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December 15, 2010

VIA ELECTRONIC FILING

The Honorable Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: *In the Matter Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. to Assign and Transfer Control of FCC Licenses*, MB Docket No. 10-56; Notice of *Ex Parte* Presentation

Dear Ms. Dortch:

On December 14, 2010, Doug Sylvester and Adam Salassi of Avail Media, Inc. dba Avail-TVN ("Avail-TVN") and Stephen Ryan and Joel Grosberg of McDermott Will & Emery LLP, counsel to Avail-TVN, met with Krista Witanowski, Legal Advisor to Commissioner Baker.

During this meeting, Avail-TVN representatives provided an overview of Avail-TVN and an overview of the video delivery services markets: pay-per view ("PPV"), video on-demand ("VOD") and digital linear cable TV services. Avail-TVN described how smaller and rural MVPDs depend on video delivery service providers, such as Avail-TVN and Comcast controlled CMC and iN DEMAND, to provide "managed video delivery services." Avail-TVN described how Comcast today has been able to obtain a dominant share for PPV, VOD movie services and digital linear cable TV services through anticompetitive bundling of video delivery services, predatory pricing, and "linking" of Comcast carriage contracts with CMC and/or iN DEMAND contracts.

Avail-TVN expressed its concern that absent appropriate safeguards, the proposed transaction, through the addition of NBCU content, would provide Comcast an even greater ability and incentive to harm competition for video delivery service providers. Avail-TVN explained how the addition of NBCU "must-have" content would enable Comcast to disadvantage Comcast's video delivery service competitors even more than it does today by discriminating or foreclosing rivals' access to NBCU content through a complete denial of content or through "de facto" bundling/tying and required exclusivity. NBCU content is essential for any MVPD to offer a viable VOD and PPV package.

In order to address these potential harms, Avail-TVN requested that the Commission impose the following key remedies. First, Avail-TVN believes it is essential that the Commission require all Comcast-controlled entities to provide equal access and reasonable prices for all NBCU and Comcast-controlled content to all video delivery service competitors in all formats. Today, the FCC program access/program carriage rules only protect MVPDs. Avail-TVN acts as an extension or proxy for smaller/rural MVPDs, and therefore it is necessary to extend these program access rules to video delivery service providers. Second, the Commission should prohibit Comcast from interlinking or bundling its MVPD, any Comcast-controlled content, and Comcast-controlled video delivery services (including iN DEMAND) to foreclose competition and reduce customer choice. Third, the Commission should impose several additional remedies that have been described in prior Avail-TVN filings in this proceeding.

There was a discussion of Comcast's prior filings in this proceeding relating to video delivery service providers. Avail-TVN explained how many of Comcast's statements were misleading or incorrect. For example, Comcast repeatedly claimed that MVPDs can easily obtain content directly from programmers. Avail-TVN explained that this is not a viable option for smaller and rural MVPDs, because it is not practical for these MVPDs to obtain and manage content from hundreds of programmers. As a result, these smaller and rural MVPDs rely on Avail-TVN or CMC to provide transport and mange rights to content. In addition, Avail-TVN explained that Comcast's claim that it does not bundle video delivery services with a Comcast carriage contract is both false and misleading. As described in prior Avail-TVN pleadings, Comcast through "de facto" bundling or through "no-cost/low-cost" pricing, essentially forces the programmer to utilize Comcast video delivery service to obtain access to the Comcast subscriber base. Avail-TVN has provided numerous examples of this conduct in prior filings. Moreover, Avail-TVN discussed iN Demand and provided several examples demonstrating that iN DEMAND's activities benefit Comcast businesses and objectives, and that iN DEMAND links sales of its services bundled with other Comcast video delivery services.

In conclusion, Avail-TVN believes that the remedies described above are necessary to ensure a level-playing field for video delivery services. Without these remedies, the transaction will harm consumers, MVPDs and Comcast competitors, resulting in fewer options and higher prices for VOD and PPV services.

Pursuant to Section 1.1206(b) of the Commission's Rules, one copy of this *ex parte* notice is being filed electronically for inclusion in the record of the above-referenced proceeding. Should any questions arise concerning this notice, please communicate with undersigned counsel for Avail-TVN.

Very truly yours,

/s/ Stephen M. Ryan

Stephen M. Ryan

cc:

Jonathan Baker
James Bird
Joel Rabinowitz
William Freedman
Virginia Metallo
Jennifer Tatel
Daniel Shiman
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Judith Herman
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