



March 6, 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 *ex parte* to provide additional evidence regarding Comcast's anti-competitive behavior with respect to rival services. Comcast is taking advantage of another choke point – the device market – to deprive customers of access to competing services, in this case authenticated HBO content on Sony PlayStation devices. Comcast's action to prohibit access to the HBO Go application on the PlayStation 4, the latest of Comcast's many attempts to block consumer access to content on competing devices, illustrates the harm to consumers, competition and innovation that would result from allowing Comcast to gain even more market power through its proposed acquisition of Time Warner Cable ("TWC").

On March 3, 2015, Sony announced the availability of the HBO Go application on PlayStation 4 devices.¹ As a result, today customers of almost every major ISP, including TWC, can stream HBO content on their PlayStation 3 or 4.² Comcast, however, is denying its customers access to the HBO Go application on PlayStation devices. According to Comcast, this prohibition is the result of "business decisions" for which the company thanks its customers for their "continued patience."³ Comcast's refusal to allow customers to stream HBO on the

¹ See Phil Rosenberg, HBO GO Available on PS4 Later Today, PlayStation Blog (Mar. 3, 2015), available at <http://blog.us.playstation.com/2015/03/03/hbo-go-available-on-ps4-later-today/>.

² The HBO Go application has been available for download on the PlayStation 3 for more than a year. Comcast also does not currently allow its customers to access HBO Go on the PlayStation 3. See Phil Rosenberg, HBO GO Hits PS3 Starting Today, PlayStation Blog (Mar. 4, 2014), available at <http://blog.us.playstation.com/2014/03/04/hbo-go-hits-ps3-starting-today/>.

³ Karl Bode, Comcast Blocks HBO Go From Working On PlayStation 4, Won't Coherently Explain Why, TechDirt (Mar. 5, 2015), available at <https://www.techdirt.com/blog/netneutrality/articles/20150303/12433530200/comcast-blocks-hbo-go-working-playstation-4-wont-coherently-explain-why.shtml>. According to Comcast: "HBO Go availability on PS3 (and some other devices) are business decisions and deal with business terms that have not yet been agreed to between the parties. Thanks for your continued patience."



PlayStation is not the first time the company has denied access to content on competing devices. In December 2014, Amazon Fire TV launched the HBO Go application, which is also not available for Comcast customers due to ongoing negotiations between the two companies.⁴ Comcast customers with Roku boxes were also denied access to the HBO Go and Showtime applications until December 2014.⁵

Comcast's propensity to shut out competing devices represents yet another harm of the proposed merger between Comcast and TWC. As a result of this transaction, 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. Because the combined company would control more than 54 percent of the high-speed broadband market post-transaction, Comcast/TWC would be able to limit the availability of competing devices on its network, to the detriment of competitions, consumers and innovation.

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This additional evidence reinforces the already strong case that 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/

Stop Mega Comcast Coalition

⁴ See Mario Aguilar, Comcast Customers Are Getting Screwed on HBO Go Again, Gizmodo (Mar. 5, 2015), available at <http://gizmodo.com/comcast-customers-are-getting-screwed-on-hbo-go-again-1689621726>.

⁵ See Jon Brodtkin, Comcast to Stop Blocking HBO Go and Showtime on Roku Streaming Devices, Ars Technica (Dec. 16, 2014), available at <http://arstechnica.com/business/2014/12/comcast-to-stop-blocking-hbo-go-and-showtime-on-roku-streaming-devices/>.