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***Ex Parte* Comments Re: MB Docket No. 05-192, Adelphia Communications Corporation, Time Warner, Inc. and Comcast Corporation Seek Approval to Transfer Control and/or Assign FCC Authorizations and Licenses.**

With this cover memorandum, I convey three research papers in which I have had some involvement. I believe that they are relevant and useful to the above referenced proceeding. The three research papers accompany this cover document as separate files, and are briefly summarized below.

(1) David Waterman, “Local Monopsony and Free Riders,” *Information Economics & Policy*, Vol. 8, 1996.

This paper primarily consists of a theoretical model applicable to the relationship between cable TV system operators and cable television networks. In summary, the paper shows how the exercise of monopsony bargaining power by a downstream firm having local monopoly power in the consumer market—such as a Multiple Cable Television System Operator (MSO)—can under plausible circumstances negatively affect the number and variety of products—namely cable television networks—that upstream suppliers make available to consumers. To our knowledge, this article is the first published work in the economic literature that systematically demonstrates how an MSO can accumulate socially excessive monopsony power by means of increasing its national market share of cable TV subscribers. The results imply that an MSO’s monopsony power in the programming market could become anti-competitive at a level well below that which standard economic indices, such as the HHI, generally indicate to be worthy of policy concern.

(2) Jun-Seok Kang, “Reciprocal Carriage of Vertically Integrated Cable Networks: An Empirical Study,” Dept. of Telecommunications, Indiana University, Bloomington, July 28, 2005.

This study uses a 1999 dataset involving 943 cable systems and 22 start-up basic cable networks to test the “reciprocal carriage” hypothesis: the theory that larger MSOs might tacitly collude to carry each others’ vertically integrated cable networks. Kang’s results support the reciprocal carriage hypothesis by finding that: (1) vertically integrated MSOs are in fact more likely than non-vertically integrated MSOs to carry the start-up basic cable networks of other MSOs, but also, (2) that vertically integrated MSOs are no more likely than non-vertically integrated MSOs to carry independent start-up basic cable networks. The reciprocal carriage hypothesis was advanced by the FCC to justify the 30% national market share limit for cable operators that the Commission first promulgated in 1993. Kang’s analysis thus indicates that the FCC was correct to assume that the policy concern about excessive market power of cable operators in the programming market extends beyond the unilateral actions of individual MSOs.

Mr. Kang is a doctoral student writing his doctoral dissertation under my direction in the Dept. of Telecommunications at Indiana University, Bloomington. An earlier version of this paper won First Prize in the Student Paper Contest of the 33rd Annual TPRC Conference to be held in Washington, D.C., Sept. 23-25, 2005.

(3) Dong Chen and David Waterman, “Vertical Foreclosure in the U.S. Cable Television Market: An Empirical Study of Program Network Carriage and Positioning,” Dept. of Economics, Peking University; Dept. of Telecommunications, Indiana University, August 7, 2005.

This paper uses a 2004 database of 680 cable systems to test for the existence of “vertical foreclosure” by Comcast and Time Warner cable systems involving four program network groups (basic outdoor entertainment, basic cartoon, basic movie, and premium movie). We find that vertical foreclosure, while it may have either anticompetitive or efficiency motivations, is a persistent phenomenon in the U.S. cable industry--in spite of dramatic channel capacity expansion and digitization of cable systems, as well as new competition from DBS. Integrated MSOs in our study tend to carry their affiliated networks more frequently and unaffiliated rival networks less frequently (a pattern identified by empirical studies conducted with databases 12 to 15 years older). We also find that integrated cable operators that do carry rival networks are more likely to position them on digital tiers, or in other ways that appear to limit consumer access to those networks. The positioning phenomenon adds a new dimension to the foreclosure issue in cable television, and is a phenomenon unexplored by previous systematic studies.

Prof. Chen is currently Assistant Professor of Economics at Peking University, Beijing, China. I served as a member of Mr. Chen’s doctoral dissertation committee

while he was a student in the Dept. of Business Economics, Kelley School of Business, Indiana University, Bloomington.

I emphasize that none of the three studies I submit on behalf of myself and my colleagues has been supported in any way by any party with a vested interest in these proceedings. These are independently conducted studies supported solely by the universities with which we have been or are currently affiliated.

Further analysis of horizontal and vertical integration in cable television may be found in David Waterman & Andrew A. Weiss, *Vertical Integration in Cable Television* (MIT Press and AEI Press, 1997)

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