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March 3, 2015

VIA ELECTRONIC FILING

RE: Applications of Comcast Corporation and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Applications (Docket 14-57)

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20544

Dear Ms. Dortch:

On March 2, 2015, I spoke by telephone with Robert Cannon, Senior Counsel, Office of Strategic Planning and Policy Analysis; Octavian Carare, Industry Economist, Wireline Competition Bureau; Matt Warner, Attorney Advisor, Wireline Competition Bureau; William Dever, Supervisory Attorney Advisor, Office of General Counsel; Adam Copeland, Attorney Advisor, Wireline Competition Bureau; and Eric Ralph, Chief Economist, Wireline Competition Bureau.

We discussed several topics involving Internet peering (interconnection), and its relevance in the proposed Comcast-Time Warner Cable transaction:

1. Though the Commission has focused much of its attention on large content sources such as Netflix and Level 3, there exists a large ecosystem of smaller corporations such as ours, providing hosting and cloud services, similarly challenged in delivering content to Comcast's broadband customers. When Comcast refuses to upgrade its peering connections, neither large *nor* small organizations are able to use these connections to route traffic in a reliable manner, regardless of traffic volumes. These smaller organizations are probably not familiar with the FCC comment process, or feel intimidated by the "no disclosure to government authorities" clause in Comcast's paid-peering agreement, whether or not it is legally enforceable. I suggested that the Commission meet with customers of Comcast Wholesale's "paid peering" and "full transit" products, to better understand reasons for purchase, including what

passageways were or were not available into Comcast's network absent a commercial agreement.

2. Simply put, there is no marketplace for "competitive" backbone providers with access to Comcast's customers -- a claim not even factually disputed by Comcast itself. Though Netflix's landmark agreement has brought temporary relief to some peering connections, there remains no assurance that these connections will not congest again once the next "killer app" is introduced (as they have for many quarters or years prior to the agreement), absent a sea change in Comcast's interconnection policies. Ergo, if a content or network services provider wants access to Comcast's users, it must negotiate with Comcast directly.

3. Purchasing paid-peering (access to an ISP's "on net", or customer, routes only) is not always an economically or technically attractive option for reaching providers like Comcast. Not only is this option commonly priced *higher* than general-purpose transit services, but it is of limited utility, as it provides access to a provider's customers only, and not a full range of Internet destinations. Given narrow demographics served, and limited times of day for traffic peaks, traffic sent to a paid-peering provider can be considered "additive", and does not necessarily displace traffic sent to other vendors, further adding to operational expenditures. By the same token, there are specific applications -- such as online gaming, or controlling "Internet of Things" appliances -- not conducive to hosting by a Content Delivery Network (CDN).

4. Traffic ratios are not the appropriate metric for a provider like Comcast to evaluate whether or not a network qualifies for free interconnection, given the asymmetrical nature of its residential and small business service tiers, and how its customers typically utilize the service. With that said, seldom have I found Comcast to even apply its published peering policies[1] in earnest, instead redirecting applicants to its sales team absent a technically accurate review.

5. Most significantly, I reiterated the need to subject a combined Comcast-Time Warner Cable entity to strong post-merger conditions focused around interconnection, as detailed in my October letter[2]. In addition, Comcast should be compelled to publish utilization statistics on both its paid-for transit and settlement-free peering connections, to aid providers (like a Packet) in identifying available capacity into its network.

6. Even at its large scale, it is possible for Comcast to maintain a more open interconnection policy, much like their industry colleagues Cablevision, Cox, RCN, and Charter. Operating such an infrastructure is technically feasible, is not cost prohibitive, and would enable Comcast to comply with the aforementioned conditions, while still meeting or exceeding its obligations to deliver high-performance service to customers.

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[1] "Comcast Settlement-Free Interconnection (SFI) Policy" published at http://www.comcast.com/peering

[2] http://apps.fcc.gov/ecfs/document/view?id=60000870474

In accordance with the Commission's rules, this ex parte notice is being filed electronically in the above referenced docket.

Respectfully submitted,

/s/ Adam Rothschild
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