

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11  
: : Case No. 04-13638 (RDD)  
RCN CORPORATION, et al., : Jointly Administered  
: :  
Reorganized Debtors.:  
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STIPULATION AND CONSENT ORDER BETWEEN RCN CORPORATION, DISCOVERY DIGITAL COMMUNICATIONS, INC. AND DISCOVERY HEALTH CHANNEL, L.L.C., RELATING TO ASSUMPTION OF DISCOVERY DIGITAL NETWORKS AFFILIATION AGREEMENT

WHEREAS, commencing on May 27, 2004 (the "Petition Date") and periodically thereafter, RCN Corporation ("RCN") and certain of its affiliates, reorganized debtors in the above-captioned cases, each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330 (as amended, the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), which chapter 11 cases were procedurally consolidated for administrative purposes only; and

WHEREAS, on December 8, 2004, this Court confirmed the Joint Plan Of Reorganization Of RCN Corporation And Certain Subsidiaries, dated October 12, 2004 (the "Plan") and entered the Findings Of Fact And Conclusions Of Law Relating To And Order Under 11 U.S.C. § 1129(a) And (b) And Fed. R. Bankr. P. 3020 Confirming The Joint Plan Of Reorganization Of RCN

Corporation And Certain Subsidiaries, dated December 8, 2004 (the "Confirmation Order") (Docket No. 483); and

WHEREAS, on December 21, 2004, the effective date of the Plan occurred (the "Effective Date"); and

WHEREAS, prior to and as of the Effective Date, RCN, Discovery Communications, Inc. and Discovery Health Channel, L.L.C. (the "Parties") were parties to that certain Discovery Digital Networks Affiliation Agreement, dated as of September 1, 1999 (the "Discovery Digital Networks Agreement") and RCN and Discovery Communications, Inc. were parties to the "Participating Operator Guarantee" dated as of March 11, 2004 (the "Discovery HD Theater Agreement" and, together with the Discovery Digital Networks Agreement, the "Discovery Agreements"), pursuant to which RCN carried the signal for certain television channels; and

WHEREAS, pursuant to the Plan and the Confirmation Order, certain executory contracts listed on Exhibit D to the Plan were assumed by the reorganized debtors as of the Effective Date; and

WHEREAS, the Discovery Agreements were inadvertently omitted from the list of executory contracts to be assumed pursuant to the Plan; and

WHEREAS, the continued effectiveness of the Discovery Agreements are in the Parties' best interest; and

WHEREAS, this Stipulation reflects the terms agreed to by the Parties at arms' length and in good faith.

**NOW, THEREFORE,** in consideration of the mutual covenants and agreements set forth in this Stipulation and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and with the intent to be legally bound, it is hereby agreed by and between the Parties as follows:

1. Assumption of Discovery Agreements. Upon entry of this Stipulation on the docket of the Bankruptcy Court, the Discovery Agreements shall be deemed assumed by RCN as of December 21, 2004, as if they had been listed on Exhibit D to the Plan. The non-RCN Parties acknowledge and agree that all requirements of section 365(b) of the Bankruptcy Code for the assumption of the Discovery Agreements have been met, and no cure amounts are due to them in connection with the assumption of such agreement.

2. Authority and Representations. The Parties represent and warrant to one another that: (i) the signatories to this Stipulation are authorized to execute this Stipulation; (ii) each has full power and authority to enter into this Stipulation; and (iii) this Stipulation is duly executed and

delivered, and constitutes a valid, binding agreement in accordance with its terms.

3. The Parties further represent and agree that (a) they have each had the opportunity to consult with their respective attorneys regarding this Stipulation, (b) they have each carefully read and each fully understand all the provisions of this Stipulation, (c) the Stipulation is entered into by each of them voluntarily and (d) the terms and provisions of this Stipulation are the product of arm's length negotiation and equal input by all Parties, such that they shall not be construed against any party as the drafter of the Stipulation.

4. Binding Nature. This Stipulation (i) shall inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns and (ii) shall be binding upon and enforceable against the Parties and their respective successors and assigns upon the entry of this Stipulation on the docket of the Bankruptcy Court.

5. Bankruptcy Court Approval. This Stipulation is expressly subject to and contingent upon its approval by the Bankruptcy Court. If this Stipulation, or any portion hereof, is not approved by the Bankruptcy Court or if it is overturned or modified on appeal, this Stipulation shall be of no further force and effect, and, in such event, neither this Stipulation nor any negotiations and writings in connection with this

Stipulation shall in any way be construed as or be deemed to be evidence of or an admission on behalf of any Party hereto regarding any claim, interest or right that such Party may have against any other party hereto.

6. Non-Severability. The provisions of this Stipulation are mutually interdependent, indivisible and non-severable.

7. Entire Agreement. This Stipulation constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, written and oral, between the Parties with respect to the subject matter hereof. This Stipulation may not be modified or amended except by a writing signed by all of the Parties. All representations, warranties, promises, inducements or statements of intention made by the Parties hereto are embodied in this Stipulation, and no Party hereto shall be bound by, or liable for, any alleged representation, warranty, inducement or statement of intention that is not expressly embodied herein. The Parties represent and warrant that this Stipulation discloses all of the terms of the Parties' agreement with respect to the Claims and the matters related thereto.

8. Effective Date. This Stipulation may be executed in one or more counterparts and by facsimile, all of which shall be considered one and the same agreement, and shall become

effective when one or more such counterparts have been signed by each of the Parties and delivered to all Parties, and the Bankruptcy Court has entered the Stipulation on the docket of the Bankruptcy Court.

9. Retention of Jurisdiction. The Bankruptcy Court shall retain exclusive jurisdiction to interpret, implement and enforce the provisions of this Stipulation, and the Parties hereby consent to exclusive jurisdiction of the Bankruptcy Court with respect thereto. The Parties waive arguments of lack of personal jurisdiction or *forum non-conveniens* with respect to the Bankruptcy Court.

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IN WITNESS WHEREOF, the Parties have executed this  
Stipulation on June 10, 2005.

**MILBANK, TWEED, HADLEY & M<sup>C</sup>CLOY LLP**

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Inc. and Discovery Health Channel,  
L.L.C.

So Ordered on July 8, 2005

/s/ Robert D. Drain  
ROBERT D. DRAIN,  
UNITED STATES BANKRUPTCY JUDGE