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# **Adelphia-Time Warner-Comcast Transaction is Not in the Public Interest**

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CWA Presentation to FCC  
February 22, 2006



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# Transaction is Not in the Public Interest

- Anti-Competitive Impact
- Negative Impact on Employees

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## **Part I. Anti-Competitive Impact**

- Cable companies have already used their market power to stifle video competition by limiting access to Regional Sports Networks or raising prices
- The transaction will significantly increase market power in regions with RSNs
- Cable companies will have even more incentive and power to limit prospective Telco competitors

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# Cable Companies Have Utilized their Market Power over RSNs to Stifle Current DBS Competition

- Exclusive Deals

Comcast in Philadelphia has exclusive access to its RSN that carries Phillies, 76ers and Flyers

Time Warner in Charlotte obtained exclusive access to an unaffiliated RSN that carried Bobcats games – even after this RSN went off the air Bobcat games are still only carried by Time Warner.

- Increased Rates

Comcast in Chicago bought the RSN and doubled the rate charged to DirecTV

Time Warner in Cleveland has exclusive marketing deal with a new RSN that only carries Indians games but is charging competitors a rate that is almost the same as previously paid to carry Indians, Cavaliers, Reds and Blue Jackets games.

Comcast and Time Warner own Sportsnet NY a new RSN that will carry Mets games but is charging higher prices than the YES network that carries Yankees games – even though the Mets have 1/3 the ratings

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# The Impact of Cable's Strategy: Less Competition

Where cable companies have exclusive Regional Sports Networks, satellite penetration is half the national rate

- National Satellite Penetration 25.1 percent
- San Diego (Cox exclusive Padres) 12.8 percent
- New Orleans (Cox exclusive Hornets) 11.5 percent
- Philadelphia (Comcast exclusive 76ers, Flyers, Phillies) 10.3 percent

## The Proposed Transaction Will Exacerbate the Problem by Further Enhancing Market Concentration

RSN Footprint	HHI Post Trans	HHI Change
C-SET	4,210.6	403.7
Comcast Sportsnet Philadelphia	4,156.7	376.9
FSN Florida	2,592.2	580.7
Sun Sports	2,515.2	578.0
FSN Ohio	2,395.7	837.8
FSN West/West 2	2,216.9	740.5
Mid-Atlantic Sports Network	2,168.7	358.6
Comcast/Charter Sports Southeast	2,148.6	325.8
Comcast Sportsnet MidAtlantic	2,126.4	390.8
FSN Pittsburgh	2,080.1	576.9

**Note: market power is presumed when the HHI is greater than 1800 and a change of over 100.**

**Source: DirecTV.**



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## **Cable Companies Will Have Even More Incentive and Power to Limit Prospective Telco Competitors**

- Telcos – just like DBS – would be severely hampered from obtaining customers wherever cable companies deny access to RSNs or impose unreasonable rates.

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## Conditions to Address Anti-Competitive Impact

- Prohibit exclusive agreements by Time Warner and Comcast with RSNs.
- Time Warner and Comcast to make programming – including regional sports programming – available to all competitors at non-discriminatory prices, terms and conditions with arbitration mechanisms.
- RSN carriage should be required during arbitration.
- Precedent: FCC News Corp/Hughes *Order* prohibits exclusive arrangements between DirecTV and affiliated regional sports networks, with arbitration mechanisms

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## Part II. Negative Impact on Employees

- Transaction discriminates against union employees
  - Asset Purchase Agreement requires employees to reapply for their jobs.
  - Adelphia memo (9/12/05) states that job offers will be given to workers but only non-union employees will obtain comparable compensation
  - Comcast but not Time Warner commits “ to respect existing contracts with Adelphia employees following the proposed transaction” (A-TW-C Reply Comments)
- Comcast is an anti-union company.

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## Addressing Negative Employment Impact

- Transferred employees shall experience no loss of employment in their current location, no reduction in compensation, and no loss of union representation as a result of the transfer.

## **Language of Time Warner & Comcast in Los Angeles and Dallas should be extended to all union represented workers**

- Time Warner and Comcast Letters in Los Angeles
  - “First, I want to reiterate [Time Warner Cable’s or Comcast’s agreement depending on the letter] ... to offer ALL employees, represented or not, positions of a similar or greater status, and aggregate compensation, at their current work locations if they so desire....”
  - “Be assured that upon completion of the transaction... [Time Warner Cable or Comcast] will engage in good faith negotiations with CWA... Let me be clear – [Time Warner Cable or Comcast] will honor the letter and spirit of the law.” November 30, 2005 letters from Time Warner Cable VP Dean Leavenworth and Comcast VP Perry Parks to LA Councilwoman Janice Hahn.
- Time Warner made similar commitments to the Dallas City Council in relation to Comcast employees in the Dallas metroplex.

