

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

In the Matter of)	
)	File No.: EB-11-IH-0163
)	Acct. No.: 201232080025
Comcast Corporation)	FRN: 0015401581
)	
)	
)	

ORDER

Adopted: June 27, 2012

Released: June 27, 2012

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) and Comcast Corporation (Comcast). The Consent Decree resolves and terminates an investigation by the Bureau into possible violations of certain of the requirements that the Commission imposed on Comcast as a part of the order approving the assignment and transfer of control of licenses of NBC Universal, Inc., from General Electric Company to Comcast.¹

2. The Bureau and Comcast have negotiated a Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we, the Bureau, conclude that our investigation raises no substantial or material questions of fact as to whether Comcast possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,² and Sections 0.111 and 0.311 of the Commission's rules,³ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

¹ *Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4362-63, Appendix A§ IV.D (1)-(3) (2011).

² 47 U.S.C. § 154(i).

³ 47 C.F.R. §§ 0.111, 0.311.

7. **IT IS FURTHER ORDERED** that all third-party complaints against Comcast before the Enforcement Bureau related to the above-captioned investigation as of the date of this Consent Decree **ARE DISMISSED**.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by both First Class and Certified Mail, Return Receipt Requested, to Lynn R. Charytan, Vice President, Legal Regulatory Affairs and Senior Deputy General Counsel, Comcast Corporation, 300 New Jersey Avenue, N.W., Suite 700, Washington, D.C. 20001-2030; and to David H. Solomon, Esquire, and J. Wade Lindsay, Esquire, Wilkinson Barker Knauer, LLP, counsel for Comcast Corporation, Wilkinson Barker Knauer LLP, 2300 N Street, N.W., Suite 700, Washington, D.C. 20037.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Comcast Corporation, by their respective authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into Comcast's compliance with the Standalone Broadband Internet Access Service Condition contained in the order approving the transfer of control, and assignment of licenses, of NBC Universal, Inc., from General Electric Company to Comcast.¹

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) "Broadband Internet Access Service" has the same meaning as provided in the definition section of Appendix A to the *Comcast-NBCU Order*.²
 - (d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (e) "*Comcast-NBCU Order*" means the Commission item released January 20, 2011, entitled *Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, Memorandum Opinion and Order, 26 FCC Rcd 4238 (2011).
 - (f) "Comcast" or "Company" means Comcast Corporation and its subsidiaries and affiliates.
 - (g) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.

¹ *Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, 26 FCC Rcd 4238, 4362-63, Appendix A § IV.D (1)-(3) (2011) (*Comcast-NBCU Order*).

² *See id.*

- (h) “Communications Laws” means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Comcast is subject by virtue of its business activities, including but not limited to, the Standalone Broadband Internet Access Service Condition.
- (i) “Compliance Officer” means the senior corporate manager appointed by Comcast as described in this Consent Decree at Paragraph 17(a).
- (j) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at Paragraph 17.
- (k) “Compliance Report” means the reporting described in this Consent Decree at Paragraph 19.
- (l) “Customer Service Representative” means Comcast employees whose job responsibilities, on a regular basis, are to respond to customer inquiries and complaints directed from customers to Comcast’s internal call centers (e.g., 1-800-Xfinity or via web chat) about Comcast video, Internet, and wireline telephone products and services and accepting customer orders for such products or services.
- (m) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (n) “Investigation” means the investigation into matters addressed in the Bureau’s letter of inquiry dated March 31, 2011, and supplemental letters of inquiry dated July 29, 2011, and February 24, 2012, regarding Comcast’s compliance with the Standalone Broadband Internet Access Condition.³
- (o) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Comcast to implement this Consent Decree.
- (p) “Parties” means Comcast and the Bureau, and each is a “Party.”
- (q) “Performance Starter” means Comcast’s retail Broadband Internet Access Service tier of at least 6 Mbps down at a price no greater than \$49.95 per month.
- (r) “Product List” means any Rate Card or Rate Change Notification, or other similar brochure or mailing distributed or otherwise made available to Comcast’s existing or prospective customers, that identifies all or substantially all of Comcast’s Broadband Internet Access Services, provided that Rate Change Notifications that include only Broadband Internet Access Services that are undergoing rate changes shall not constitute Product Lists.
- (s) “Rate Cards” means notices that Comcast sends pursuant to 47 C.F.R. § 76.1602(b).

³ Letter from Jeffrey J. Gee, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Kathryn A. Zachem, Senior Vice President, Regulatory and State Legislative Affairs, Comcast Corporation, File No. EB-11-IH-0163 (Mar. 31, 2011) (LOI); Letter from Jeffrey J. Gee, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Lynn R. Charytan, Vice President, Legal Regulatory Affairs, Comcast Corporation, File No. EB-11-IH-0163 (July 29, 2011) (Supplemental LOI); Letter from Jeffrey J. Gee, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Lynn R. Charytan, Vice President, Legal Regulatory Affairs, and Senior Deputy General Counsel, Comcast Corporation, File No. EB-11-IH-0163 (Feb. 24, 2012) (Second Supplemental LOI).

- (t) “Rate Change Notifications” means notices that Comcast sends pursuant to 47 C.F.R. § 76.1603.
- (u) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (v) “Standalone Broadband Internet Access Service Condition” or “Condition” means Section IV.D (1)-(3) of Appendix A of the *Comcast-NBCU Order*.

II. BACKGROUND

2. In the *Comcast-NBCU Order*, released on January 20, 2011, the Commission identified potential concerns associated with Comcast’s post-transaction incentives to require its customers interested in purchasing broadband services to also purchase other bundled services—to the detriment of customers who desired to purchase Broadband Internet Access Service without also purchasing cable television or other services. To remedy this potential harm, the Commission imposed the Standalone Broadband Internet Access Condition. The Condition required Comcast to continue to offer standalone Broadband Internet Access Services at reasonable market-based prices and specified that Comcast must offer standalone broadband services on equivalent terms and conditions to packages that bundle broadband and video cable service for seven years.⁴

3. The Condition also required, *inter alia*, that Comcast “shall offer a service of at least 6 Mbps down at a price no greater than \$49.95 [per month] for three years (provided that the price can be increased by no more than any increase in the CPI-U for Communications after two years),” and that Comcast “shall visibly offer and actively market standalone retail Broadband Internet Access Service, including but not limited to (i) providing a linkable web page devoted exclusively to describing (*e.g.*, price and speed) and permitting online purchase of all retail Broadband Internet Access Service standalone options; (ii) running at least one major advertising promotion of the standalone retail Broadband Internet Access Service offering annually; and (iii) ensuring that the standalone Broadband Internet Access Service offering appears with prominence equal to that of bundled offerings on any product list or in any window, menu or other similar place on any call center screen.”⁵

4. The record indicates that on February 21, 2011, Comcast began offering the required 6 Mbps down/\$49.95 per month standalone broadband service tier, known as “Performance Starter,” in every market in Comcast’s service territory in which Comcast offers Broadband Internet Access Service. As with other standalone, multi-product, and bundled Broadband Internet Access Service tiers, the Company offers Performance Starter through its Customer Service Representatives and outsourced call center vendors, through its website, and through its owned and operated retail locations.⁶

5. In the weeks following Comcast’s launch of the Performance Starter service pursuant to the *Comcast-NBCU Order*, the Bureau received information raising potential concerns about the extent of Comcast’s compliance with the Condition. The Bureau therefore initiated an investigation relating to some potential compliance issues, specifically: whether all Customer Service Representatives were providing information concerning the Performance Starter service in responding to consumers inquiring about Internet service options; whether Comcast had omitted the Performance Starter service on some Rate Cards distributed after the initiation of that service; and whether Comcast’s website readily enabled existing (as opposed to new) customers to find information about the Performance Starter service.

⁴ See *Comcast-NBCU Order*, 26 FCC Rcd at 4362.

⁵ *Id.*

⁶ In the responses described below, Comcast indicated that it does not currently offer certain tiers of Comcast products, including Performance Starter, through third party retail stores and independent dealers, including independent resellers.

6. The Bureau issued the first of three Letters of Inquiry (LOI) on March 31, 2011, to obtain more complete information regarding Comcast's compliance with the Standalone Broadband Internet Access Condition and Comcast's offering and marketing of its Performance Starter service and other Standalone Broadband Internet Access Services generally.⁷ Comcast responded to the LOI with submissions dated April 22, 2011; May 2, 2011; May 6, 2011; and June 2, 2011.⁸ The Bureau issued a Supplemental LOI on July 29, 2011, and a Second Supplemental LOI on February 24, 2012.⁹ Comcast responded to the Supplemental LOI with a submission dated September 19, 2011, and to the Second Supplemental LOI with submissions dated March 7, 2012 and March 21, 2012.¹⁰ Comcast also submitted additional information for the record on December 16, 2011 and February 6, 2012.¹¹

7. In response to the Bureau's investigation, Comcast submitted the following: Comcast launched Performance Starter service on February 21, 2011.¹² Comcast's call center screens included standalone Broadband Internet Access Service offerings, including Performance Starter, with prominence

⁷ See LOI, *supra* note 3. See also E-mail from William H. Davenport, Acting Deputy Chief, Enforcement Bureau, Federal Communications Commission and Eloise Gore, Associate Chief, Enforcement Bureau, Federal Communications Commission, to David H. Solomon, Counsel for Comcast Corporation (Apr. 13, 2011, 18:42 EDT).

⁸ See Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, Comcast Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (Apr. 22, 2011) (on file in EB-11-IH-0163); Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, Comcast Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (May 2, 2011) (on file in EB-11-IH-0163); Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, Comcast Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (May 6, 2011) (on file in EB-11-IH-0163); Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, Comcast Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (June 2, 2011) (on file in EB-11-IH-0163).

⁹ See Supplemental LOI, *supra* note 3; Second Supplemental LOI, *supra* note 3.

¹⁰ See Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, Comcast Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 19, 2011) (on file in EB-11-IH-0163); Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, and Senior Deputy General Counsel, Comcast Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 7, 2012) (on file in EB-11-IH-0163); Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, and Senior Deputy General Counsel, Comcast Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 21, 2012) (on file in EB-11-IH-0163).

¹¹ Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, and Senior Deputy General Counsel, Comcast Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 16, 2011) (on file in EB-11-IH-0163); Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, and Senior Deputy General Counsel, Comcast Corporation, to P. Michele Ellison, Chief, Enforcement Bureau, Federal Communications Commission (Feb. 6, 2012) (on file in EB-11-IH-0163). The Bureau and Comcast executed tolling agreements to toll the statute of limitations on August 21, 2011 and February 29, 2012. See Tolling Agreement, File No. EB-11-IH-0163, executed by and between Jeffrey J. Gee, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, and Justin Smith, Vice President, Senior Deputy General Counsel, and Chief Joint Venture Compliance Officer, Comcast Corporation (Aug. 15, 2011) (on file in EB-11-IH-0163); Tolling Agreement Extension, File No. EB-11-IH-0163, executed by and between Jeffrey J. Gee, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, and Lynn R. Charytan, Vice President, Legal and Regulatory Affairs, and Senior Deputy General Counsel, Comcast Corporation (Feb. 29, 2012) (on file in EB-11-IH-0163).

¹² Comcast reported that since February 21, 2011, both new and existing Comcast customers have subscribed to Performance Starter. Comcast also reported that, as required under the conditions of the *Comcast-NBCU Order*, the company conducted its first required annual major advertising promotion of the standalone retail Broadband Internet Access Service offering in November 2011.

equal to that of bundled offerings as of February 21, 2011. Comcast instructed its Customer Service Representatives to take mandatory training regarding its Performance Starter service tier.

8. Comcast interpreted the requirement of the Condition regarding “product lists” to include only those “product lists” that were “on any call center screen.”¹³ From February 21, 2011 through April 10, 2011, not all of the Rate Cards that Comcast distributed pursuant to Section 76.1602(b) of the Commission’s rules that included all of Comcast’s other Broadband Internet Access Service offerings referenced, or had a separate insert regarding, Performance Starter.¹⁴ Although Comcast supplemented or updated some of such Rate Cards that omitted Performance Starter, it did not supplement or update all of such Rate Cards. All new Rate Cards that Comcast distributed after April 10, 2011 that included all other Broadband Internet Access Service offerings did include, or have a separate insert regarding, Performance Starter.

9. Comcast has maintained a linkable web page devoted exclusively to describing (e.g., price and speed) and permitting online purchase of Comcast’s standalone Broadband Internet Access Service options, accessible through its “New Customer Offers page,” since at least 2003. Comcast added Performance Starter to this standalone Broadband Internet Access Service web page by the February 21, 2011 launch of Performance Starter. At that time, however, Comcast did not have a distinct “direct link” to its standalone Broadband Internet Access Service options, including Performance Starter, from its “Current Customer Offers” web page. In response to informal inquiries from the Commission regarding the availability of online information about the Performance Starter service for existing customers, Comcast took steps to remedy this on March 16, 2011, and April 14, 2011, thereby making information regarding Performance Starter and its other standalone Broadband Internet Access Service tiers more accessible to then-current Comcast subscribers.

10. The Bureau considered the requirements and objectives of the Condition, the information submitted by Comcast, its efforts to comply with the Condition, and its full cooperation with the Investigation. Nevertheless, the Bureau continued to have concerns regarding the extent of Comcast’s compliance with the Condition. This Consent Decree provides additional steps that Comcast agrees to take for the benefit of consumers in general and its subscribers in particular, and to further the goals of the Standalone Broadband Internet Access Service Condition.

III. TERMS OF AGREEMENT

11. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

12. **Jurisdiction.** Comcast agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

13. **Effective Date; Violations of this Consent Decree.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. Upon release and provided that the Consent Decree is not rendered invalid by the Commission, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

¹³ The Bureau did not agree with this interpretation.

¹⁴ See 47 C.F.R. §§ 76.1602(b), 76.1603.

14. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation and for the purposes of settling the matters set forth herein, Comcast agrees to the terms, conditions, and procedures contained in this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against Comcast concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Comcast with respect to Comcast's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier or hold Commission authorizations.

15. **Extension of Merger Condition Requiring Performance Starter Service.** Comcast agrees to continue to offer the Performance Starter service tier of at least 6 Mbps down at a price no greater than \$49.95 per month for an additional year beyond the requirement of the Condition, that is, until February 21, 2015 (rather than February 21, 2014), provided that the price can be increased by no more than any increase in the CPI-U for Communications after August 21, 2013 (rather than February 21, 2013).

16. **Voluntary Contribution.** Comcast agrees that it will make a voluntary contribution to the United States Treasury in the amount of eight hundred thousand dollars (\$800,000). The contribution will be made no later than thirty (30) days after the Effective Date. The payment must be made by check or similar instrument, wire transfer, or credit card and must include the Account Number and FRN referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. Regardless of the form of payment, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Comcast must also send electronic notification on the date said payment is made to Terry.Cavanaugh@fcc.gov, Jeffrey.Gee@fcc.gov, Anjali.Singh@fcc.gov, and William.Knowles-Kellett@fcc.gov.

17. **Compliance Plan.** Comcast agrees that it shall, within thirty (30) calendar days of the Effective Date, develop and implement a Compliance Plan designed to ensure further compliance with the Condition and the terms and conditions of this Consent Decree. The other conditions and related requirements set forth in the *Comcast-NBCU Order* remain in place. Consistent with the goals of the *Comcast-NBCU Order*, the Compliance Plan shall include, without limitation, the following components:

- (a) **Compliance Officer.** Comcast agrees to maintain a Compliance Officer who shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Comcast complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer has knowledge about the Condition.
- (b) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, Comcast shall establish Operating Procedures to carry out the terms of this Consent Decree.

- (c) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall oversee the development of guidelines for the implementation of this Consent Decree and distribute them to employees who Comcast determines in its discretion are relevant recipients.
- (d) **Compliance Training.**
- (i) **Training of Customer Service Representatives.** Beginning no later than thirty (30) days after the Effective Date, Comcast shall direct its Customer Service Representatives to take a mandatory Performance Starter online refresher training module through its learning portal. The purpose of such training shall be to reinforce the Customer Service Representatives' awareness and familiarity with the Performance Starter service. Comcast shall take commercially reasonable steps to ensure that its Customer Service Representatives complete such training no later than ninety (90) days after the Effective Date. Comcast shall direct its Customer Service Representatives to repeat the compliance training on an annual basis. Comcast, as part of its initial training of new Customer Service Representatives, shall take commercially reasonable steps to provide such individuals with training regarding the Performance Starter service tier before such new employees have contact with customers on an unsupervised basis (i.e., without a supervisor or trainer assisting them). Comcast shall instruct its outsourced call center vendors to similarly offer the instruction described in this Paragraph to their personnel.
- (ii) **Training of Retail Sales Personnel.** Beginning no later than thirty (30) days after the Effective Date, Comcast shall provide to its retail sales personnel at Comcast owned and operated retail locations training materials consistent with its standard practices for such personnel to reinforce the retail sales personnel's awareness and familiarity with the Performance Starter service. Comcast shall take commercially reasonable steps to ensure that its existing retail sales personnel receive and review such training materials within ninety (90) days of the Effective Date. Comcast also shall provide such training materials to its retail sales personnel on an annual basis. Comcast shall provide such training materials to new retail sales personnel at Comcast owned and operated retail locations within thirty (30) days of such personnel becoming retail sales personnel at such location.
- (e) **Product Lists.** Comcast agrees to continue to identify the Performance Starter service tier on Rate Cards to the extent that Comcast voluntarily identifies all or substantially all of its other Broadband Internet Access Service tiers on such Rate Cards, and to identify the Performance Starter tier on any other Product Lists. Rate Change Notifications need not include Performance Starter unless Performance Starter is also undergoing a rate change.
- (f) **Web Pages.** Comcast agrees that the linkable web page devoted exclusively to describing (e.g., price and speed) and permitting online purchase of all retail Broadband Internet Access Service standalone options required under the Condition will continue to be equally available to both new and existing Comcast subscribers.
- (g) **Advertising Promotion.** During 2013, Comcast shall conduct one additional major advertising promotion of its standalone retail Broadband Internet Access Service offering beyond the one required by the Condition.

- (h) **Availability of Performance Starter Service at Retail Stores.** Comcast shall continue to offer the Performance Starter service through its owned and operated retail locations; and, no later than one hundred twenty (120) days after the Effective Date and until February 21, 2015, Comcast shall offer the ability to sell Performance Starter service to its third-party retail agents and independent dealers, including independent resellers, provided that no such third-party retail agent or independent dealer, including any independent reseller, shall be obligated to offer the Performance Starter service tier.
- (i) **Termination Date.** The requirements of Paragraph 15 and Paragraphs 17-19 shall expire February 21, 2015, except for the requirement in Paragraph 19 herein regarding the 2016 Compliance Report, which shall expire upon the filing of that report.

18. **Reporting Noncompliance.** Comcast shall report any noncompliance with the terms and conditions of this Consent Decree within thirty (30) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that Comcast has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Comcast has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, Anjali K. Singh at Anjali.Singh@fcc.gov, and to William Knowles-Kellett at William.Knowles-Kellett@fcc.gov. The reporting obligations set forth in this Paragraph shall expire on February 21, 2015.

19. **Compliance Reports.** On or before February 22, 2013, 2014, 2015, and 2016, Comcast will submit an annual Compliance Report confirming its compliance with the terms and conditions of this Consent Decree for the period during the prior calendar year in which the Consent Decree was in effect.

- (a) Each Compliance Report shall include a detailed description of Comcast's efforts during the relevant period to comply with the terms and conditions of this Consent Decree, including but not limited to the percentage of Customer Service Representatives and retail sales personnel that have been trained as described in Paragraph 17(d). In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Comcast, stating that the Compliance Officer has personal knowledge that Comcast (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since their establishment pursuant to Paragraph 17(b) hereof; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in Paragraph 18 hereof. Comcast shall maintain for a period of twelve (12) months following the submission of each Compliance Report the material documents and materials relating to the representations made in each such Compliance Report.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules¹⁵ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Comcast, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that Comcast has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial action will be taken; and (iii) the steps that Comcast

¹⁵ 47 C.F.R. § 1.16.

has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.

- (d) All Compliance Reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at Terry.Cavanaugh@fcc.gov, Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, Anjali K. Singh at Anjali.Singh@fcc.gov, and to William Knowles-Kellett at William.Knowles-Kellett@fcc.gov.

20. **Waivers.** Comcast waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order adopting the Consent Decree without change, addition, modification, or deletion. Comcast shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Comcast nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Comcast shall waive any statutory right to a trial *de novo*. Comcast hereby agrees to waive any claims it may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

21. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

22. **Subsequent Rule or Order.** The Parties agree that, if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Comcast does not expressly consent), that provision will be superseded by such Commission Rule or order.

23. **Successors and Assigns.** Comcast agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

24. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

25. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

26. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

27. **Authorized Representative.** The individual signing this Consent Decree on behalf of Comcast represents and warrants that she is authorized by Comcast to execute this Consent Decree and to bind Comcast to the obligations set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

28. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

P. Michele Ellison
Chief
Enforcement Bureau

Date

Lynn R. Charytan
Vice President, Legal Regulatory Affairs and
Senior Deputy General Counsel
Comcast Corporation

Date