# Comcast allegedly trying to block CenturyLink from entering its territory

CenturyLink has accused Comcast of trying to prevent competition in cities and towns by making it difficult for the company to obtain reasonable franchise agreements from local authorities. CenturyLink made the claim yesterday in a filing that asks the Federal Communications Commission to block Comcast's proposed acquisition of Time Warner Cable (TWC) or impose conditions that prevent Comcast from using its market power to harm competitors. I implore regulators to either require a consent decree with said conditions or block the merger.

Comcast has a different view on the matter, saying that CenturyLink shouldn't be able to enter Comcast cities unless CenturyLink promises to build out its network to all residents. Without such conditions, poor people might not be offered service, Comcast argues.  The company claims to be looking out for poor people but their efforts to restrain competition and consumer choice make this claim laughable.

Internet service and TV providers often don't bother competing against each other in individual cities and towns, at least in part because it's hard to pry enough customers away from an existing company to make major construction economically viable. Network operators aren't required to lease infrastructure to companies that would provide service over the lines, and small Internet and TV providers say they face frivolous lawsuits from incumbents designed to put them out of business before they can build their own networks.
Despite being the two largest cable companies in the nation with a combined 33 million Internet customers, Comcast and TWC don't compete against each other for residential and business subscribers

anywhere. But CenturyLink, which offers DSL and fiber service and has six million broadband subscribers, is trying to compete against Comcast.
“Comcast has been uniquely and extraordinarily aggressive in seeking to delay CenturyLink’s entry into new markets,” CenturyLink told the FCC.
“For example, in the Denver metropolitan area, where CenturyLink is currently pursuing local video franchises, Comcast appears to be sending a similar letter to each local franchising authority from which CenturyLink is seeking a franchise or potentially might be seeking a franchise providing Comcast’s ‘concerns’ regarding CenturyLink’s entry into the video market. The ‘concerns’ that Comcast has raised, while couched in terms of ‘fair competition,’ are in reality an effort to have the LFA [local franchising authority] impose such onerous and unreasonable buildout requirements that the new entrant will not be able to obtain a franchise agreement that will support a feasible business plan.”

Contrary to Comcast’s wishes, local authorities are sometimes willing to give a franchise to a second entrant without requiring a citywide buildout. “Because the second provider realistically cannot count on acquiring a share of the market similar to the incumbent’s share, the second entrant cannot justify a large initial deployment,” CenturyLink wrote. “Rather, a new entrant must begin offering service within a smaller area to determine whether it can reasonably ensure a return on its investment before expanding.”

That’s what Comcast is trying to prevent, CenturyLink says, offering letters from Comcast as proof. A letter from Comcast to City Council members in Centennial, Colorado said that “when Comcast and its predecessors entered your community, it did so with full understanding of the investment necessary to build out (over time, and subject to reasonable density thresholds) to serve the entire community. There are no cable ‘haves’ and ‘have nots’ in Centennial.”

But CenturyLink's draft agreement with Centennial would let the company initially build out to just 15 percent of the community "and contains no binding obligation on Centurylink to expand that initial service territory—ever—unless specified market penetration thresholds are reached," Comcast wrote.

Comcast said Centennial should at least require the same conditions that Colorado Springs imposed on CenturyLink in 2012. In that case, Comcast said, CenturyLink was required to "direct a 'significant' portion of its initial capital investment to lower-income portions of Colorado Springs."

"While Comcast believes that Colorado Springs should have imposed on CenturyLink the same build out requirements contained in our franchise, these commitments do offer at least some guarantees for fair video and broadband access in that community," Comcast wrote. "We would hope that the City of Centennial will use these commitments as a starting place, and—at minimum—exercise in any franchises granted to new entrants its authority to prohibit redlining or discriminatory practices, and that it will adhere to its historic practice of requiring cable video providers to provide near-universal service throughout the entire community, through a binding, reasonable, and enforceable build out obligation."

In a statement to Ars, Comcast said, "We believe competitors should have to live under the same requirements as incumbents, that means no redlining poor communities, no cherry picking of only providing services to wealthier communities – it means service to the entire community. This has been our consistent position, that new entrants should be prepared to live under the same rules we have for decades." (Redlining is the practice of not building in areas that are less profitable because they contain people who are poor, and often minorities.)

## Only Comcast does this, CenturyLink says

CenturyLink argued that Comcast's efforts in Colorado Springs and elsewhere were undertaken to delay construction.

“[E]ven where Comcast has not obtained the end result of wholly precluding entry by a competitor, it at least is able to use these tactics to delay that entry,” CenturyLink wrote. “Thus, in Colorado Springs, where CenturyLink ultimately obtained a franchise to provide video service in 2012, Comcast undertook extensive but ultimately unsuccessful efforts to have the Colorado Springs City Council impose onerous buildout requirements on CenturyLink. Comcast’s efforts succeeded in causing CenturyLink to spend 20 months to obtain a single franchise.”

CenturyLink’s other competitors have not used this strategy, the company said.

“In CenturyLink’s experience, other providers have not engaged in similar conduct,” CenturyLink wrote. “In the Phoenix, Arizona metropolitan area, Cox is the incumbent cable provider. CenturyLink has 18 franchises to provide video service in this metropolitan area, six of which either have been renewed or are currently in the renewal window. Not once has Cox attempted to intervene in CenturyLink’s franchise application process—either the initial application process or any renewals. The same is true in the Omaha, Nebraska metropolitan area where Cox is the incumbent provider and CenturyLink currently has nine franchises, six of which have recently been acquired and three of which have recently been renewed. CenturyLink was able to acquire and renew all nine Omaha franchises in a single 11-month period in 2012-2013.”

Comcast merging with TWC “would allow Comcast to extend its anticompetitive behavior into areas currently served by TWC. Absent action by the Commission, the result would be delayed competitive entry, higher costs for new entrants, and, in some instances, even a decision by a potential new entrant not to compete. Those transaction-specific harms are contrary to congressional and Commission policy, and they hurt consumers and the public interest,” CenturyLink wrote.

If the FCC approves the merger, it should only do so if “Comcast agrees to stop intervening in franchising proceedings,” CenturyLink argued. “Only such an assurance will fully protect entrants from the massive combined

Comcast/TWC entity acting on its incentive post-merger to take action to protect itself from new facilities-based video (and broadband) competitors."

## Small cable companies also ask FCC for protection

Similarly, a filing by cable companies RCN, Grande Communications, and Choice Cable TV, argued for the rights of "overbuilders" who compete head to head against incumbent cable operators. The absence of an overbuilder allows incumbents to keep prices artificially high and delay upgrades, they argued.

"The Commission must deny or condition the Comcast and TWC combination to ensure that overbuilders can continue to provide consumers the robust competition to the incumbent cable operators needed to benefit consumers and the public interest with more customer choice, better service, and more value," they wrote.

The American Cable Association, which represents small cable companies, also opposes the merger, saying it will increase harms caused by Comcast's previous acquisition of NBCUniversal. Comcast's bigger size will increase its ability to charge higher programming fees for NBC content it sells to rivals, the group argued.