



PUBLIC NOTICE

Federal Communications Commission
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DA 14-1383

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**MEDIA BUREAU SEEKS COMMENT ON ISSUES RAISED BY CERTAIN PROGRAMMERS
AND BROADCASTERS REGARDING THE PRODUCTION OF CERTAIN DOCUMENTS IN
COMCAST-TIME WARNER CABLE-CHARTER AND AT&T-DIRECTV TRANSACTION
PROCEEDINGS**

MB Docket No. 14-57

MB Docket No. 14-90

Comments Due: September 26, 2014

With this Public Notice, we seek comment on issues described in a number of *ex parte* filings made recently in these proceedings: a letter filed on September 23, 2014 on behalf of CBS Corporation, Discovery Communications, The Walt Disney Company, Twenty First Century Fox, Inc., Scripps Networks Interactive, Inc., Time Warner Inc., Viacom Inc. and Univision Communications Inc., reflecting an *ex parte* presentation made to Commission staff on September 18, 2014; an *ex parte* filing placed in the record on September 23, 2014 by Commission staff reflecting an *ex parte* presentation made to staff on behalf of those entities on September 16, 2014 (together, the “Sept. 23 *Ex Partes*”); a letter filed by LIN Television Corporation, Gray Television, Inc., Nexstar Broadcasting Group, Sinclair Broadcast Group, and E.W. Scripps Company on September 11, 2014 (“Sept. 11 Letter”); and a letter filed by Raycom Media on September 17, 2014 (“Sept. 17 Letter”). Each of these filings is attached to this Public Notice.

Each of these filings notes that the Commission has directed the applicants to produce documents that the filers consider highly confidential and argues that the existing protective orders do not provide adequate protection for those documents. The filers propose, *inter alia*, that the Commission should not place those documents in the public record of this proceeding but should review the documents only at the U.S. Department of Justice.

We seek comment on the concerns and proposals contained in the attached filings. Are the documents cited by the filers -- programming agreements and retransmission consent agreements -- materials that warrant additional protection beyond that provided pursuant to our existing protective orders in these proceedings? Are there other categories of documents for which additional protection should be considered? Are the current protective orders in these proceedings sufficient to protect the confidentiality of such materials?

If we conclude that further protective measures are appropriate, are there different or additional measures the Commission might take to meet, in whole or in part, the concerns expressed in the *ex parte* filings, consistent with the interests of other parties and our interest in performing an efficient and effective merger review? For example, could the Commission implement a process whereby an individual's affirmation or reaffirmation if required under the protective order would trigger a brief period of time during which the applicant or a party to a programming or retransmission consent agreement that has been produced may object to that individual's access to the materials because the individual participates in competitive decision making? Could the Commission implement a process whereby any person that has executed an affirmation is able to review these confidential documents only through applicant's counsel either in counsel's offices or through a remote access document review platform? Should the copying of such documents be prohibited? Are there other measures we should consider, including the re-emphasis of sanctions for violations of the protective order?

The Commission has asked the applicants to defer further production of documents in MB Docket Nos. 14-57 and 14-90 pending our consideration of these issues.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

Also, one copy of each comment must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail, to: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at FCC@BCPIWEB.COM or (202) 488-5563 (facsimile); (2) Vanessa Lemmé, Industry Analysis Division, Media Bureau, at Vanessa.Lemme@fcc.gov, or (202) 418-2053 (facsimile); (3) Ty Bream, Industry Analysis Division, Media Bureau, at Ty.Bream@fcc.gov or (202) 418-2053 (facsimile); (4) William Dever, Wireline Competition Bureau, at William.Dever@fcc.gov, or (202) 418-1234 (facsimile); and (5) Jim Bird, Office of General Counsel, at TransactionTeam@fcc.gov or (202) 418-1234 (facsimile).

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For further information, contact Jim Bird, Transaction Team, Office of General Counsel, at TransactionTeam@fcc.gov or (202) 418-1720.

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