IN THE MATTER OF **CC Docket No. 01-275**

APPLICATION OF COMCAST BUSINESS COMMUNICATIONS, INC.

FOR A PRO FORMA TRANSFER OF CORPORATE CONTROL

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APPLICATION FOR REVIEW OF AGENCY ACTION

OF LEROY JONES, JR.

Pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § § 214 *et seq*. ("the Act"), and 47 C.F.R. § 1.115, Leroy Jones, Jr., a Baltimore, Maryland resident and Comcast cable subscriber ("Jones"), respectfully submits this Application for Review of Agency Action in connection with the above-captioned matter. For the reasons set forth below, Jones hereby requests that the Federal Communications Commission (the "Commission") either withdraw or reconsider its provisional consent to the Application for *Pro Forma* Transfer of Corporate Control by Comcast Business Communications, Inc. ("Comcast") dated September 11, 2001 (the "Transfer Application") on the grounds that Comcast, in its present corporate form, has breached the letter and spirit of its October 10, 1997 Social Contract[1[1]] with the Commission in Baltimore City.

I. INTRODUCTION.

A. Comcast

Founded during 1963, Comcast today is a Philadelphia, PA-based telecommunications conglomerate that develops, manages, and operates various broadband cable networks, as well as electronic commerce and programming content. Comcast is the third largest cable company in the United States serving more than 8.4 million cable subscribers nationwide, including over 1.5 million customers in the Mid-Atlantic States (i.e., Maryland, Delaware, Virginia and the District of Columbia). Comcast's holdings

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[1] *See* October 10, 1997 *Order Approving Comcast Social Contract*, FCC 97-375 (rel. October 15, 1997) ("Social Contract"). The concept of a social contract emanates from the Commission's ability to regulate cable services under Title IV of the Act without resort to formal regulatory processes.

include a majority or controlling interest in, among other organizations, QVC, The Golf Channel, E! Network, the Philadelphia 76ers NBA franchise, the Philadelphia Flyers NHL franchise, Philadelphia's two major indoor arenas and several minor league baseball and hockey teams.[2][2]

During October 1997, Comcast entered into a so-called "Social Contract" with the Commission under which Comcast agreed to upgrade and improve its systems and to make arrangements for or otherwise provide free cable access to public and private education institutions in its various franchise areas in exchange for the ability to expand its product offerings.[3][3] Until recently, Comcast traditionally provided resources for the public access cable television stations in the jurisdictions where it is authorized to conduct business consistent with its obligations under the Social Contract.

Comcast was authorized to provide cable service in Baltimore City during July 2001.[4][4] Since that time, Comcast has conducted its business affairs in a dramatically different manner to the detriment of the public interest. Specifically, Comcast has not provide *any* resources to Baltimore City's only independent public access cable station, i.e., Baltimore Cable Access Corporation d/b/a Channel 5 ("BCAC"), or made any arrangements for continued public access cable television in Baltimore City.[5][5] At the same time, Comcast recently announced its intent to raise cable rates in Baltimore City.[6][6] These conflicting goals and objectives of internal corporate restructuring for insulation from liability and profiteering cannot be reconciled with Comcast's obligations as a public citizen in Baltimore City.

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[2] Source: *www.comcast.com*.

[3] *See* FCC Press Release, *Commission Unanimously Adopts Comcast Social Contract*, (Oct. 10, 1997 Order in FCC Docket No. 97-375).

[4] Beginning in 1984, United Cable provided cable service in the Baltimore area. Baltimore City's franchise agreement with United Cable led to the formation of the Baltimore Cable Access Corporation d/b/a Channel 5. After United Cable's demise, TCI Communications became the cable operator for Baltimore City. Comcast took over for TCI Communications during July 2001.

[5] *See* Arney, *Cable TV Fees to Rise in City*, SunSpot.net (Dec. 5, 2001 ed.; Business link).

[6] *Id.*

B. History of BCAC and Statement of Grievance

The BCAC was formed during 1981 as a means of providing independent, public access cable television programming in the Baltimore area. BCAC was formed in connection with Baltimore City's 1984 cable franchise agreement with the now-defunct United Cable. TCI Communications began providing cable service to Baltimore City shortly after United Cable's demise. Baltimore City enjoyed the many benefits (e.g., spiritual, cultural and political) of public access cable television for the entire period that either United Cable or TCI Communications served as Baltimore City's cable operator.

Presently, BCAC is experiencing financial and operating difficulties that may lead to the demise of Channel 5, i.e., the end of independent public access cable television in Baltimore City. I am aggrieved because I have enjoyed watching many programs on Channel 5 over the years, and I am in the process of developing a talk show format television program as an off-shoot of various topics from my Baltimore City-based website (www.politcsports.com) which I intended to feature on Channel 5. Comcast denied my request to use its studios to produce the program. As a paying customer of Comcast, I believe my views should be considered and addressed to the extent Comcast is allowed to take any action (internally or externally) that will limit my viewing choices or the platforms for airing my views in Baltimore City.

This is my first application for review. I was unable to participate in these proceedings due to the unusual nature and timing[7][7] of the Transfer Application. Comcast's first filing was on September 11, 2001. During the 30 to 60 days since the September 11th tragedy, my concerns turned to my friends and who worked in New York City on Wall Street or in or around the World Trade Center complex or the Pentagon, and their respective families. Additionally, as a business owner I was and have been dealing with the economic fall out of the bombing both personally and economically.

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[7] Jones notes that Comcast's Transfer Application requested expedited consideration by the Commission in the hopes of avoiding Public Notice.

II. COMCAST CANNOT IGNORE ITS ROLE AS A PUBLIC CITIZEN

Under Section 611 of the Act, Baltimore City, like numerous other franchising authorities have required all cable operators in the jurisdiction, like Comcast, to set aside channels for public, educational and governmental ("PEG") use. Channel 5 (independent public access cable programming) and Channel 21 (local government programming) have been designated for these purposes in Baltimore City for almost 20 years.

The Social Contract further provides that Comcast will provide resources in addition to the designation of PEG channels in its areas of operation. Comcast has demonstrated this level of commitment in, among other cities, the District of Columbia with its funding and programming support for DCTV. There simply is no legitimate reason why Comcast cannot make a comparable effort in Baltimore City consistent with its obligations under the Act and the Social Contract. A simple solution would be for Comcast either to earmark a fraction of its newly announced increase for use by Channel 5, or to enter into some type of management or consulting agreement with BCAC whereby the nature, quality and consistency of programming can be preserved once and for all, in much the same way that it is meeting the needs for the District of Columbia and DCTV. Absent Commission intervention, however, I am informed and believe that Comcast will continue to conduct business as usual in the City of Baltimore without regard to its obligations as a public citizen. Indeed, as recently as August 2001, Comcast denied my request to use its studios to produce my program.

III. CONCLUSION.

The loss of BCAC-Channel 5 Baltimore, or independent public access cable television programming will be a devastating loss to me and the Baltimore City community at large that can easily be remedied by Comcast. For these reasons, I hereby request that the Commission either withdraw or reconsider its provisional consent to the Application for *Pro Forma* Transfer of Corporate Control by Comcast Business Communications, Inc. ("Comcast") dated September 11, 2001.

Respectfully submitted,

/s/ Leroy Jones, Jr.

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