

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

In the Matter of)	
)	
Bloomberg L.P.'s Request for Waiver of the News)	MB Docket No. 14-124
Neighborhood Condition)	CSR-8888-P

MEMORANDUM OPINION AND ORDER

Adopted: January 7, 2015

Released: January 7, 2015

By the Chief, Media Bureau:

1. In this Order, we grant a petition for waiver of the *Comcast-NBCU Order's* "news neighborhooding" condition.¹ The petition, filed by Bloomberg L.P. ("Bloomberg"), requests waiver to allow Comcast to "place Bloomberg Television ('BTV') in a channel position proximate to CNBC but outside of an existing news neighborhood."² As explained below, we conclude that there is good cause to grant waiver in this limited case.

2. The Commission approved the assignment and transfer of broadcast, satellite, and other radio licenses from the General Electric Company to Comcast on January 18, 2011. At that time, Comcast agreed to conditions to ensure that the transaction served the public interest, including the news neighborhooding condition, which states that if Comcast carries news and/or business news channels in a neighborhood, then it "must carry all independent news and business news channels in that neighborhood."³ In response to a complaint from Bloomberg that alleged Comcast had violated that condition, the Media Bureau released an Order that held that "four news or business news channels within any five adjacent channel positions" constitutes a news neighborhood.⁴ On channel lineups that have at least one news neighborhood, the Bureau directed Comcast to place BTV in a news neighborhood of Comcast's choice.⁵ The Commission affirmed the Media Bureau's interpretation of the news neighborhooding condition,⁶ and Comcast now carries BTV in news neighborhoods in accord with that decision.⁷ As Bloomberg explains in its petition, "Bloomberg and Comcast both sought judicial review of

¹ See *Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses and Transfer Control of Licensees*, 26 FCC Rcd 4238, 4358 (App. A, Sec. III.2) (2011) ("*Comcast-NBCU Order*").

² Bloomberg Petition at 1.

³ *Comcast-NBCU Order*, 26 FCC Rcd at 4358 (App. A, Sec. III.2). The purpose of the condition was to prevent Comcast-NBCU from "foreclosing or disadvantaging rival programming networks" via unfavorable channel placement, making it more difficult for an unaffiliated news channel to compete against news channels affiliated with Comcast-NBCU. *Id.* at 4287, ¶ 119.

⁴ *Bloomberg L.P. v. Comcast Cable Communications, LLC*, 27 FCC Rcd 4891 (MB 2012).

⁵ *Id.*

⁶ *Bloomberg L.P. v. Comcast Cable Communications, LLC*, 28 FCC Rcd 14346 (2013) ("*Order*").

⁷ See Bloomberg Petition at 2 ("Comcast complied with the *Order*.").

the *Order* on separate grounds,”⁸ and eventually negotiated a settlement under which Comcast would place BTV “in a channel position proximate to CNBC but outside of an existing news neighborhood . . . on a small number of Comcast lineups.”⁹ If Comcast were to comply with that settlement agreement, however, it would not comply with what the Commission directed in the *Order* in a small number of cases. Therefore, Bloomberg seeks waiver of the *Order* and the news neighborhooding condition as necessary for Comcast to comply with the settlement agreement. On July 31, 2014, the Bureau issued a *Public Notice* seeking comment on Bloomberg’s waiver request.¹⁰ Comcast filed comments in support of Bloomberg’s request. No other comments were filed in response to the *Public Notice*.

3. We find that there is good cause for waiver based on the specific facts presented to us because waiver will promote the parties’ private resolution of this matter in a manner that is consistent with the purpose of the condition *i.e.*, preventing Comcast-NBCU from competitively disadvantaging unaffiliated news networks through less favorable channel placement.¹¹ Bloomberg itself is in the best position to determine that a channel position proximate to CNBC accomplishes this goal. Moreover, when the Commission adopted the condition, it stated that it intended to “allow[] Comcast and programming vendors sufficient flexibility to enter into individualized contracts that suit their particularized needs and circumstances.”¹² The record demonstrates that Bloomberg and Comcast’s settlement agreement is tailored to their particularized needs and circumstances.¹³ Moreover, no party opposed the petition for waiver. Finally, we note that “[i]n many cases” BTV and CNBC will both be in a news neighborhood, and therefore waiver is necessary only in “a small number of cases covered by the *Order*.”¹⁴ For these reasons, we find good cause to waive the news neighborhooding condition and the Commission’s *Order* to the extent necessary for Bloomberg and Comcast to comply with the terms of their settlement agreement.

4. Accordingly, **IT IS ORDERED**, pursuant to Sections 4(i) and (j), 303(r), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303(r), 309, 310(d), and Sections 1.3, 76.7, and 76.1302 of the Commission’s rules, 47 C.F.R. §§ 1.3, 76.7, 76.1302, that the above-captioned petition for waiver filed by Bloomberg, L.P. **IS GRANTED**.

⁸ *Id.* (citing *Bloomberg L.P. v. FCC* and *Comcast Cable Communications v. FCC*, consolidated Docket No. 13-3788 (2d Cir.))

⁹ Bloomberg Petition at 1.

¹⁰ *Special Relief and Show Cause Petitions*, Public Notice, Report No. 0420 (rel. July 31, 2014).

¹¹ *Comcast-NBCU Order*, 26 FCC Rcd at 4284-7, ¶¶ 116-119.

¹² *Id.* at 4288, ¶ 123.

¹³ Bloomberg Petition at 2 (“In Bloomberg’s view, proximity to CNBC, its chief competitor, is preferable to placement in a news neighborhood that lacks CNBC.”); Comcast Comments at 2 (waiver would allow Comcast to “implement the parties’ business arrangement, which would further the positive and productive relationship Comcast and Bloomberg have forged.”).

¹⁴ Bloomberg Petition at 2.

5. This action is taken pursuant to authority delegated by Sections 0.61(h) and 0.283 of the Commission's rules, 47 C.F.R. §§ 0.61(h), 0.283.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
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