



November 3, 2005

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Dear Ms. Dortch:

RE: Ex Parte Notice. MB Docket No. 05-192. In the Matter of Adelphia Communications Corporation, Debtor-in-Possession, Time Warner, Inc. and Comcast Corporation Seek Approval to Transfer Control and/or Assign FCC Authorizations and Licenses.

On November 2, 2005, Debbie Goldman and Kenneth Peres of the Communications Workers of America (CWA) met with Royce Sherlock, Sarah Whitsell, Mania Baghdadi, Tracy Waldon, Patrick Webbe, Erin Dozier, Jamila Bess-Johnson, Daniel Shiman, Marcia Glauberman, Julie Salovaara, and William Johnson of the Media Bureau; Jim Bird and Anne Bushmiller of the Office of General Counsel; and Jonathan Levy and Leslie Marx of the Office of Strategic Policy and Planning to discuss the above captioned proceeding. They distributed the attached materials.

Ms. Goldman and Dr. Peres discussed the legal standard for review, including the impact of the transaction on service-affecting employment.¹ They also discussed the relevant product market to be the MVPD and cable market (since cable and satellite are not perfect substitutes) and the relevant geographic market to be both national and regional.

They discussed the anti-competitive impact of the merger. The HHI index reveals the transaction will enhance market power; the increased regional clustering and national video duopoly provide the parties with the ability and incentive to discriminate against non-affiliated programmers and to foreclose

¹ In the *WorldCom/MCI Order*, the Commission considered the impact of that merger on employment. See *WorldCom/MCI* at 213 and 9. In the *SBC/AMT Order*, the Commission cited SBC's commitment to "improving service quality by hiring more employees." *SBC/AMT Order* at 567 and 50. In the Puerto Rico Telephone Authority/GTE Merger, the Commission also cited employee commitments as a merger-related public interest benefit. *Puerto Rico/GTE Order* at 57. See also *In the Matter of ITT World Communications Inc. Application for Consent to Transfer of Control of Press Wireless, Inc. to ITT World Communications Inc.* Memorandum Opinion and Order, File No. 1488-C4-TC-(2)-65, July 28, 1965 (adopted) [alternate citation: 1 FCC 2d 213 (1965) WL 11869]; *In the Matter of the Application for Merger of the Western Union Telegraph Co. and Postal Telegraph, Inc.*, Decision, Docket No. 6517, Feb. 27, 1961 (adopted), at 164.

video competitors, particularly by denying competitors “must-have” regional sports programming.

They noted the transaction will not result in any verifiable transaction-related benefits. The Time Warner Entertainment divestiture was already mandated by this Commission, and at least one-quarter of the subscribers affected by the transaction are in franchises that are not affected by the Adelphia bankruptcy.

Finally, they discussed the impact of the transaction on employees and service provision. Time Warner and Comcast have stated in the Asset Purchase Agreements that all affected employees will have to re-apply for their jobs, with no guarantees of wages, benefits, and terms of employment including collective bargaining relationships and existing contracts. In CWA’s experience, this is unprecedented. Failure to maintain adequate levels of trained, experienced employees will impact service.

Ms. Goldman and Dr. Peres urged the Commission to adopt cable ownership limits prior to ruling on this merger. Subsequently, at a minimum, to mitigate the public interest harms of this transaction the Commission must adopt the following conditions: 1) ensure that competitors have non-discriminatory access to affiliated programming and regional sports programming; 2) ensure interoperability of network devices and network neutrality on Comcast and Time Warner broadband platforms; and 3) to protect quality service, require assurances that affected employees will transfer with their jobs, wages, benefits, and terms of employment.

Sincerely,



Debbie Goldman, Research Economist
Communications Workers of America

cc: Royce Sherlock, Sarah Whitsell, Mania Baghdadi, Tracy Waldon, Patrick Webbe, Erin Dozier, Jamila Bess-Johnson, Daniel Shiman, Marcia Glauberman, Julie Salovaara, William Johnson, Jim Bird, Anne Bushmiller, Jonathan Levy, Leslie Marx