

March 8, 2006

VIA ELECTRONIC FILING

Ex Parte Notice

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 March 7, 2006, Jim Coltharp of Comcast Corporation (“Comcast”), Steven Teplitz and Susan Mort of Time Warner Inc. (“Time Warner”), and the undersigned, representing Adelphia Communications Corp. (“Adelphia”), (collectively, the “Applicants”) met with Aaron Goldberger of Commissioner Tate’s office regarding the above-captioned proceeding.

Applicants addressed the availability of regional sports networks (“RSNs”) with which they are affiliated.¹ Applicants pointed out that in all areas where they are affiliated with an RSN, the two companies are not adding subscribers or are only adding minimal subscribers as a result of the transactions. Consequently, the transactions would not alter their incentives in making affiliated RSN programming available to their competitors. Indeed, with only one exception, every RSN already is available to competitive video providers at nondiscriminatory rates, terms, and conditions. And, of course, the program access rules already apply in each of those situations. The one exception is SportsNet Philadelphia, which is not made available to DBS providers (but is available to other

¹ Time Warner is affiliated with only one RSN, SportsNet New York.

distributors). As Applicants have explained repeatedly,² SportsNet Philadelphia is a unique situation for a host of reasons, including the following: (1) the rights to the games aired on the network came with a pre-existing terrestrial delivery system; (2) the Philadelphia market is small (boxed in by Pittsburgh, NY, and Baltimore/DC), so terrestrial delivery makes economic sense; (3) and Comcast was responding to DIRECTV's exclusive NFL Sunday Ticket package. For these reasons, *SportsNet Philadelphia's limited exclusivity has been found -- twice by the FCC and once by a court -- to be a legitimate business decision that is permissible under the program access rules.*³

Applicants also thoroughly refuted the argument that DBS subscribership is lower in Philadelphia than in other markets as a result of SportsNet Philadelphia's limited exclusivity. According to Media Business Corp., which has been tracking DBS penetration by DMA for years, DBS penetration in Philadelphia continues to increase. Indeed, Philadelphia has a DBS penetration of 12.04% as of September 2005.⁴ By way of comparison, the following cities have *lower* DBS penetration: Boston (10.73%), Las Vegas (10.96%), Hartford (8.6%), Providence (9.39%), Springfield-Holyoke (8.65%), Laredo (7.92%), El Paso (11.01%), and Palm Springs (11.80%).⁵ And the following cities have DBS penetration comparable to Philadelphia: New York (15.24%), Tampa (14.03%), Baltimore (14.15%), Milwaukee (15.08%), Norfolk (14.22%), and Harrisburg (13.29%). Thus, the claim that SportsNet Philadelphia's limited exclusivity has substantially undermined DBS operators' abilities to compete in Philadelphia is without merit.⁶

Applicants demonstrated that there is no "trend" of migrating RSNs to terrestrial delivery. In fact the opposite is true. For example, in the eight years since Comcast acquired SportsNet Philadelphia, it has acquired or started RSNs in Washington, Chicago, Sacramento, the Southeast, and New York. In each case, Comcast has delivered the RSN via satellite and made the service available to all distributors, including DBS distributors.

Applicants also noted that Adelphia has been mired in bankruptcy for over three years and that the proposed transactions will facilitate its exit from bankruptcy and allow its customers to experience new and improved services from Time Warner or Comcast.

² See, e.g., Adelphia, et al., Reply, filed in MB Docket No. 05-192, 45-53 (Aug. 5, 2005) ("Reply"); Letter from Martha E. Heller, Counsel for Comcast Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, filed in MB Docket No. 05-192, at 28 (Dec. 22, 2005).

³ See Reply at 46-47.

⁴ Media Business Corp., *Satellite Subscribers by DMA* (data as of Sept. 2005).

⁵ *Id.*

⁶ *Id.*

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If you have any questions on this matter, please do not hesitate to contact me.

Respectfully submitted,

/s/ Angie Kronenberg

Angie Kronenberg

cc: Aaron Goldberger
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