

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MERIDIAN CHARTER TWP.,
a Municipal corporation,
CITY OF DEARBORN,
a Municipal corporation,
and SHARON GILLETTE

Case No.: _____

Hon. _____
Magistrate _____

Plaintiffs,

vs.

COMCAST OF MICHIGAN III, INC.,
a Delaware corporation, et al.,

Defendants.

AFFIDAVIT OF ANDREW AFFLERBACH, PH.D, P.E.

STATE OF MICHIGAN)
)SS
COUNTY OF _____)

I, ANDREW AFFLERBACH, being first duly sworn, deposes and states that:

1. I am Chief Executive Officer and Director of Engineering for Columbia Telecommunications Corporation (CTC), with principal business offices at 10613 Concord Street, Kensington, MD 20895, telephone (301)-933-1488. I hold a Ph.D. in astronomy from the University of Wisconsin—Madison in 1996, and am a licensed Professional Engineer in the Commonwealth of Virginia. I specialize in system-level planning, design, and implementation of wide-area and local-area telecommunications and cable networks. As Director of Engineering, I oversee all engineering work performed by Columbia Telecommunications. Most pertinent to

this affidavit, I work for many local governments in evaluating cable system performance, including the performance of cable systems owned by subsidiaries of Comcast Corporation. I am familiar with how Comcast delivers public, educational and government access programming on many of its systems, and I am also familiar with many of the problems that would be created if (as I understand Comcast plans) PEG channels are delivered solely in a digital format and if Comcast maps its system so that a converter treats the signals as being in the 900-series of channels.

2. By way of background: consumer television sets, until recently, were only capable of receiving programming in an analog format. More recently, television manufacturers have been producing sets that can receive certain digital and analog television signals. All television sets manufactured after March 2007 and sold in the U.S. must be able to receive digital signals. As a result, while many homes now have at least one digital television set (50% of the public, according to the Consumer Electronics Association), another half do not, and even homes that have at least one digital set may have several sets that can only receive analog programming. In order for a consumer to receive a digital program on an analog set, that consumer must obtain a converter. While digital converters with limited capabilities are available from retail outlets, full-featured interactive converters are only available from cable operators at this point, and are typically leased for a monthly charge.

3. In this case, as I understand it, Comcast is now providing broadcast and PEG signals in the Township in an analog format. I also understand that as of January 15, 2008, Comcast will provide the PEG channels only in a digital format, while continuing to provide other basic service channels, including the broadcast channels, in an analog format.

4. This will have several significant and adverse effects on members of the public who have only analog television sets, or that have multiple sets, some of which are analog and some of which are digital. These include the following.

5. Many subscribers who can now view the channels without a converter box will require a converter box. A separate box (with attendant costs and inconvenience) will be required for each television set in order to receive the PEG channels. By contrast, a converter box will not be required to receive the broadcast channels as long as Comcast continues to deliver them in an analog format. Converter boxes interfere with the functions and operation of many other consumer electronic devices, including the advanced features of many television sets (picture in picture, features, for example).

6. It will be more difficult for subscribers to find the channel by "channel surfing" given the location of the channels.

7. It will be difficult for subscribers to find the channels using the standard basic service programming guide (usually a rolling menu that lists, sequentially, the channels on the system and what is being carried upon them). In fact, for technical reasons explained below, the guide may be totally useless. Comcast also offers an interactive programming guide, but that guide typically is accessible only to subscribers who pay for a higher level of service.

8. I have reviewed the notice that Comcast sent to subscribers in Meridian Township. Comcast advises subscribers that the PEG channels will be on channels 902-906, 911-913 and 916. This will only be true for subscribers who have converters or cards that can decode a special signal that Comcast sends to the home. A converter or card that can read this signal will identify the PEG channels as being in the 900-series. A television without such a converter or card will identify the PEG programming as being on entirely different channels. In

letters sent to Meridian Township, Comcast has claimed, for example, that a customer with a digital TV set with a QAM tuner will be able to receive the PEG channels without any special equipment. In fact, customers with such digital TV sets will not be able to see the programming if they try to select the 900-series channels with their remotes. The PEG channels, to the extent that they are viewable at all, will be in an entirely different locations than the 900-series of channels. That obviously creates significant problems for channel identity. It also means that the notice does not identify accurately or completely where the PEG channels will be found, and that subscribers without special equipment will have no way to easily find the PEG channels.

9. There may be other, serious problems created by the proposed move, but I would require more information from Comcast before I could identify them.

10. The proposed changes are unusual. It is typical for operators to deliver PEG channels so that they are as accessible as broadcast channels.

11. As far as I am aware, as a technical matter, nothing prevents Comcast from providing the PEG channels in the format and in the locations where they are now provided. The fact that the channels are being provided in an analog format now means that Comcast has all the equipment and facilities in place to continue to provide those channels in that format. I am also familiar with Comcast systems around the country, and Comcast typically delivers PEG channels in an analog format, just as it is doing now in Meridian Township. There is no comparable shift of PEG programming to digital-only service, or to the 900-series of channels in Virginia or Maryland.

12. Many people are aware that, sometime next year, broadcast television stations will be required to broadcast their signals only in a digital format. What is often assumed is that cable systems will also shift entirely to digital signals. That is not the case. A cable operator

may choose to convert broadcast signals back to analog precisely so that cable subscribers can continue to receive cable services on their television sets without a converter. Material I have reviewed in connection with this case suggests that this is what Comcast may do. As a result, the problems outlined above are not necessarily short term problems, but are potentially long-term problems affecting the viewability, accessibility and cost associated with PEG channels.

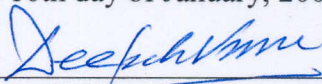
13. While my statements are directed to Meridian Township, they would be equally true for other Michigan communities where Comcast or one of its subsidiaries is taking a similar action.

Further, Affiant sayeth not.



ANDREW AFFLERBACH

Subscribed and sworn to before me
this 10th day of January, 2008.



Notary Public

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NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires March 5, 2011