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

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CWA Presentation to FCC

March 9, 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

# 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	Pre & Post Trans % of Market
C-SET (Charlotte)	4,210.6	403.7	TWC: 44.5 to 49.2%
Comcast Sportsnet Philadelphia	4,156.7	376.9	Comcast: 70.9 to 72.5%
FSN Florida - W.Plm B; Ft Pierce	2,592.2	580.7	TWC: 8.7% to 53%
Sun Sports - Miami	2,515.2	578.0	Comcast from 50 to 57%
FSN Ohio; Cleveland, Columbus	2,395.7	837.8	TWC: Clev 28 to 65% Colmbs: 43 to 50%
FSN West/West 2: LA	2,216.9	740.5	TWC: 8.4 to 49%
Mid-Atlantic Sports Net:DC Balt	2,168.7	358.6	Comcast: DC 36 to 48% Balt: 67 to 71%
Comcast/Charter Sports Southeast	2,148.6	325.8	Comcast
Comcast Sportsnet Mid Atlantic	2,126.4	390.8	Same as MASN
FSN Pittsburgh	2,080.1	576.9	Comcast: 35 to 57%

 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 section 5.5 (a)
  - Adelphia memo (9/12/05) states that job offers will be given to workers but only non-union employees will obtain comparable compensation
- Other merging companies respected worker rights
  - These companies do not discriminate against represented workers and continue relationship with union
- Comcast is an anti-union company in general while Time Warner is taking an anti-union position in this transaction



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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.

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## **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 Commitments in Dallas**
  - TWC made similar commitments to the Dallas City Council in relation to Comcast employees in the Dallas metroplex.



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## **Will Time Warner Honor Its Commitments?**

- **Time Warner Goes Around Union to Instill Fear in LA Workers**
  - Mr. Drake, a senior counsel and negotiator for Time Warner told CWA represented workers in Adelphia LA units that will be transferred to TWC that if they kept the union, he would be the negotiator for Time Warner and would likely not agree to negotiate the 401(k), pension plan, and tuition aid programs that workers would otherwise get automatically if they were non-union employees.
  - Mr. Drake previously refused to discuss the transfer with union representatives as far back as August and September stating that “it would be inappropriate, both as a matter of fact and as a matter of law, to discuss such matters with you.
- **Time Warner Discriminates Against Represented Workers in Dallas**
  - TWC representatives held meetings with non-represented workers and provided information on the transfer from Comcast to TWC but refused to meet with represented workers.
  - TWC refused to consult with the union about proposed changes in the terms and conditions of employment.
- **Time Warner Refuses to Abide by the “Spirit of the Law”**
  - In a 2/17/06 letter to all Adelphia employees, TWC stated the following, “Your employment with TWC will be at-will and is not governed by any individual contract or collective bargaining agreement. As such, you or the Company may terminate your employment at any time, with or without prior notice, for any reason not prohibited by law.”
- **Time Warner Refuses to “respect existing contracts” a commitment made by Comcast (A-C-TW Reply Comments to FCC).**



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## **Will Comcast Honor Its Commitments?**

- **Comcast Fires Worker after Public Testimony Supporting the Need for Worker Protections**

Comcast fired Will Goodo, a longtime employee, after he testified before the Oakland, California, City Council and at a Workers' Rights Board hearing on Comcast's violations of workers' rights.
- **Comcast Reneges on Negotiated Franchise Agreement because of City Council Resolution Protecting Worker Rights**

Comcast refused to sign a 13-year franchise agreement that took three years to negotiate because the Oakland City Council gave final approval to an ordinance requiring all companies with city franchises to allow their employees to vote on whether they want to be represented by a union.
- **Comcast has a long history of anti-union activities**

