherwise, claiming, among other things, that it would be irreversibly harmed in the absence of a stay.¹¹

3. Chairman Genachowski has circulated to his fellow Commissioners a proposed order addressing The Tennis Channel’s petition to compel compliance and Comcast’s petition for conditional stay. To remove the existing uncertainty about Comcast’s obligations while the Commissioners consider that item, we hereby stay the Initial Decision on our own motion pending the Commission’s action on the parties’ petitions.¹²

4. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i), 4(j), and 616 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 536, and sections 76.10(c)(2), 76.1301, and 76.1302 of the Commission’s rules, 47 C.F.R. §§ 76.10(c)(2), 76.1301-1302, the Initial Decision **IS STAYED** until the effective date of a Commission order on the Petition to Compel Comcast’s Compliance with Initial Decision filed by The Tennis Channel, Inc. and the Conditional Petition for Stay filed by Comcast Cable Communications, LLC in this proceeding.

5. This action is taken pursuant to authority delegated by Section 0.251(c) of the Commission’s rules, 47 C.F.R. § 0.251(c).

FEDERAL COMMUNICATIONS COMMISSION

Austin C. Schlick
General Counsel
Office of General Counsel

⁷ *Id.* at ¶ 120.

⁸ Comcast Cable Communications, LLC, Exceptions to Initial Decision (filed Jan. 19, 2012); Comcast Cable Communications, LLC, Application for Review of Comcast Cable Communications, LLC (filed Jan. 19, 2012); *see also* The Tennis Channel, Inc., Reply to Exceptions to Initial Decision (filed Feb. 6, 2012); The Tennis Channel, Inc., Opposition to Application for Review (filed Feb. 6, 2012).

⁹ *The Tennis Channel v. Comcast Cable Commc’ns, LLC*, Hearing Designation Order and Notice of Opportunity for Hearing for Forfeiture, 25 FCC Rcd 14149, 14163 n.119 (MB 2010) (“[u]nless the Commission grants a stay of the ALJ’s decision, such decision will become effective upon release and will remain in effect pending appeal.”).

¹⁰ Petition to Compel at 3-7 (citing HDO at n.119 and 47 C.F.R. §§ 76.10(c)(2), 76.1302(j)(1)).

¹¹ Opposition to Tennis Channel’s Petition to Compel Comcast’s Compliance with Initial Decision at 6-9; Conditional Petition for Stay at 5-7; *see* Initial Decision, *supra* note 1, at n.361 (“This *Initial Decision* shall become effective and this proceeding shall be terminated 50 days after release if exceptions are not filed within 30 days thereafter, unless the Commission elects to review the case of its own motion. 47 C.F.R. § 1.276(b).”).

¹² To the extent it is necessary to do so, we also waive 47 C.F.R. § 76.1302(j)(1), which provides that Initial Decisions mandating program carriage become effective upon release unless compliance would require the deletion of programming; *see id.* § 1.3 (Commission may waive any rule on its own motion for good cause).