

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Application of Adelpbia Communicatsions Corporation,) **MM Docket No. 92-264**
Comcast Corporation and)
Time Warner Cable Inc.,)
For Authority to Assign and/or Transfer)
Control of Various Licenses)

EXHIBITS ACCOMPANYING

**REPLY COMMENTS`
of
CONSUMER FEDERATION OF AMERICA
and
CONSUMERS UNION**

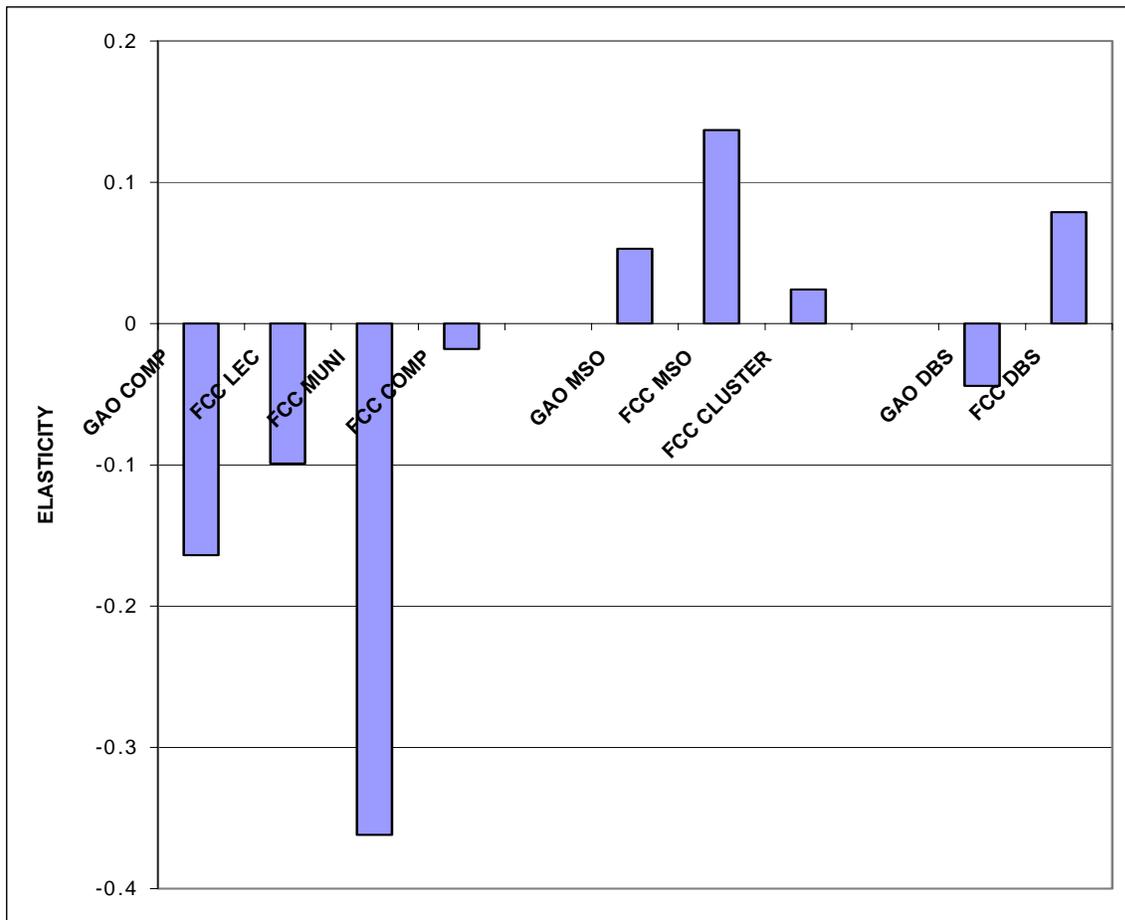
August 8, 2005

Exhibit 1: The Comcast-Time Warner-Adelphia Transactions Cause a Pervasive and Massive Increase in Market Concentration

| Markets Affected | Post-Merger Category | DOJ/FTC Threshold Change in HHI | Merger-Induced Change in HHI (average of markets) |
|--|-------------------------|---------------------------------|---|
| <u>National</u> | | | |
| FCC Definitions | Moderately Concentrated | 100 | 200 |
| Joint Ventures & Attribution | Highly Concentrated | 50 | 300 |
| <u>Regional: Designated Market Areas</u> | | | |
| 5 of top 10 | Highly Concentrated | 50 | 800 |
| 11 of top 25 | Highly Concentrated | 50 | 1070 |
| 22 of top 50 | Highly Concentrated | 50 | 890 |
| 48 of all 210 | Highly Concentrated | 50 | 930 |
| <u>Marquee Programming: Regional Sports Network Footprints</u> | | | |
| 18 of 29 | Highly Concentrated | 50 | 380 |
| 2 of 29 | Moderately Concentrated | 100 | 170 |

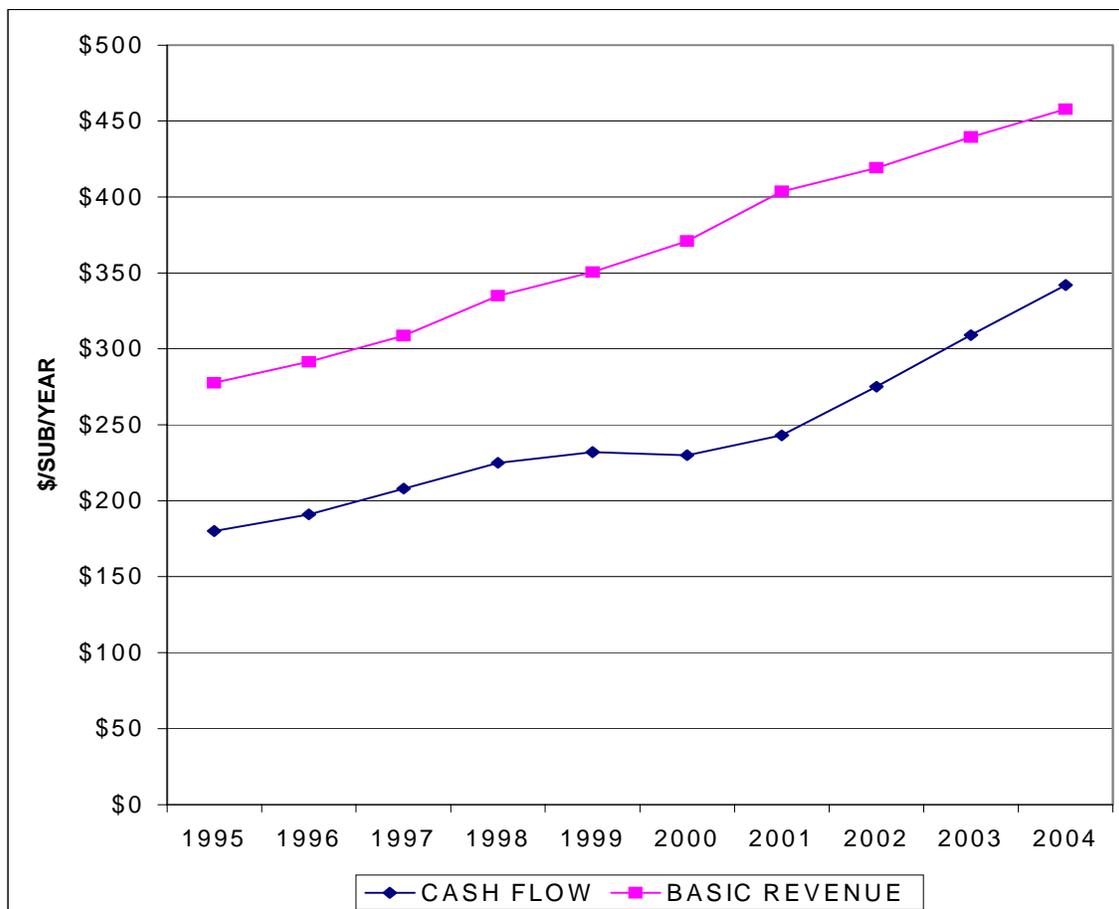
Sources: National, FCC definitions, calculated based, Federal Communications Commission, *Annual Assessment of the Status of Competition in the Market for Video Programming: Eleventh Annual Report*, February 4, 2005, Table B-3; Joint Ventures and Attribution from “Petition to Deny of Free Press, Center for Creative Voices in Media, Office of Communications of the United Church of Christ, Inc., U.S. Public Interest Research Group, Center for Digital Democracy, CCTV, Center for Media and Democracy, Media Alliance, National Hispanic Media Coalition, The Benton Foundation and Reclaim the Media,” *In the Matter of Application of the Consent to the Assignment and/or Transfer of Control of Licenses Adelphia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Time Warner Cable Inc. (subsidiaries), Assignees; Adelphia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Comcast Corporation (subsidiaries) Assignees and Transferees; Comcast Corporation, Transferor to Time Warner, Inc., Transferee; Time Warner, Inc., Transferors to Comcast Corporation, Transferee*, MB Docket No. 05-192, July 21, 2005, “Comments of DIRECTV,” *In the Matter of Application of the Consent to the Assignment and/or Transfer of Control of Licenses Adelphia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Time Warner Cable Inc. (subsidiaries), Assignees; Adelphia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Comcast Corporation (subsidiaries) Assignees and Transferees; Comcast Corporation, Transferor to Time Warner, Inc., Transferee; Time Warner, Inc., Transferors to Comcast Corporation, Transferee*, MB Docket No. 05-192, July 21, 2005, Table 3 and 4.

Exhibit 2: Impact Of Market Structure Characteristics On Monthly Rates



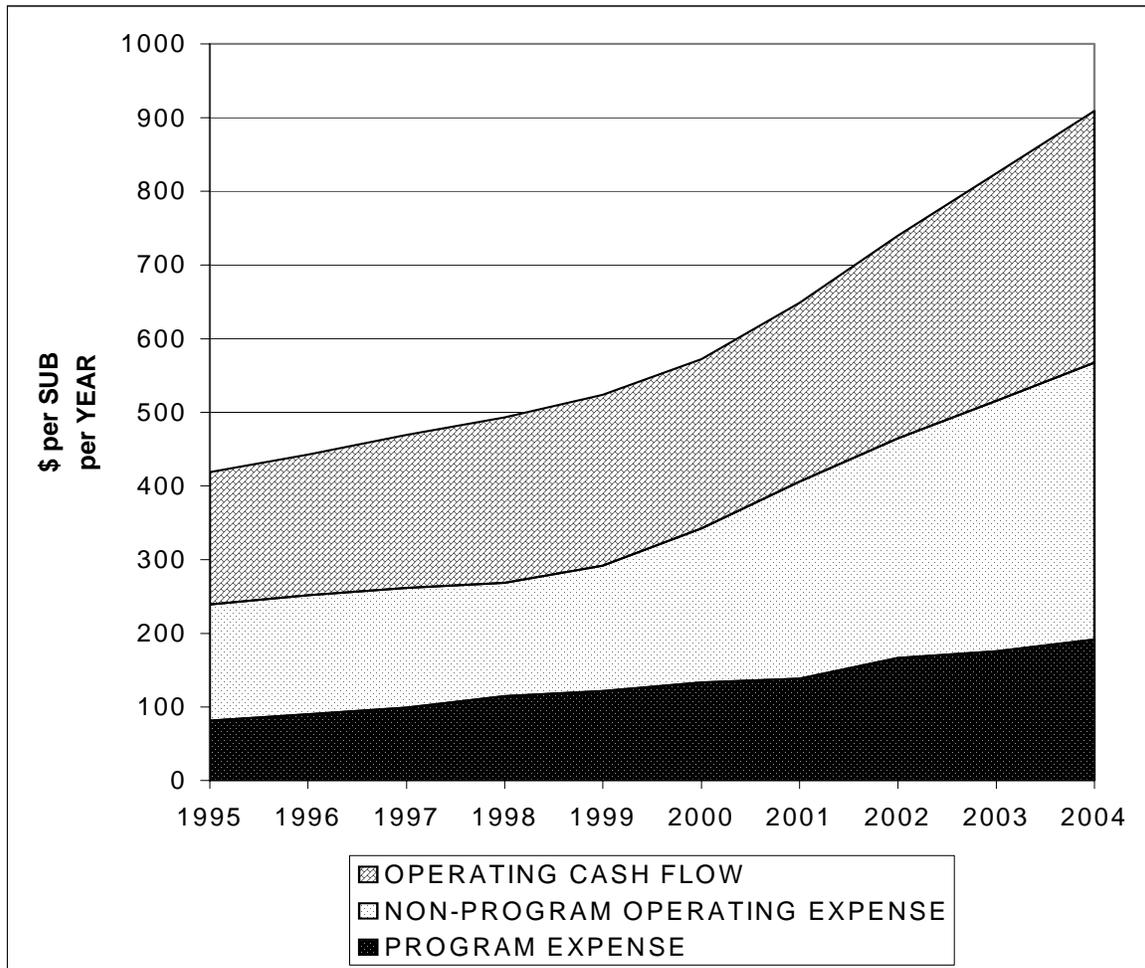
Sources: Federal Communications Commission, *Report on Cable Prices*, April 4, 2002, Attachment D-1; General Accounting Office, *Issues Related to Competition and Subscriber Rates in the Cable Television Industry*, October 2003, Appendix IV, Table 3.

Exhibit 3: Cable Consumer Rates and Cash Flow Have Increased Dramatically Since Passage of the 1996 Telecommunications Act



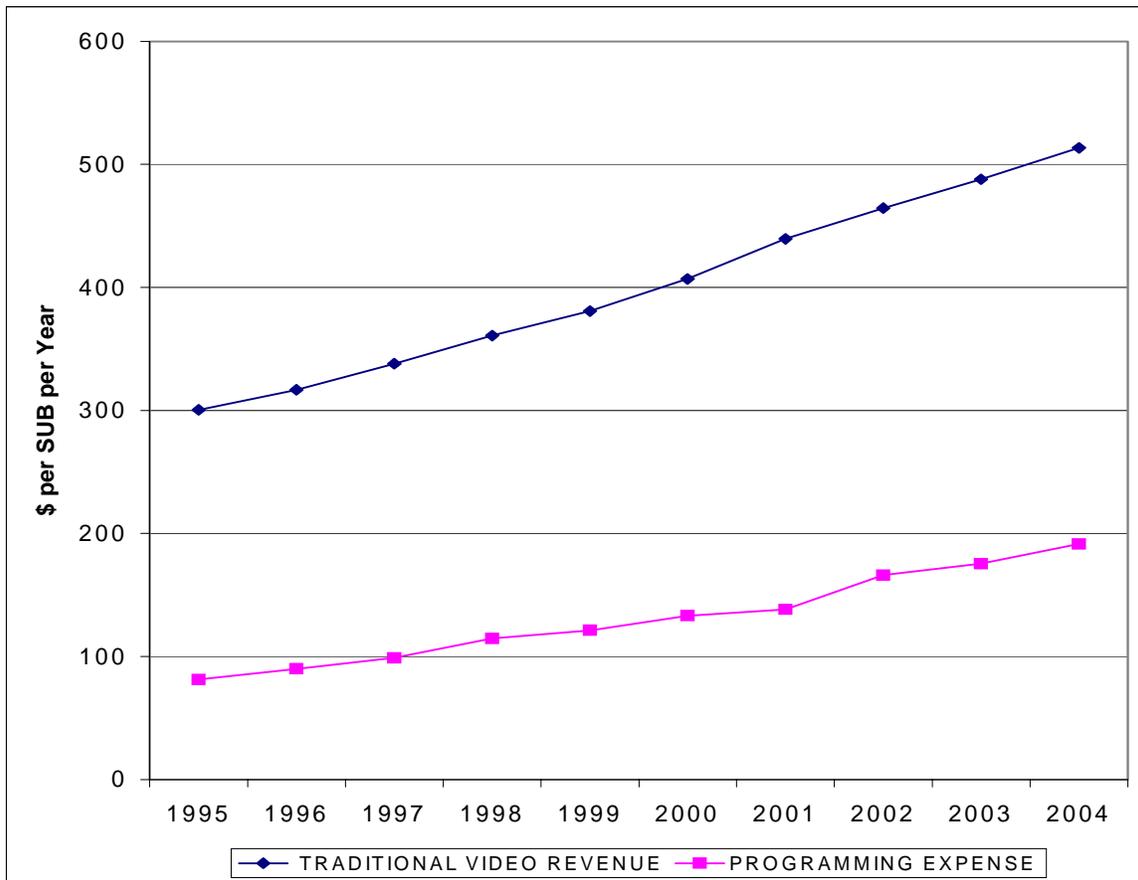
Source: Federal Communications Commission, *Annual Assessment of the Status of Competition in the Market for Video Programming*, various issues

Exhibit 4: Cable Revenue Has Grown Much Faster than Operating Costs



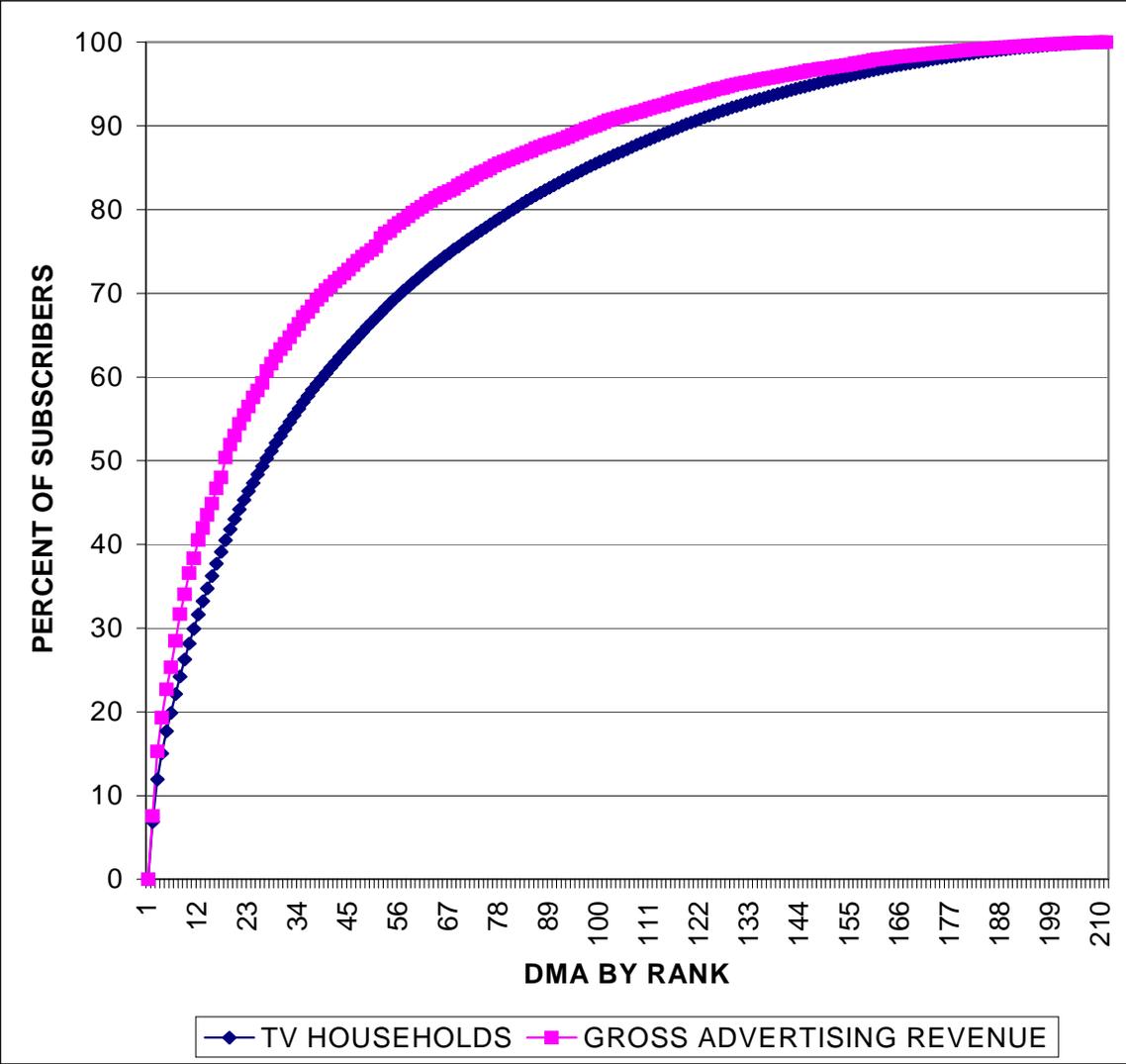
Source: Federal Communications Commission, *Annual Assessment of the Status of Competition in the Market for Video Programming*, various issues; National Cable and Telecommunications Association, *2005 Mid-Year Industry Overview*, p. 14 for program expense.

Exhibit 5: Traditional Video Revenue Growth Far Exceeds Growth in Programming Costs



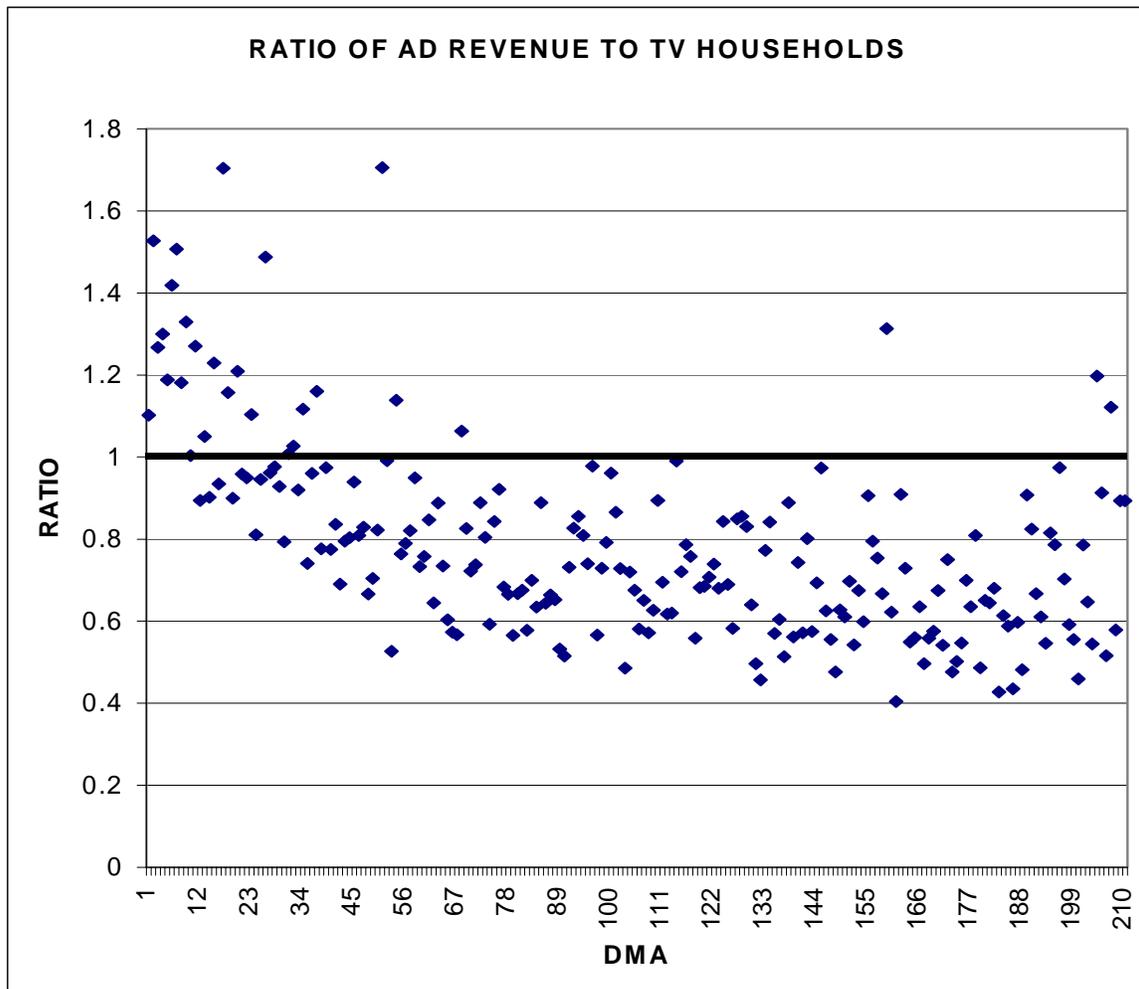
Source: Federal Communications Commission, *Annual Assessment of the Status of Competition in the Market for Video Programming*, various issues; National Cable and Telecommunications Association, *2005 Mid-Year Industry Overview*, p. 14 for program expense.

Exhibit 6: Ad Revenue is Skewed Toward the Top 25 DMAs



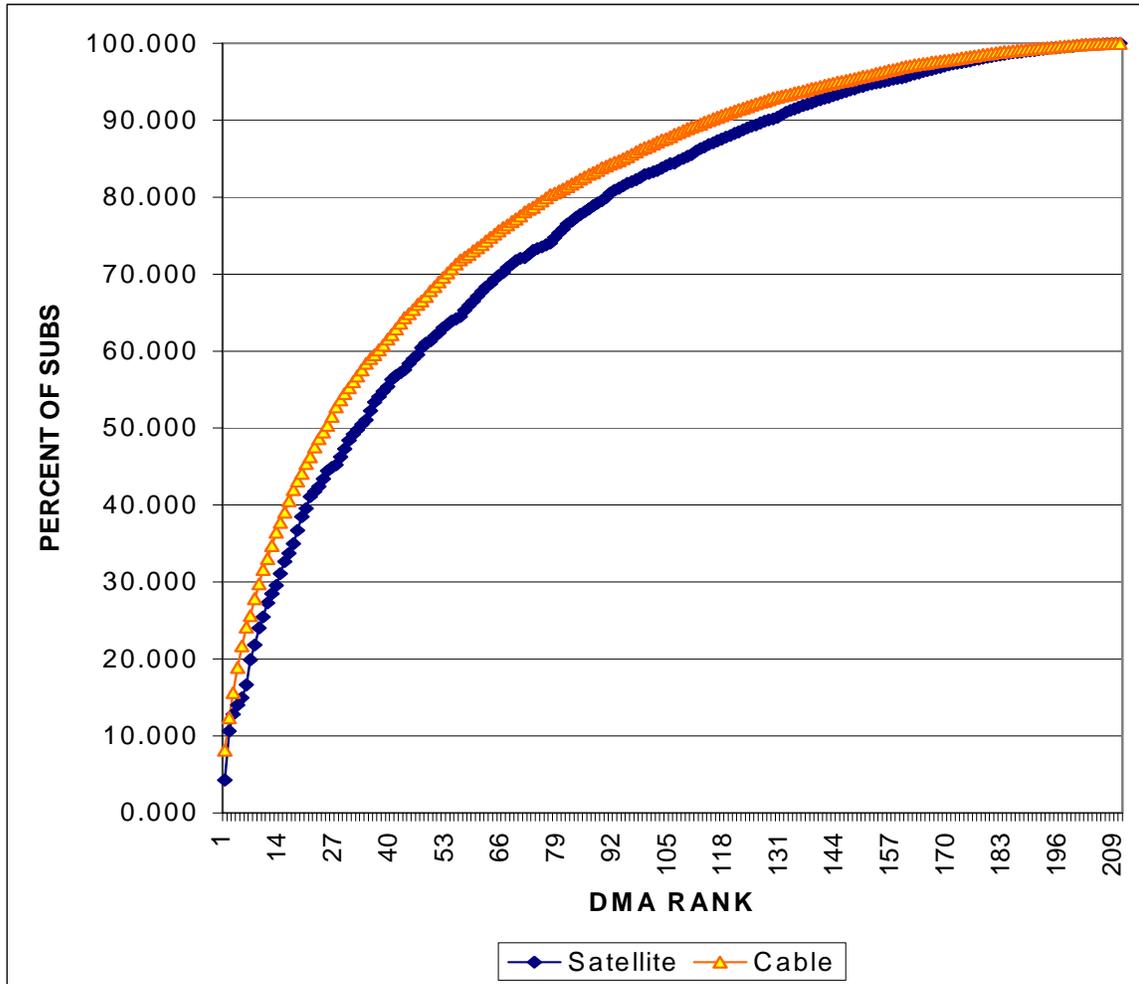
Source: BIA Financial, *Television Market Report Data Base, 2004*

Exhibit 7: Large DMAs Yield a Substantial TV AD Revenue Premium



Source: BIA Financial, *Television Market Report Data Base, 2004*

Exhibit 8: Satellite Has a Deficit in the Top 25 DMAs



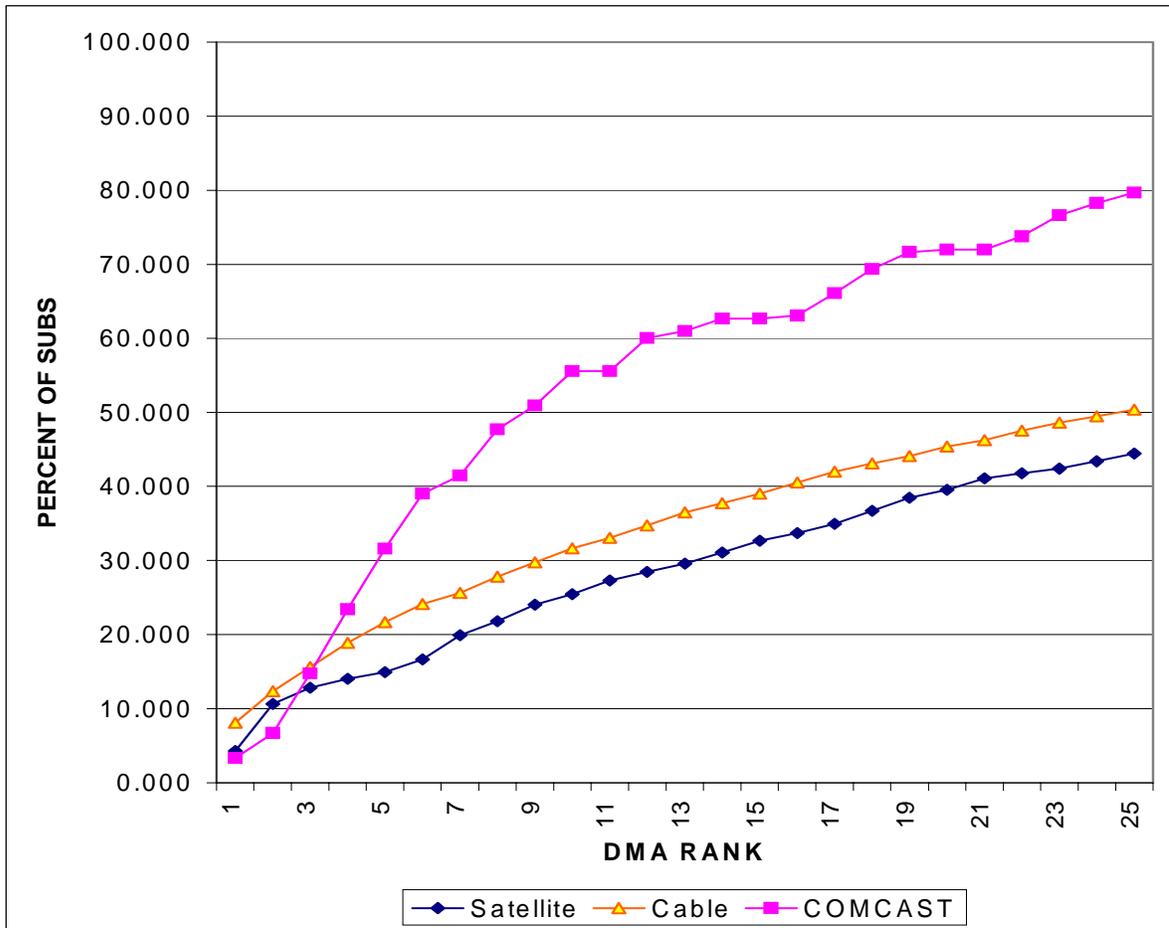
Source: Nielsen Media Research, February 2005.

Exhibit 9: Cable Market Power is Particularly Prevalent in Large Markets

| DMA | CABLE MVPD | | CABLE MVPD | |
|---|------------|-------------|-----------------------------------|------------|
| | SHARE | SUBS | SHARE | SUBS |
| DMAs WHERE CABLE HAS: | | | | |
| LESS THAN 65% MARKET | | | MORE THAN 65% MARKET | |
| Springfield, MO | 52 | 0.3 | Zanesville, OH | 84.20 0.03 |
| Twin Falls, ID | 53 | 0.0 | Odessa-Midland, TX | 84.27 0.12 |
| Missoula, MT | 53 | 0.1 | Norfolk-Portsmouth-Newport | 84.55 0.63 |
| Idaho Falls-Pocatello, ID | 55 | 0.1 | Corpus Christi, TX | 84.74 0.17 |
| Meridian, MS | 57 | 0.1 | Chicago, IL | 84.75 2.82 |
| Paducah-Cape Girardeau | 58 | 0.3 | San Francisco-Oakland-San Jose | 84.90 2.12 |
| Chico-Redding, CA | 58 | 0.2 | Portland-Auburn, ME | 85.19 0.36 |
| Columbus-Tupelo-West Point, MS | 59 | 0.2 | Tampa-St Petersburg-Sarasota, FL | 85.23 1.50 |
| Boise, ID | 59 | 0.1 | Youngstown, OH | 85.34 0.24 |
| Columbia-Jefferson City, MO | 59 | 0.1 | Columbus, GA | 85.48 0.19 |
| Ottumwa, IA-Kirksville, MO | 59 | 0.0 | Dayton, OH | 85.74 0.44 |
| Duluth, MN-Superior, WI | 59 | 0.1 | Baton Rouge, LA | 86.21 0.27 |
| Sherman, TX - Ada, OK | 59 | 0.1 | Baltimore, MD | 86.48 0.92 |
| Salt Lake City, UT | 60 | 0.6 | Pittsburgh, PA | 86.61 1.07 |
| Quincy, IL-Hannibal, MO-Keokuk, IA | 60 | 0.1 | Syracuse, NY | 87.33 0.35 |
| Butte-Bozeman, MT | 61 | 0.0 | Rochester, NY | 87.97 0.33 |
| Jackson, MS | 61 | 0.3 | New Orleans, LA | 88.13 0.59 |
| Shreveport, LA | 61 | 0.3 | New York, NY | 88.23 6.74 |
| Joplin, MO-Pittsburg, KS | 62 | 0.1 | Harrisburg-Lancaster-Lebanon-York | 88.32 0.63 |
| Dallas-Ft. Worth, TX | 62 | 1.8 | Albany-Schenectady-Troy, NY | 89.40 0.50 |
| Tyler-Longview, TX | 62 | 0.2 | Laredo, TX | 89.66 0.05 |
| Wausau-Rhineland, WI | 63 | 0.1 | Palm Springs, CA | 90.53 0.13 |
| Hattiesburg-Laurel, MS | 63 | 0.1 | Philadelphia, PA | 90.87 2.63 |
| Little Rock-Pine Bluff, AR | 64 | 0.5 | San Diego, CA | 90.95 0.93 |
| Albuquerque-Santa Fe, NM | 64 | 0.5 | Providence, RI-New Bedford, MA | 92.42 0.57 |
| Bangor, ME | 64 | 0.1 | Boston, MA | 92.46 2.21 |
| Terre Haute, IN | 65 | 0.1 | Hartford-New Haven, CT | 93.12 0.95 |
| Traverse City-Cadillac, MI | 65 | 0.2 | Springfield-Holyoke, MA | 93.75 0.25 |
| Great Falls, MT | 65 | 0.1 | Honolulu, HI | 95.68 0.39 |
| TOTAL MVPD SUBS | | | | |
| TOP 28 SATELLITE v. TOP 28 CABLE | | 6.9 | 28.12 | |
| SATELLITE ABOVE 30% v. CABLE ABOVE 70% | | 16.1 | 76.70 | |

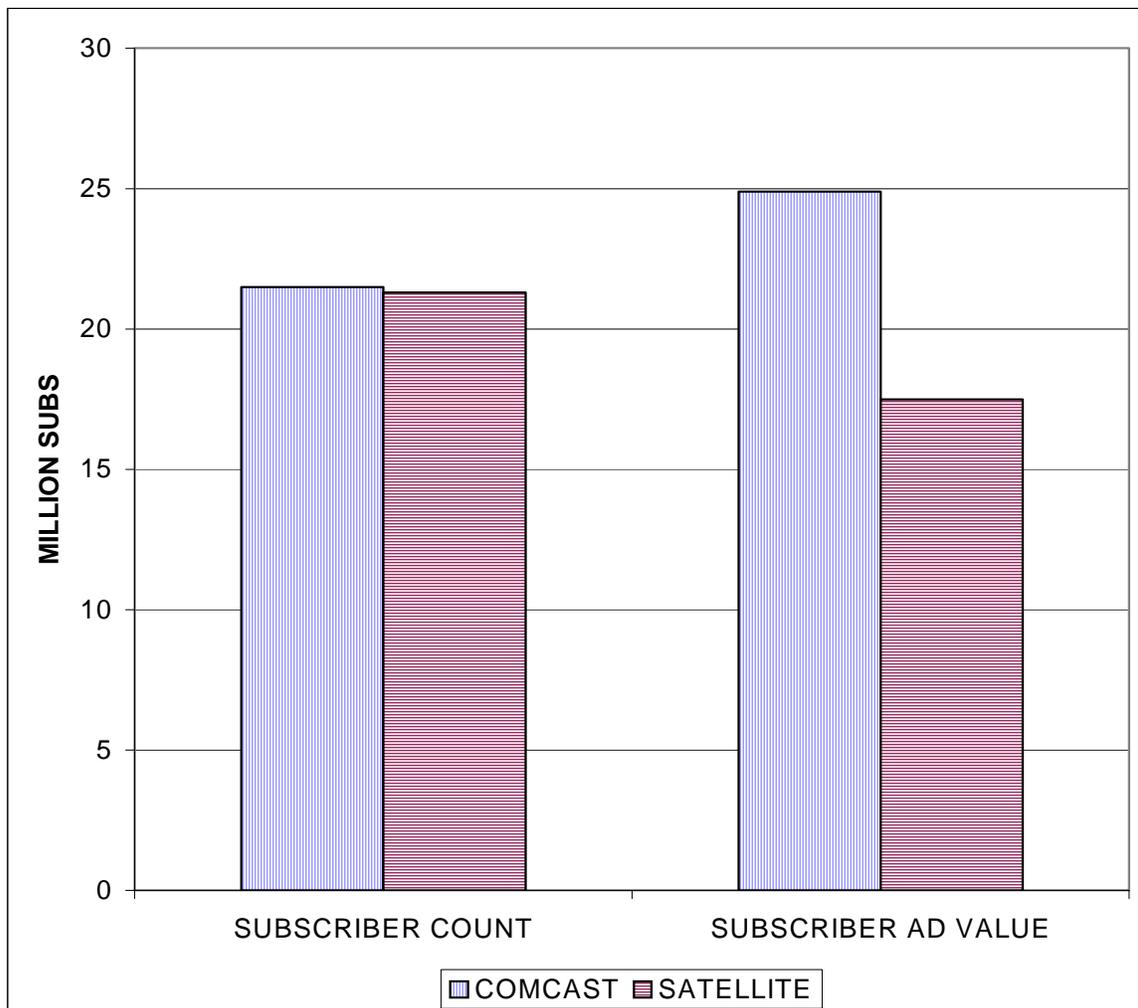
Source: Nielsen Media Research, February 2005.

Exhibit 10: Comcast Has a Huge Presence in the large DMAs Relative to All Cable and All Satellite



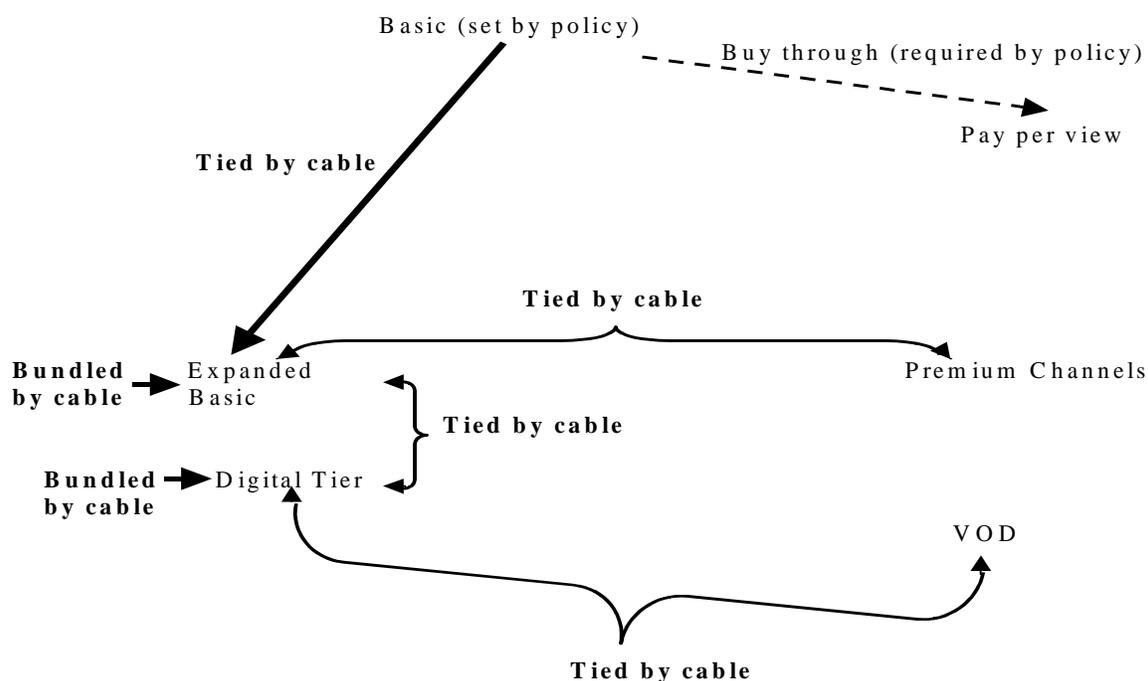
Source: Nielsen Media Research, February 2005; “The America Channel LLC’s Petition to Deny,” In the Matter of Application of the Consent to the Assignment and/or Transfer of Control of Licenses Adelpia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Time Warner Cable Inc. (subsidiaries), Assignees; Adelpia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Comcast Corporation (subsidiaries) Assignees and Transferees; Comcast Corporation, Transferor to Time Warner, Inc., Transferee; Time Warner, Inc., Transferors to Comcast Corporation, Transferee, MB Docket No. 05-192, July 21, 2005, Exhibit 1.

Exhibit 11: Comcast's Has a Huge Advantage as a Large DMA Cable Operator Compared to Satellite as a Small DMA/Rural Provider



Source: See text, calculated by author.

Exhibit 12: The Cable Industry's Bundling and Tying Strategy



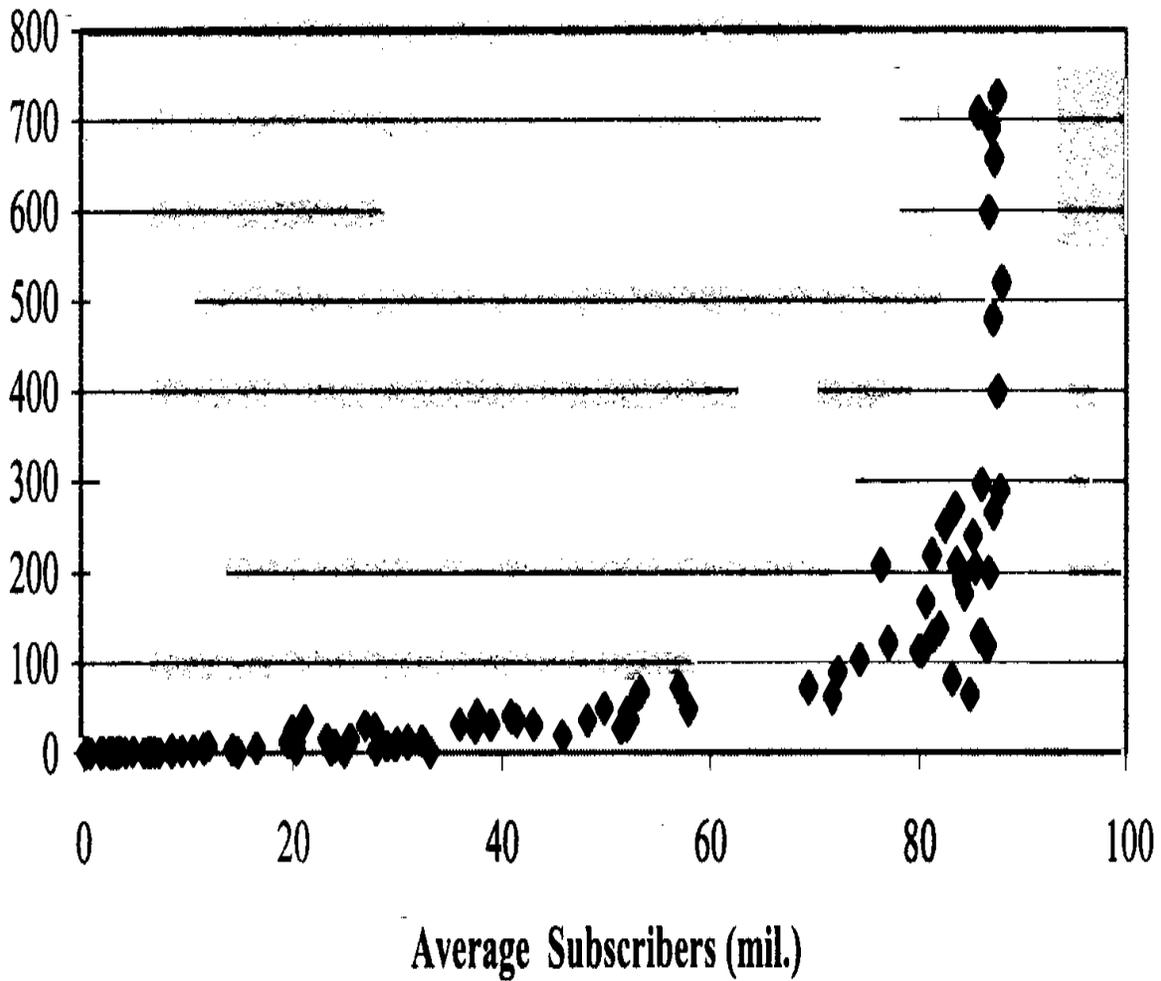
BUNDLED SERVICES

| Service | Price/Month | Subs | Channels |
|----------------|-------------|------|----------|
| Basic | \$18 | 64m | 16 |
| Expanded Basic | \$27 | 60m | 54 |
| Digital Tier | \$16 | 26m | 32 |

Federal Communications Commission, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Eleventh Annual Report*, MB Docket No. 04-227, February 4, 2005, p. 22; *In the Matter of Implementation of Section 3 of the Cable Television Consumer Protection Act of 1992, Statistical Report on Average Rates for Basic Service, Cable Programming Service, and Equipment*, MM Docket No. 92-266, February 4, 2005, p. 12.

Exhibit 13: The Booz Allen Suggestion that Seventy Million Subscribers is a Clear Threshold for Achieving Large Ad Revenues is Supported by Bruce Owen's Data

Figure 1: Network Net Ad Revenue (\$ mil.)



Source: Bruce Owen and John M. Gale, Cable Networks: Bundling, Unbundling, and the Cost of Intervention, July 15, 2004, p. 32.

Exhibit 14: Independent Programmers are at a Severe Disadvantage in Gaining Carriage Compared to Programmers Affiliated with MSOs or Broadcasters

| SUBSCRIBER NETWORKS LEVEL UNAFFILIATED | NUMBER OF NETWORKS | | PERCENTAGE OF AFFILIATED | |
|--|--------------------|----------------|--------------------------|----------------|
| | AFFILIATED # | UNAFFILIATED # | AFFILIATED % | UNAFFILIATED % |
| 70 MILLION OR MORE | 40 | 4 | 91 | 9 |
| 50 TO 70 MILLION | 11 | 3 | 79 | 21 |
| 25 TO 50 MILLION | 24 | 5 | 83 | 17 |
| 20 TO 25 MILLION | 5 | 4 | 56 | 44 |

Source: “The America Channel LLC’s Petition to Deny,” In the Matter of Application of the Consent to the Assignment and/or Transfer of Control of Licenses Adelphia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Time Warner Cable Inc. (subsidiaries), Assignees; Adelphia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Comcast Corporation (subsidiaries) Assignees and Transferees; Comcast Corporation, Transferor to Time Warner, Inc., Transferee; Time Warner, Inc., Transferors to Comcast Corporation, Transferee, MB Docket No. 05-192, July 21, 2005, Exhibit 1.

Exhibit 15: New National Affiliated Programs Receive Extreme Preference in Carriage from the Dominant Cable Operators

| | INDEPENDENT | AFFILIATED | INDEPENDENT | AFFILIATED |
|------------------|-------------|------------|-------------|------------|
| National | # | # | % | % |
| Total | 114 | 19 | 100 | 100 |
| Total Carriage | 12 | 20 | 11 | 105 |
| Type of Carriage | | | | |
| Standard | | | | |
| Comcast | 1 | 3 | 1 | 16 |
| Time Warner | 1 | 4 | 1 | 21 |
| Premium | | | | |
| Comcast | 6 | 8 | 5 | 42 |
| Time Warner | 4 | 5 | 4 | 26 |

Source: “The America Channel LLC’s Petition to Deny,” *In the Matter of Application of the Consent to the Assignment and/or Transfer of Control of Licenses Adelphia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Time Warner Cable Inc. (subsidiaries), Assignees; Adelphia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Comcast Corporation (subsidiaries) Assignees and Transferees; Comcast Corporation, Transferor to Time Warner, Inc., Transferee; Time Warner, Inc., Transferors to Comcast Corporation, Transferee*, MB Docket No. 05-192, July 21, 2005 (hereafter TAC Petition), Exhibit 5.

Exhibit 16: Carriage on Dominant MSOs is Necessary for Achieving the Reach Necessary to Attract Advertising Revenues

| SUBSCRIBER LEVEL | CARRIAGE ON COMCAST AND TIME WARNER SYSTEMS PERCENT ON SYSTEMS | | |
|--------------------|--|-----|------|
| | BOTH | ONE | NONE |
| 70 MILLION OR MORE | 100 | 0 | 0 |
| 50 TO 70 MILLION | 100 | 0 | 0 |
| 25 TO 50 MILLION | 100 | 0 | 0 |
| 20 TO 25 MILLION | 55 | 45 | 0 |

Source: “The America Channel LLC’s Petition to Deny,” *In the Matter of Application of the Consent to the Assignment and/or Transfer of Control of Licenses Adelphia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Time Warner Cable Inc. (subsidiaries), Assignees; Adelphia Communications Corporation (and Subsidiaries, debtors-in-possession), Assigners to Comcast Corporation (subsidiaries) Assignees and Transferees; Comcast Corporation, Transferor to Time Warner, Inc., Transferee; Time Warner, Inc., Transferors to Comcast Corporation, Transferee*, MB Docket No. 05-192, July 21, 2005 (hereafter TAC Petition), Exhibit 5.

Exhibit 17: 29 of the 30 Top Channels, 1992-2004 Are Affiliated with a Broadcast Network of a Cable MSO

| CHANNEL | 1993 RANK | | 2003 RANK | | 2004 RANK | | OWNER |
|-----------|-----------|------------|-----------|------------|-----------|------------|-------------|
| | SUBS | PRIME TIME | SUBS | PRIME TIME | SUBS | PRIME TIME | |
| ESPN | 1 | 4 | 2 | 14 | 2 | 6 | ABC/DISNEY |
| CNN | 2 | 12 | 6 | 7 | 3 | | AOLTW |
| USA | 3 | 1 | 5 | 4 | 4 | 3 | LIBERTY |
| NICK | 4 | 6 | 8 | 10 | 7 | 2 | CBS/VIACOM |
| DISCOVERY | 5 | 10 | 4 | 1 | 1 | 14 | LIBERTY |
| TBS | 6 | 2 | 1 | 5 | 4 | 10 | AOLTW |
| TNT | 7 | 3 | 6 | 3 | 3 | 1 | AOLTW |
| CSPAN | 8 | | 3 | | 8 | | CABLE GROUP |
| MTV | 9 | 13 | 13 | 11 | 16 | 11 | CBS/VIACOM |
| LIFETIME | 10 | 7 | 8 | 12 | 10 | 8 | ABC/DISNEY |
| TNN | 11 | 11 | 11 | 13 | | | CBS/VIACOM |
| FAMILY | 12 | 8 | 15 | | 14 | | ABC/DISNEY |
| A&E | 13 | 9 | 130 | 8 | 9 | 15 | ABC/DISNEY |
| WEATHER | 14 | | 14 | | 10 | | |
| HDLN NEW | 15 | | | | 17 | | AOLTW |
| CNBC | 16 | 18 | 18 | | 19 | | NBC |
| VH-1 | 17 | 20 | 20 | | 18 | | CBS/VIACOM |
| QVC | 18 | 16 | 13 | | | | COMCAST |
| AMC | 19 | 19 | 19 | | | | CABLEVISION |
| BET | 20 | 14 | | 19 | | | CBS/VIACOM |
| WGN | | | | 9 | | | LOCAL BCAST |
| CARTOON | | 5 | | 6 | | | AOLTW |
| SCI-FI | 5 | 5 | | 15 | | | LIBERTY |
| TLC | | | 16 | 12 | 13 | | LIBERTY |
| HISTORY | | | | 11 | 20 | 13 | ABC/DISNEY |
| ESPN2 | | | 17 | | 14 | | FOX |
| DISNEY | | | | 3 | | 5 | ABC/DISNEY |
| FOX NEWS | | | | 9 | | 9 | FOX |
| SPIKE | | | | | 12 | | CBS/VIACOM |
| FX | | | | | | 12 | FOX |

Source: Federal Communications Commission, *Video Competition*, First and Tenth Annual Reports.

Exhibit 18: Program Suites of Firms with Carriage Rights Cover the Major Types of Expanded Basic Programming

| | ABC | NBC | CBS | TW | LIBERTY | FOX | COMCAST |
|---------------------|--------------------|---------------|--|-----------------|----------------------------------|-------------------|------------------------------|
| GENERAL | ESPN Lifetime | USA | NICK TNT | TBS | Discovery | Fox Sports | Regional Sports |
| NEWS | ABC news | CNBC MSNBC | CBS | CNN | BBC America | FOX News | Regional News |
| EMERGING MASS | Family | SciFi | TV Land | Court Travel | | | Style |
| OLDER TRENDING | Bravo History | | | TCM | Discovery Health | FMC | |
| | A&E | | | | Discovery Home | | |
| YOUNGER TRENDING | Disney Toon Dis | | Comedy MTV NickToons | TOON | Discovery Kids GSN | FX | Outdoor Life E! Sprout |
| EMERGING NICHE | LMN ESPN2 | | BET Jazz Spike | Oxygen | Discovery Military Science | Speed Nat Geog | G4 Golf TVOne |
| | ESPN Class | CMT | | | | | |
| | Soapnet | VH1 | VH1 Class VH1 Count MTV2 MTV Espan MTV Hits Nick Gas Noggins | | | | |

“Comments of American Cable Association,” *Inquiry Concerning A La Carte, Themed Tier Programming and Pricing Options for Programming Distribution on Cable Television and Direct Broadcast Satellite Systems*, MB Docket No. 04-207, July 12, 2004; Booz, Allen Hamilton, *The a la Carte Paradox: Higher Consumer Costs and Reduced Programming Diversity: An Economic analysis of the Implications of al la Carte Pricing on Cable Customers*, July 2004; Federal Communications Commission, *Video Competition*, Eleventh Annual Reports

Exhibit 19: Regional Markets are Dominated by Affiliated News and Sport Programming

| PERCENT OF ALL 94 REGIONAL NETWORKS | | | |
|-------------------------------------|-------|-----------|-------------|
| | CABLE | BROADCAST | INDEPENDENT |
| NEWS | 26 | 13 | 5 |
| SPORTS | 18 | 18 | 5 |
| OTHER | 0 | 0 | 15 |

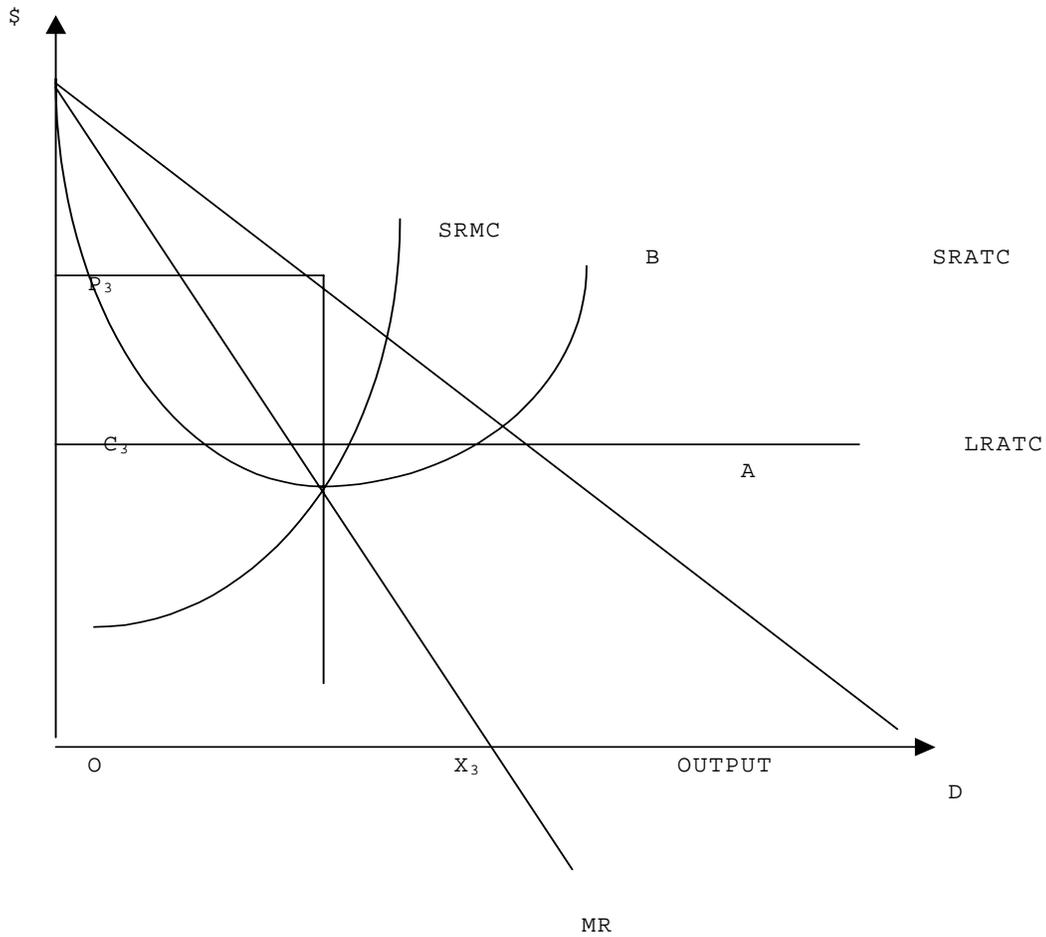
Federal Communications Commission, *Video Competition, Eleventh Annual Report*, Table C-4; National Cable and Telecommunications Association, *Industry Overview*.

Exhibit 20: Niche/Regional Programming Markets are Small and Dominated by Affiliated Entities

| | Number of Networks | Total Subscribers | Average Subs/Net | Median Subs/Net |
|--------------|--------------------|-------------------|------------------|-----------------|
| CABLE | 25 | 120 | 4.8 | 2.5 |
| BROADCASTERS | 38 | 154 | 4.0 | 2.4 |
| INDEPENDENT | 58 | 108 | 1.8 | .9 |

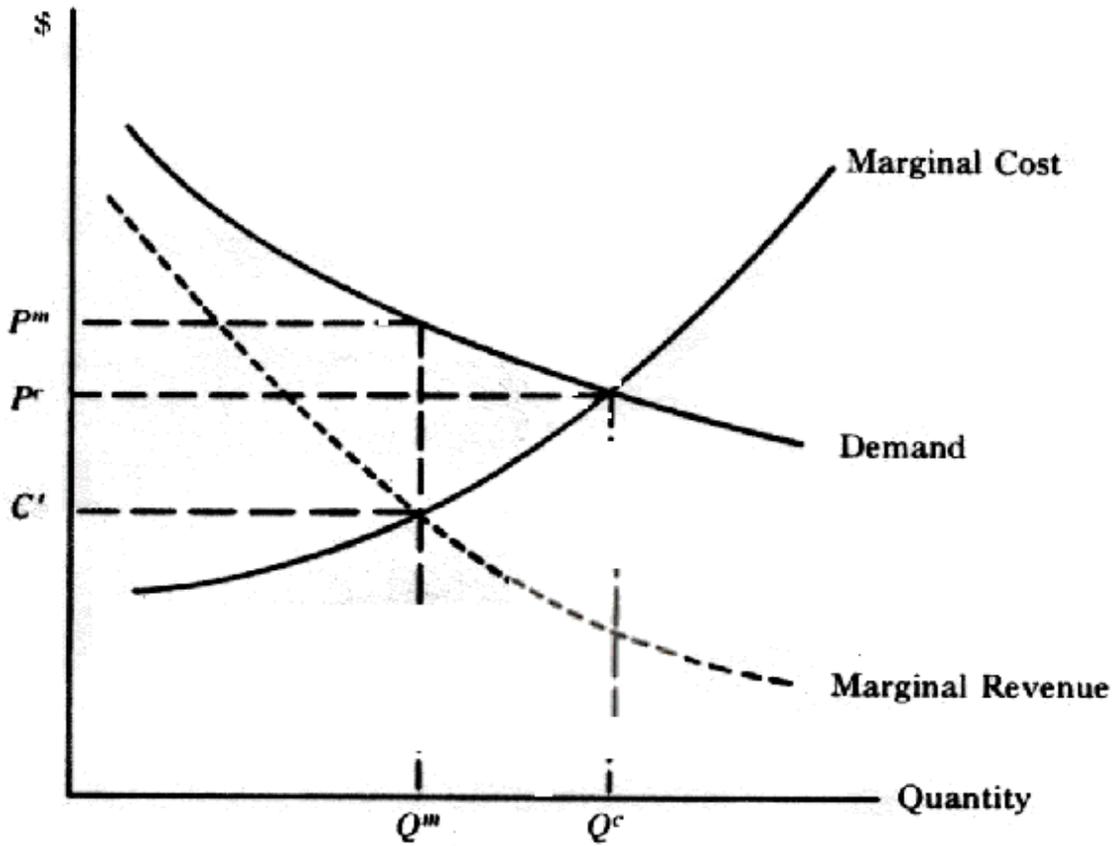
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Exhibit A-1: Scherer And Ross On Monopolist Pricing



Scherer, F. M. and David Ross, *Industrial Market Structure and Economic Performance* (Boston, Houghton Mifflin: 1990, Third edition), pp. 21...22; Shepherd, William, G., *The Economics of Industrial Organization* (Prentice Hall, Engelwood Cliffs, N.J., 1997, Fourth edition), presents a similar view.

Exhibit A-2: Landes And Posner On Lerner Index

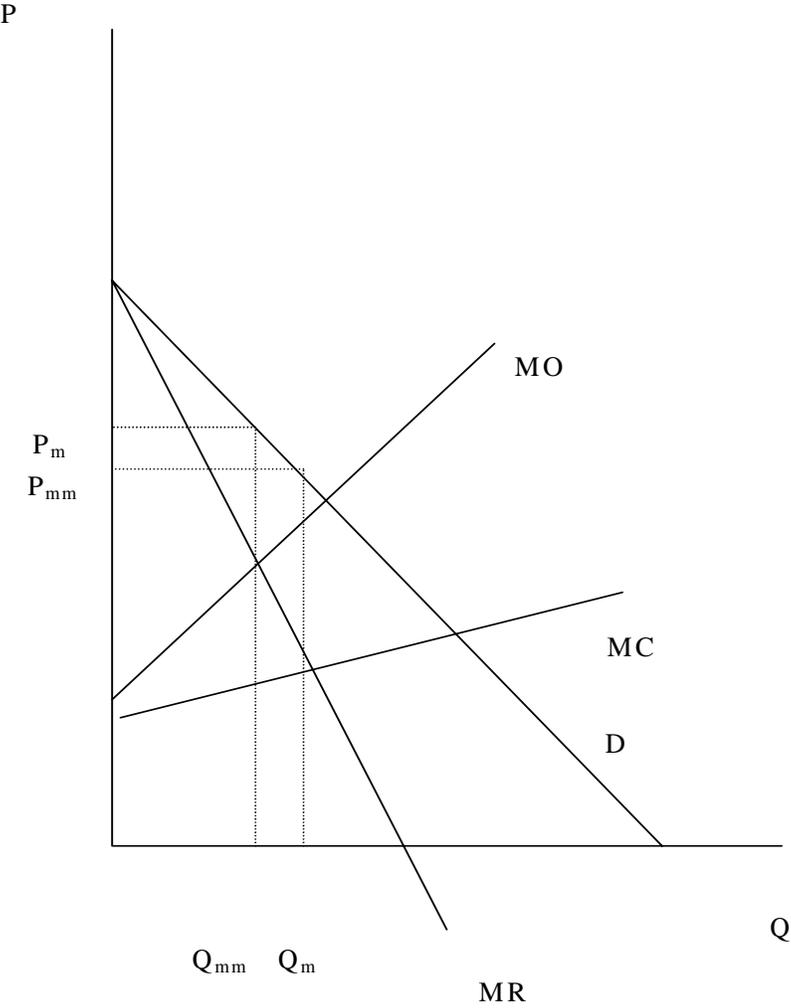


Monopoly vs. Competitive Pricing

FIGURE 1

Source: Landes, W. M. and R. A. Posner, "Market Power in Anti-trust Cases," *Harvard Law Review*, 19: 1981.

Exhibit A-3: The Combination Of Monopoly And Monopsony Power



Reproduced from Hovenkamp, Herbert, *Federal Antitrust Policy: The Law of Competition and Its Practice*, Hornbook Series (West Group, St.Paul; 1999),Footnote 13, p. 15.