

BEFORE THE  
Federal Communications Commission  
WASHINGTON, DC 20554

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MAR 23 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In Re Applications of )  
LIBERTY CABLE CO., INC. )  
For Private Operational Fixed )  
Microwave Service Authorizations and )  
Modifications )  
New York, New York )

WT DOCKET NO. 96-41

TO: The Commission

**Response to Liberty's "Opposition to Request for Prompt Disposition"**

Time Warner Cable of New York City and Paragon Cable Communications (collectively, "TWCNYC") hereby request the Commission to consider this "Response" to the "Opposition to [TWCNYC's] Request for Prompt Disposition"<sup>1</sup> filed by the applicant here, Liberty Cable Company, Inc., ("Liberty").<sup>2</sup>

On March 1, 1999, TWCNYC filed with the Commission a two-page pleading<sup>3</sup> that simply directed the Commission's attention to the pendency of antitrust litigation filed by Liberty

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<sup>1</sup>"Liberty's Opposition to 'Request for Prompt Disposition'," *In the Matter of Applications of Liberty Cable Co., Inc.*, WT Docket No. 96-41 ( filed March 11, 1999 and served upon counsel for TWCNYC by U.S. Mail).

<sup>2</sup>This "Response" not being a further argument in support of TWCNYC's original "Request for Prompt Disposition," it is not denominated a "Reply." Rather, this paper simply responds to the inappropriate argument regarding the merits of Liberty's pending Exceptions to the Initial Decision of the Administrative Law Judge in this proceeding and to the gross mischaracterization of TWCNYC's Request.

<sup>3</sup>"Request for Prompt Disposition" *In the Matter of Applications of Liberty Cable Co., Inc.*, WT Docket No. 96-41 (March 2, 1999).

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against TWCNYC, its corporate parent and affiliates.<sup>4</sup> Without repeating the claims of either side in that litigation, TWCNYC simply noted the fact of a potential relationship between this proceeding and the court case in New York. TWCNYC cited some examples from the court case record in support of that proposition. It did not say that the court was awaiting the Commission's action here, nor did it say that the court had requested the Commission to act quickly. Most importantly, TWCNYC never requested the Commission to "hurry its deliberations"<sup>5</sup> or to give Liberty's Exceptions to the Initial Decision of the Administrative Law Judge,<sup>6</sup> and the replies of TWCNYC, Cablevision and the Wireless Bureau to those Exceptions, anything less than the full and deliberate consideration they deserve.<sup>7</sup> Rather, TWCNYC simply asked for a "prompt resolution."<sup>8</sup>

However, by page three of Liberty's "Opposition," its real motives for filing a paper that grossly overstates the nature of the relief sought by TWCNYC are evident: as a pretext for the opportunity to re-argue, in single-spaced bullet points, its Exceptions in this proceeding. Liberty's

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<sup>4</sup>*Bartholdi Cable Co., Inc. v. Time Warner Inc.*, No. 96-CV-2687 (E.D. N.Y.). "Bartholdi Cable Company" is simply the new name of the applicant here, Liberty Cable Company.

<sup>5</sup>Liberty's Opposition at 3.

<sup>6</sup>"Exceptions to Initial Decision," *In the Matter of Applications of Liberty Cable Co., Inc.* in WT Docket 69-41 (April 7, 1998).

<sup>7</sup>"Time Warner Cable of New York City and Paragon Communications, and Cablevision of New York City - Phase I's Joint Reply to Exceptions to Initial Decision," *In the Matter of Applications of Liberty Cable Co., Inc.* in WT Docket 69-41 (April 22, 1998) and "Wireless Telecommunications Bureau's Consolidated Reply" *In the Matter of Applications of Liberty Cable Co., Inc.* in WT Docket 69-41 (April 22, 1998).

<sup>8</sup>"Request for Prompt Disposition" at 2.

re-argument of its Exceptions is not permitted by the Commission's Rules and should be disregarded in its entirety.

Respectfully submitted,



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Dated: March 23, 1999

## CERTIFICATE OF SERVICE

I, R. Bruce Beckner, hereby certify that a copy of the foregoing Response to Liberty's Opposition to Request for Prompt Disposition" was served on this 23rd day of March, 1999 upon the following:

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