



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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DA 14-1412

Released: September 30, 2014

## MEDIA BUREAU ACTION

### “PERMIT BUT DISCLOSE” EX PARTE PROCEDURES ESTABLISHED FOR DOCKET SEEKING COMMENT ON INTERPRETATION OF THE TERMS “MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR” AND “CHANNEL” AS RAISED IN PENDING PROGRAM ACCESS COMPLAINT PROCEEDING

#### MB Docket No. 12-83

On March 30, 2012, the Bureau issued a Public Notice opening MB Docket 12-83 to seek comment on certain issues raised in a program access complaint filed by Sky Angel U.S., LLC (“Sky Angel”) against Discovery Communications, LLC and its affiliate, Animal Planet, L.L.C. (collectively, “Discovery”).<sup>1</sup> In the Public Notice, the Bureau designated the proceeding initiated by the Public Notice as “restricted” for purposes of the ex parte rules.<sup>2</sup> In order to ensure broad public participation in this matter, we believe it is appropriate to change the ex parte status of this proceeding to “permit but disclose” status. Accordingly, pursuant to Section 1.1200(a) of the Commission’s rules, we convert MB Docket No. 12-83 to the status of “permit but disclose” for purposes of ex parte presentations.<sup>3</sup> Because consideration of the program access complaint that Sky Angel filed will remain a restricted proceeding under the Commission’s rules, parties shall not discuss the merits of that case in their ex parte presentations in MB Docket No. 12-83.<sup>4</sup>

Under Section 1.1202(b) of the Commission’s rules, an “ex parte presentation” is defined as any presentation which: “(1) If written, is not served on the parties to the proceeding; or (2) If oral, is made without advance notice to the parties and without opportunity for them to be present.”<sup>5</sup> Ex parte presentations to Commission decision-making

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<sup>1</sup> See Sky Angel Program Access Complaint; Sky Angel U.S., LLC, Emergency Petition for Temporary Standstill, MB Docket No. 12-80, File No. CSR-8605-P (March 24, 2010).

<sup>2</sup> *Media Bureau Seeks Comment on Interpretation of the Terms “Multichannel Video Programming Distributor” and “Channel” as Raised in Pending Program Access Complaint Proceeding*, Public Notice, 27 FCC Rcd 3079, 3087 (MB 2012).

<sup>3</sup> 47 C.F.R. §§ 1.1200, 1.1206.

<sup>4</sup> 47 C.F.R. § 1.1208. The Sky Angel complaint record is available in MB Docket No. 12-80.

<sup>5</sup> 47 C.F.R. § 1.1202(b).

personnel, as defined in Section 1.1202(c) of the Commission's rules,<sup>6</sup> are permissible in a permit-but-disclose proceeding so long as the presentations are disclosed pursuant to Section 1.1206(b) of the rules.<sup>7</sup>

Ex parte notices may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.<sup>8</sup>

Electronic Filers: You may file electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and the applicable docket number: MB Docket No. 12-83. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message: "get form". A sample form and instructions will be sent in response.

Paper Filers: Parties who choose to file by paper must file an original and four copies 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 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m.

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 12<sup>th</sup> Street, SW, Washington DC 20554.

One copy of each pleading must be sent to Brendan Murray, Media Bureau, Room 4-A726, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554 or [Brendan.Murray@fcc.gov](mailto:Brendan.Murray@fcc.gov).

Copies of the Waiver Request and any subsequently filed documents in this matter are also available for inspection in the Commission's Reference Information Center:

445 12<sup>th</sup> Street, S.W., Room CY-B402  
Washington, D.C. 20554  
(202) 418-0270

Alternate formats of this Public Notice (computer diskette, large print, audio recording, or Braille) are available to persons with disabilities by contacting the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-7365 (TTY).

For further information, contact Brendan Murray of the Media Bureau, (202) 418-2120. Press inquiries should be directed to Janice Wise, (202) 418-8165 or [Janice.Wise@fcc.gov](mailto:Janice.Wise@fcc.gov). TTY: (202) 418-7172 or (888) 835-5322.

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<sup>6</sup> 47 C.F.R. § 1.1202(c).

<sup>7</sup> 47 C.F.R. § 1.1206.

<sup>8</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322, 11326, ¶ 8 (April 6, 1998).