STOP MEGA COMCAST

January 19, 2015

EX PARTE PRESENTATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Presentation in MB Docket No. 14-57, *Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations*

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, the Stop Mega Comcast Coalition submits this letter summarizing the following meetings on January 15, 2015:

- A meeting with Commissioner Ajit Pai; Matthew Berry, Chief of Staff to Commissioner Pai; Nicholas Degani, Legal Advisor, Wireline to Commissioner Pai; Andrew Pramschufer, legal intern; and Max Hsu, legal intern. The following members of the Stop Mega Comcast Coalition were present: Lynne Costantini, TheBlaze; John Simpson, TheBlaze; Kathy Wallman, TheBlaze; Todd O'Boyle, Common Cause; Delara Derakhshani, Consumers Union; Jeff Blum, DISH; Hadass Kogan, DISH; Casey Rae, Future of Music Coalition; Paul Raak, ITTA; Josh Stager, Open Technology Institute; John Bergmayer, Public Knowledge; David Goodfriend, Sports Fans Coalition; Mike Forscey, Writers Guild of America, West; Bill Sklar, Z Living; and Allen Grunes, consultant to the Coalition.

- A meeting with Commissioner Mignon Clyburn; Adonis Hoffman, Chief of Staff and Senior Legal Advisor, Media to Commissioner Clyburn; Rebekah Goodheart, Legal Advisor, Wireline to Commissioner Clyburn; Carter McMillan, legal intern; Allante Keels, legal intern; and Yosef Getachew, legal intern. The following members of the Stop Mega Comcast Coalition were present: Lynne Costantini, TheBlaze; John Simpson, TheBlaze; Kathy Wallman, TheBlaze; Todd O'Boyle, Common Cause; Linda Sherry, Consumer Action; Delara Derakhshani, Consumers Union; Jeff Blum, DISH; Hadass Kogan, DISH; Casey Rae, Future of Music Coalition; Trey Judy, Hargray Communications; Micah Caldwell, ITTA; Josh Stager, Open Technology Institute; Dan Isett, Parents Television Council; John Bergmayer, Public Knowledge; David Goodfriend, Sports Fans Coalition; Bill Sklar, Z Living; and Allen Grunes, consultant to the Coalition.

During the meetings, members of the Coalition, which include a broad group of consumer advocates, private companies, labor unions, and industry organizations,[1] explained that consumers, competition, and innovation will be severely harmed by the proposed merger of Comcast and Time Warner Cable ("TWC"); that no set of conditions can alleviate those harms; and that the FCC should reject the merger.[2]

In particular, Coalition members explained that a combined Comcast/TWC would have unprecedented power as the gatekeeper to more than half of the high-speed broadband homes in the nation. Among other things, the proposed transaction threatens the following harms across five key market segments, including:

- **Broadband:** Comcast/TWC would control more than 50% of the high-speed broadband market. Those who want their content to flow quickly and freely will have to submit to the combined company's terms, giving Comcast/TWC the power and the incentive to increase their prices at the expense of consumers, content creators and innovation.

- **Programming and Pay TV:** Comcast/TWC would be the nation's most dominant pay TV provider, while also owning NBC-Universal, one of the biggest programmers in the world. Comcast/TWC would have the means and the incentive to advance its own content at the expense of other programmers and to force consumers to pay more for content not controlled by Comcast/TWC. In addition, the concentration of the top major metropolitan areas within a combined Comcast/TWC would pose a significant competitive threat to programmers, competing pay-TV providers, and online video distributors.[3]

---

[1] The Coalition's 27 members include Common Cause, Consumer Action, Consumer Federation Of America, Consumers Union, DISH Network Corporation, Engine, FairPoint Communications, Future of Music Coalition, Greenlining Institute, Hargray Communications Group, Independent Telephone & Telecommunications Alliance ("ITTA"), LPTV Spectrum Rights Coalition, Media Alliance, National Alliance for Media Arts & Culture, National Consumer Law Center, NTCA-The Rural Broadband Association, Open Technology Institute, New America Foundation, Parents Television Council, Public Knowledge, TheBlaze, The National Asian American Coalition ("NAAC"), The Rural Broadband Alliance ("RBA"), The Sports Fans Coalition, WeatherNation TV, Writers Guild of America, East, Writers Guild of America, West, and Z Living.

[2] *See* Press Release, Stop Mega Comcast Coalition, Stop Mega Comcast Coalition Urges FCC and DOJ to Reject Comcast-Time Warner Cable Merger (Dec. 3, 2014), *available at* http://stopmegacomcast.com/stop-mega-comcast-coalition-urges-fcc-doj-reject-comcast-time-warner-cable-merger/.

[3] *See* DISH Network Corporation, Petition to Deny, MB Docket No. 14-57, pp. 70-71, 80-82; Declaration of Roger Lynch at 18-20; Declaration of Professor Sappington at 18-19 (Aug. 25, 2014).

- **Connected Consumer Devices:** Comcast's X1 Platform would be the default streaming system for the vast majority of broadband subscribers, affording Comcast/TWC extraordinary power over the content available to broadband consumers and forcing competing devices to submit to the combined company's terms in order to gain entry to the marketplace. This means fewer choices for consumers and less motivation for companies to invest in new and innovative technologies.

- **Local Advertising:** Comcast/TWC would control 71% of the local cable advertising market. Local cable ads are critical for local businesses, particularly small businesses, to reach their customers. Local cable advertising is also a critical component of business for cable companies. Confronted with the combined company's control over 71% of the market, small business marketers and cable companies will have no choice but to pay Comcast/TWC rates, raising small business costs and increasing prices for consumers.

- **Latino and Minorities:** Comcast/TWC would reach more than 91% of Latino households and control programming in 19 of the top 20 Latino media markets. That means virtually the entire Latino community could find itself with far fewer programming choices, lower quality programming and fewer opportunities for Latinos in the creative content industries.

Parties in attendance also reiterated the following concerns about the proposed transaction previously expressed by Coalition members:

TheBlaze explained that a healthy communications landscape is one that supports access to a wide variety of viewpoints and sources of information. The FCC has already determined that Comcast can and does deny consumers access to independent programming in order to favor its own content and affiliated networks. Granting Comcast more gatekeeping power will stifle the free exchange of information and ideas by providing Comcast with greater incentive and ability to block competing channels and opposing viewpoints from access to its customers in order to advantage its own content or its political point of view.

Common Cause explained that the creation of Mega Comcast would be a mega disaster for America, triggering higher costs for customers, greater barriers to entry for independent voices, and fewer choices for Internet users across the country.

Consumer Action explained that the union of the two largest cable-and-broadband companies in the U.S. would result in customer service nightmares and the potential for even higher prices for certain consumers. By Comcast's own admission, its bad reputation among its customers is due to its large size. Applying this logic to the impending merger, Mega Comcast's quality of customer service would continue to plummet, while monthly costs and consumer frustration would spike. This anti-consumer transaction must be blocked.

Consumers Union explained that over 600,000 consumers have filed comments in the docket and are highly skeptical of this merger – and for good reason. Both Comcast and Time Warner Cable are notorious for poor customer service and arbitrary price hikes – issues which are bound to persist and likely only increase, under Mega Comcast's regime. This merger would lead to higher prices, fewer choices and worse service for consumers.

DISH explained that as the gatekeeper to half of all high-speed broadband connections in the United States, Mega Comcast would have the power to limit which, if any, competing over-the-top services its customers can access. The inevitable result of this merger: fewer options at a higher price.

Future of Music Coalition explained that Mega Comcast would be a perfect storm for musicians and the creative community at large. Mega Comcast's domination over internet access, programming and distribution would render artists powerless in negotiations over how their music is accessed and under what terms. Any deal that deliberately disrupts the flow of innovative, affordable content to consumers is an undeniable threat to the public interest.

ITTA explained that this deal would fundamentally alter the communications landscape to the detriment of consumers everywhere. By usurping control of the majority of video programming and distribution across the country, Mega Comcast would undercut existing small and mid-size communications companies, and restrict new competitors from entering the marketplace in the future. Consumers at the mercy of these harsh market conditions could anticipate their options for service providers to dissolve, while prices would continue to climb.

Open Technology Institute at New America Foundation explained that with control of over 50 percent of high-speed broadband connections, a post-merger Comcast would have the ability and the incentive to raise prices, limit access to content, and fundamentally alter how consumers use the Internet.

Parents Television Council explained that consumers already face skyrocketing cable and broadband costs, and Mega Comcast's enormous market power would exacerbate this while causing the prospect of greater consumer choice to die. Plus, the diversity of content and services available to consumers today is bound to suffer under Mega Comcast's control — and this could have drastic consequences for family-friendly TV content. Consumers and families deserve better.

Public Knowledge explained that a competitive and diverse media and technology marketplace is fundamental to the health of our economy and our democracy. If this merger goes through, Mega Comcast would control an unprecedented 50 percent of the high-speed broadband wires across the country, and would be on a path to virtual dominance of the high-speed broadband market given that the combined company will pass two-thirds of U.S. households. This much power concentrated in the hands of one company would be frightening even for the most trustworthy of companies. And Comcast is definitely not that.

Sports Fan Coalition explained that this proposed transaction could be called 'bad sports.' The Sports Fan Coalition opposes the merger between Comcast and Time Warner Cable because both companies have a long track record of preventing fans who do not get cable from watching games, and the problem will only get worse if the two companies combine. Time Warner Cable

STOP MEGA COMCAST

showed its true colors this year, keeping 70% of L.A. Dodgers fans from watching their team during a great season. Comcast shuts out fans in Philadelphia and Portland. Economists agree that whenever a cable operator owns a Regional Sports Network, fewer fans see the games and the problem gets worse as the cable company grows. Add to that the merged companies' ability to shut out online video sources of sports and the conclusion is clear: this merger would be bad for fans and should be rejected.

Writers Guild of America, West explained that Comcast's proposed acquisition would give a single company too much power to determine what we as writers create and what viewers watch. The company's layered control of programming, distribution and broadband connections would force content creators to submit to the company's terms, or risk exclusion from the majority of American households. At a time when we are beginning to realize the tremendous potential of the Internet to expand content choices and increase competition, Comcast would have the ability and incentive to undermine all this progress. If this merger is not stopped, the power to control the pipeline would trump the power to create. The result would be less creativity, less innovation and less choice.

Z Living explained that primary among the FCC's responsibilities are the promotion of competition and the protection of consumers. From the perspective of independent programmers like Z Living – the only cable channel offering 100% original health-and-wellness content – both competition and consumers will suffer if the Comcast/TWC merger is approved. Comcast already owns a wide assortment of content and television channels; post-merger, it would have strong incentive to favor its own content over that of independent competitors. With its cable domination in 24 of the nation's top 25 markets, a refusal by the combined entity to carry an independent programmer would cripple the latter's ability to generate significant ad sales, jeopardizing its viability. The viewing public would be denied access to vital information, minority voices, alternative views and diverse entertainment. The merger is not in the public interest and should be rejected.

* * *

The proposed merger of Comcast and TWC threatens serious harms to competition and consumers and runs counter to our antitrust and communications laws. No set of conditions can alleviate these harms; therefore, the FCC must reject this merger.

Respectfully submitted,

/s/

Lynne Costantini, TheBlaze

John Simpson, TheBlaze

Kathy Wallman, TheBlaze

STOP MEGA COMCAST

Todd O'Boyle, Common Cause

Linda Sherry, Consumer Action

Delara Derakhshani, Consumers Union

Jeff Blum, DISH

Hadass Kogan, DISH

Casey Rae, Future of Music Coalition

Trey Judy, Hargray Communications

Paul Raak, ITTA

Micah Caldwell, ITTA

Josh Stager, Open Technology Institute

Dan Isett, Parents Television Council

John Bergmayer, Public Knowledge

David Goodfriend, Sports Fans Coalition

Mike Forscey, Writers Guild of America, West

Bill Sklar, Z Living

Allen Grunes, consultant to the Coalition

cc: Matthew Berry
Nicholas Degani
Adonis Hoffman
Rebekah Goodheart
Andrew Pramschufer
Max Hsu
Carter McMillan
Allante Keels
Yosef Getachew