

FEDERAL COMMUNICATIONS COMMISSION**[MB Docket No. 11–128; DA 11–1238]****The Regional Sports Network Marketplace****AGENCY:** Federal Communications Commission.**ACTION:** Notice; solicitation of comments.

SUMMARY: In the *Adelphia Order*, the Commission adopted conditions addressing concerns regarding regional sports network (RSN) access and carriage issues and committed to examine these matters before the expiration of the conditions on July 13, 2012. This document requests public comment on matters regarding RSN access and carriage that will be used for the preparation for a report as provided in the *Adelphia Order*.

DATES: Comments may be filed on or before September 9, 2011, and reply comments may be filed on or before September 26, 2011.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Johanna Thomas (202) 418–7551, TTY (202) 418–7172, or e-mail at Johanna.Thomas@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Public Notice in MB Docket No. 11–128, DA–11–1238, released July 26, 2010. The complete text of the document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street, SW., Washington, DC 20054. Customers may contact BCPI, Inc. at their Web site <http://www.bcp.com> or call 1–800–378–3160.

Synopsis of the Public Notice

1. By this Public Notice, the Media Bureau seeks comment on issues related to regional sports network (RSN) access and carriage to prepare a report as provided in the *Adelphia Order*, released July 21, 2006. In the order, the Commission approved the purchase of Adelphia Communications Corporation's cable systems by Time Warner Cable Inc. (TWC) and Comcast Corporation (Comcast) (collectively, the Applicants) subject to several conditions, including RSN access and carriage requirements. In particular, the *Adelphia Order* adopted program access

conditions preventing the Applicants from entering into any exclusive distribution agreements with existing and future affiliated RSNs and unduly or improperly influencing the sale of the programming of those RSNs to unaffiliated multichannel video programming distributors (MVPDs). The Applicants were also required to provide the programming of affiliated RSNs to all multichannel video programming distributors (MVPDs) pursuant to non-discriminatory terms and conditions. Moreover, in the *Adelphia Order*, the Commission applied the program access rules applicable to satellite-delivered, cable-affiliated programming to all of the Applicants' affiliated RSNs, regardless of the method of delivery. However, the Commission partially exempted Comcast's SportsNet Philadelphia from these requirements given that it was delivered terrestrially before being acquired by Comcast, and therefore the method of delivery was not chosen for anticompetitive purposes. Finally, the Commission implemented a dispute resolution process allowing aggrieved MVPDs and unaffiliated RSNs respectively to submit program access or carriage disputes with the Applicants to an arbitrator.

2. In the *Adelphia Order*, the Commission committed to issue a report examining "regional sports network access and carriage issues both on an industry-wide basis and specifically with respect to the Applicants" by January 13, 2012, six months prior to the expiration of the RSN conditions. After issuing the report, the Commission, in its discretion, may determine if further action is warranted.

3. The Media Bureau notes that since the *Adelphia Order* was adopted, there have been a number of relevant marketplace and regulatory developments. First, Time Warner Inc., the former parent of TWC, has been split into three separate, independent companies—TWC, Time Warner Inc., and AOL. The RSNs subject to the *Adelphia* conditions remain affiliated with TWC.

4. Second, the Commission adopted the *Comcast-NBCU Order*, released January 20, 2011, approving the merger of Comcast and NBC Universal, Inc. (NBCU). In that order, the Commission concluded that commenters raised legitimate concerns regarding the combination of Comcast's RSNs with NBCU's owned and operated stations. The Commission found, however, that any potential harm was mitigated by certain program access conditions to which Comcast agreed to be bound. In addition, the Commission adopted an

arbitration remedy applicable to all Comcast-NBCU affiliated programming, including RSNs.

5. Further, the Commission issued a Program Access Order, released October 1, 2007, which among other things, improved the program access complaint procedures by allowing for party-to-party discovery and expanding opportunities for participation in voluntary arbitration.

6. With respect to program carriage, in 2007, the Commission issued a notice of proposed rulemaking that sought comment on, among other things, the Commission's process for resolving program carriage disputes. Moreover, since the *Adelphia* transaction, the Commission has specifically addressed program carriage complaints regarding the Applicants' and unaffiliated RSNs.

7. In 2010, the Commission adopted rules allowing aggrieved MVPDs to file a complaint regarding access to terrestrially delivered, cable-affiliated programming. This decision was particularly relevant to the RSN marketplace, because several RSNs are delivered terrestrially and the Commission has historically classified this type of programming as "must-have." Additionally, in the *Terrestrial Program Access Order*, released January 20, 2010, the Commission adopted a rebuttable presumption that an unfair act involving terrestrially delivered RSNs or high-definition RSNs has the purpose and effect of hindering or preventing competition in violation of section 628(b) of the Communications Act. In *Cablevision Systems Corp. v. FCC*, the DC Circuit upheld the portions of the Commission's order adopting rules regarding terrestrially delivered programming and the Commission's adoption of a rebuttable presumption involving RSNs.

Issues for Comment

8. The Media Bureau invites comments generally on issues related to RSN access and carriage. What effect, if any, have marketplace and the 2007 and 2010 program access rules revisions had on MVPDs' ability to gain access to RSN programming? Similarly, what impact have regulatory and marketplace changes since the *Adelphia Order* had on the ability of unaffiliated RSNs to gain carriage on MVPD systems? Since the release of the *Adelphia Order* has there been an increase in the delivery of RSNs by terrestrial means? In addition, has the number of RSNs affiliated with a cable operator changed since the release of the *Adelphia Order*? If there has been a change, how does this number compare with the overall number of RSNs in the marketplace?

Are there examples since the release of the *Adelphia Order* involving the withholding of an RSN and what impact has this had on the MVPD marketplace? Further, has there been a change in the number of exclusive deals involving MVPDs and unaffiliated RSNs since the release of the *Adelphia Order*?

9. Moreover, the Media Bureau seeks comment on the access of MVPDs, other than the Applicants, to RSN programming in which the Applicants hold an interest. The Bureau also requests comment on whether unaffiliated RSNs have obtained carriage on the Applicants' cable systems and on what terms. Finally, the Bureau asks for comment on the Applicants' compliance with the *Adelphia Order*'s RSN conditions, the dispute resolution process and the effectiveness of these remedies. Do such conditions continue to be necessary in light of marketplace and regulatory changes since the time of their adoption?

Procedural Matters

10. *Ex Parte Rules*. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) List all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the

Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

11. *Comment Information*. Pursuant to 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments 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. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. 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, and include the following words in the body of the message "get form." A Sample form and directions will be sent in response.

- *Paper Filers*: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

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 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes 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.

- *People with Disabilities*: Contact the FCC to request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

Federal Communications Commission.

Thomas Horan

Chief of Staff, Media Bureau.

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FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2011-18956) published on pages 44914 and 44915 of the issue for Wednesday, July 27, 2011.

Under the Federal Reserve Bank of Philadelphia heading, the entry for, Patriot Financial Partners, GP, L.P., Patriot Financial Partners, L.P., Patriot Financial Partners Parallel, L.P., Patriot Financial Partners, GP, LLC, Patriot Financial Managers, L.P., and Ira M. Lubert, W. Kirk Wycoff and James J. Lynch, all of Philadelphia, Pennsylvania, is revised to read as follows:

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Patriot Financial Partners, GP, L.P., Patriot Financial Partners, L.P., Patriot Financial Partners Parallel, L.P., Patriot Financial Partners, GP, LLC, Patriot Financial Managers, L.P., and Ira M. Lubert, W. Kirk Wycoff and James J. Lynch, all of Philadelphia,

¹ 47 CFR 1.1200 *et seq.*