

January 5, 2006

VIA ELECTRONIC FILING

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

Re: Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corp., Assignors, to Time Warner Cable Inc., Assignees; Adelphia Communications Corp., Assignors and Transferors, to Comcast Corporation, Assignees and Transferees; Comcast Corporation, Transferor, to Time Warner Inc., Transferee; Time Warner Inc., Transferor, to Comcast Corporation, Transferee, MB Docket No. 05-192

Dear Ms. Dortch:

On December 16, 2005, The America Channel (“TAC”) submitted an ex parte letter in MB Docket No. 05-192 (“TAC Letter”).¹ Adelphia Communications Corporation (“Adelphia”) takes this opportunity to briefly address the TAC Letter.

First, TAC has filed multiple pleadings alleging program carriage grievances in this proceeding, the cable ownership proceeding, and the annual video competition proceeding² -- in short,

¹ Letter from Kathleen Wallman, Counsel for The America Channel, to Marlene Dortch, Secretary, Federal Communications Commission (Dec. 16, 2005) (“TAC Letter”). Unless otherwise noted, all references cited herein are to submissions filed in the above-captioned proceeding.

² See, e.g., Petition to Deny of The America Channel, LLC (filed July 21, 2005); *In re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Dkt. No. 05-255, Comments of The America Channel, LLC (filed Sept. 27, 2005); *In re The Commission’s Cable Horizontal and Vertical Ownership Limits*, MB Dkt. No. 92-264, Comments of The America Channel, LLC (filed Aug. 8, 2005). But see Reply of Adelphia Communications Corp., Comcast Corp. & Time Warner Inc., n.2 (filed Aug. 5, 2005) (noting that TAC’s Petition to Deny, among others, did not satisfy the requirements of Section 309(d)(1) of the Communications Act).

everywhere *except* where the Commission's rules provide that TAC should file its grievances.³ This fact plainly demonstrates that TAC understands the weakness of its case and, accordingly, has sought to misuse other Commission proceedings to gain leverage for carriage of a program concept that has not succeeded on its own merits.

Second, TAC has now submitted two consecutive letters to the Commission, on November 8, 2005 and on December 16, 2005, that make inflammatory allegations against Adelphia, but it has failed to include any exhibits, declarations, affidavits, or other materials to support its assertions. By contrast, Adelphia personnel have declared to the Commission, under penalty of perjury, their recollections of their dealings with TAC.⁴ In addition, Adelphia has provided documentation to the Commission to support its statements.⁵ TAC's unwillingness to provide evidence to support its claims further underscores the weakness of its case.

Finally, in its most recent filing, it is clear that TAC has provided the Commission with a new, trumped up version of its allegations. In its November 8, 2005 letter, TAC claimed that Adelphia misled it. Now it claims that Comcast misled it,⁶ and that it "believed" that it had a deal with EchoStar even though it did not.⁷ In each of these cases, TAC portrays the other party as being somehow at fault, but it is TAC that is the common denominator. It is TAC that continues to make baseless allegations against various MVPDs, and it is TAC that presents these allegations without any evidence to support them.

³ As previously noted, the Commission's program carriage rules, 47 C.F.R. §§ 76.1300-1302, contain a fully adequate process to address any *legitimate* program carriage grievances. See Letter from Michael H. Hammer, Counsel for Adelphia Communications Corporation, to Marlene Dortch, Secretary, Federal Communications Commission at 2 n.5 (Dec. 9, 2005) ("*December 2005 Adelphia Letter*").

⁴ See, e.g., *December 2005 Adelphia Letter*, Declaration of Abby Aronsohn, Vice President, Programming, Adelphia Communications Corporation ¶ 4 (Attachment A); Declaration of John Pitek, Vice President, Sales and Marketing, Central Region, Adelphia Communications Corporation ¶ 5 (Attachment B). Indeed, it is disingenuous for TAC to claim that Ms. Aronsohn's declaration is inaccurate and cannot be corroborated when TAC itself has not provided *any* evidence to the contrary. See *TAC Letter* at 2.

⁵ See, e.g., *December 2005 Adelphia Letter* at Attachments C-F.

⁶ *TAC Letter* at 2 ("TAC believed it had a deal with Comcast, because Comcast told TAC that it had a deal. . . . Later, Comcast abruptly reneged on that commitment."). Comcast has separately addressed and entirely refuted TAC's allegations. See Letter from James R. Coltharp, Chief Policy Advisor, FCC & Regulatory Policy, Comcast Corporation, to Marlene Dortch, Secretary, Federal Communications Commission (Jan. 4, 2006).

⁷ *TAC Letter* at 2 ("With respect to our email reference to EchoStar, we believed it to be true at the time.").

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Adelphia urges the Commission to put an end to TAC's incessant and pointless meanderings. TAC's latest filing is just another example of its strategy to misuse the regulatory process to force MVPDs to carry its programming, and it is time for the Commission to say "enough is enough." The Commission should summarily dismiss TAC's untrue and unsubstantiated allegations.

Please contact me with any questions concerning this matter.

Respectfully submitted,



Michael H. Hammer

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