Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of

Applications for Consent to the Assignment MB Docket No. 05-192
and/or Transfer of Control of Licenses

Adelphia Communications Corporation,
(and subsidiaries, debtors-in-possession),
Assignors,
to
Time Warner Cable Inc. (subsidiaries),
Assignees;

Adelphia Communications Corporation,
(and subsidiaries, debtors-in-possession),
Assignors and Transferors,
to
Comcast Corporation (subsidiaries),
Assignees and Transferees;

Comcast Corporation, Transferor,
to
Time Warner Inc., Transferee;

Time Warner Inc., Transferor,
to
Comcast Corporation, Transferee

PETITION FOR RECONSIDERATION

IBC WORLDWIDE, LTD. ("IBC") herewith submits its PETITION FOR RECONSIDERATION ("PETITION") with respect to the subject transfer proceeding.

IBC has reviewed the Commission's MEMORANDUM OPINION AND ORDER (MO&O) submitted in this proceeding. Based on this review, IBC has concluded that the Commission failed in any way to consider and discuss the matters raised in its

Comments and Reply Comments. IBC finds these actions (or rather inactions) of the Commission to have been arbitrary and capricious, and in direct violation of the Administrative Procedure Act (APA), the Communications Act of 1934, as amended (Communications Act), and its own Rules and Regulations.

Furthermore, IBC finds that the Commission's arbitrary refusal to impose the IBC recommended condition requiring the transferees hereunder to install only Internet compatible settop converters to constitute a failure to comply with its primary obligation to make available to all citizens "a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communications…" (Communications Act, 47 USC 151). IBC's proposal, as few other, would provide an effective means to fulfill this primary statutory obligation. Most critically at this unique time in our nation's history, the universal use of Internet compatible settop converters would provide an immediate, cost effective means to connect homes to the Internet where so required by local, regional and national emergencies.

IBS respectfully requests that the MO&O be set aside, and the critical matters raised by IBC in its Comments and Reply Comments be reviewed, fully considered and addressed in a supplementary ruling, which requires the transferees to utilize only Internet compatible settop converters.

IBC Comments and Reply Comments

IBC is its prior filings underscored critical problems raised by the proposed joint transfer applications as submitted on May 18, 2005 by Adelphia Communications Corporation ('Adelphia"), Time Warner Inc. ("Time Warner") and Comcast Corporation ("Comcast") (collectively "Applicants") and approved by action of the Commission in the MO&O, which consented to transfer control of and/or assignment of various Commission licenses and authorizations pursuant to Section 214 and Section 310(d) of the Communications Act.[1]

It remains IBC's belief that the fundamental problems outlined in its prior filings will have the effect of further concentrating control over the cable industry in Time Warner and Comcast. Consequently, IBC maintains that these anti-competitive conditions must be found to give rise to the need to impose certain conditions on this transfer.

The Cable Oligopoly

As previously addressed by IBC, serious public interest concerns must be found to be raised by further consolidation and control over cable subscribers by Time Warner and Comcast, which are classic oligopoly of multiple system operators (MSOs).

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[1] *See* 47 U.S.C. §§ 214, 310(d).

Current surveys shown that the largest six MSOs (Comcast, Time Warner Cablevision, Cox, Charter, and Adelphia) currently control 85% of all US cable subscribers. These companies constitute the Cable Oligopoly. Of these top six companies, Time Warner and Comcast together control about one-half of the oligopoly subscribers. Concentration of control over US cable subscribers will now clearly be increased as a result of the proposed acquisition of Adelphia by Time Warner and Comcast.

By dividing Adelphia subscribers between Comcast and Time Warner, the number of Cable Oligopoly Operators has been reduced to five major MSOs. This action has further limited competition by content providers, advertisers, satellite operators, telcoms, other cable companies and all new technology providers.

Impact on Hispanic Subscribers

As previpusly pointed out by IBC, Adelphia had accumulated a significant amount of US Hispanic Cable subscribers, primarily in the Los Angeles and Miami markets. US Hispanics are a valuable growth opportunity for advertisers and MSOs. The control of Time Warner and Comcast over ethnic content supply from independent suppliers represents an additional complication raised by the Commission's action herein.

Comcast acquired AT&T Cable (formerly TCI Cable) in 2003. This transaction resulted in the significant loss of employment through consolidation, and provided Comcast with approximately 1.5 million US Hispanic cable subscribers. As a result, Comcast now has about 2 million US Hispanic cable subscribers, about 36% of this subscriber universe. As a result, Comcast has become a critical "Gatekeeper" for any new Hispanic content.

Comcast provides US Hispanic program content by "backhauling" existing networks from Latin America. This strategy is cost effective for Comcast. However, US Hispanic content producers have minimal access to Comcast Hispanic audiences.

This key control issue has now been as acerbated by the Commission's grant of the Comcast applications.

Increase of Vertical Integration

Comcast business strategy for appreciation of shareholder value is clearly to grow as a vertically integrated content and transmission business for traditional and new media. Its previous failure to acquire Disney/ABC is a prime example of this strategy.

Acquisition of Adelphia subscribers in key markets, especially the prized US Hispanic subscribers, is clearly consistent with Comcast's long term goal to achieve control over content.

The Cable Oligopoly as Gatekeepers

It remains IBC's position that the Cable Gatekeeper issue defacto raises serious restraint of trade issues by enabling the Cable Oligopoly to exercise control over ALL CONTENT PROVIDERS on the issue of carriage or non-carriage of content. The Commission failed to address this matter as presented by IBC in its Comments and Reply Comments.

The Paramount Case of I948 constituted recognition of a then existing similar oligopoly power of major film studios over movie theatres. The Court agreed that end to end control of content production, distribution, and exhibition was not in the public interest. *U.S. v. Paramount Pictures, Inc.* et al., 334 U.S. 131 (1948).

IBC regards the current cable content carriage issue as the direct result of the diversification of cable companies from a "transmission" service to a combination of "transmission with proprietary content" business, directly parallel to the pre-Paramount Case movie industry.

The cable industry was developed as CATV ("community antenna television") to provide antenna service for communities that were not able to receive television content by means of over the air transmission. The necessary transmission service rights were granted to cable companies under federal law and defined in local government franchise agreements. Building on this base, the cable industry – especially the Cable Oligopoly- coupled the transmission service with proprietary content to create today's expanded cable TV service.

As previously explained by IBC, with this increased market power, the current Cable Oligopoly generally limits opportunities for new content providers to gain carriage by establishing a "performance" condition to obtain "retransmission consent" agreements. The performance condition is based upon a content provider making available proprietary content for distribution, including Video on Demand applications, on cable systems under a shared revenue model with the MSO.

If the content, in competition with thousands of alternative content choices, including major studio product, develops subscriber demand defined by purchases, *then* the MSO will collect its share of such revenue, and provide carriage for the content provider. The typical carriage agreement is for 10 years, and provides that the MSO pay to the content provider a cents-per-subscriber fee.

This fee is typically $0 in Year One in exchange for 10 year carriage. The content provider must solicit each cable system to aggregate MSO - wide coverage of subscribers under a so-called "hunting license." This limits coverage of audience needed to solicit advertiser revenue to supplement the cents-per-subscriber license fees. In summary, the content provider today is handicapped by the terms of the cable carriage agreement. Meanwhile, the MSO benefits from the new content, which can be added to basic / digital tier and be used to increase subscriber monthly charges.

The FCC determination in March 2005 not to mandate "must carry" by cable systems of five new digital TV broadcast channels actually increased the effective power of the Cable Oligopoly to control program content. Major entertainment companies may be able to obtain cable system carriage agreements based on "retransmission consent" negotiations with MSOs. It is less likely that independent content providers will be able to compete under these conditions.

Thus, despite the technology advancements to provide a digital transmission platform, the ability of the public to receive increased channels will continue to be limited to what content the Cable Oligopoly and other MSOs control by type, quantity, and price. This is particularly a critical element for the emerging ethnic audiences.

It should be noted that cable systems control access to approximately 70% of all US television households. Carriage of broadcast signals must depend upon cable systems to reach national audiences and provide a market economy for advertisers.

By submitting its Comments and Reply Comments in this proceeding, IBC believed that the Commission would fully review, consider, fact-find and determine the appropriate federal policy to be adopted in view of these critical changes being brought to the cable industry by Time Warner, Comcast and the other oligopoly companies. Incredibly, the Commission failed to address these vital matters in any way. Such a failure must be seen as evidence of an action which must be found to be arbitrary and capricious and violative of fundamental due process policies established under the APA and Communications Act.

Negative Effects of Adephia Acquisition Transaction

Clearly, significant structural and operational problems, including increased control over program producer access to cable systems, will now result as Adelphia is subsumed into Time Warner and Comcast. IBC remains of the belief that this combination can be found to be anti-competitive and in direct conflict with the benefits of a free market system and competition for all.

To counter the negative results of this transfer, IBC again proposes that the Commission condition the transaction so as to limit the gatekeeping power of Time Warner and Comcast. Indeed, as IBC noted in its Comments and Reply Comments, there is no longer any need for the negative impact of cable gatekeeping to continue with respect to the cable industry. All of this can be removed with a simple electronic addition to the settop converters used by Time Warner and Comcast, which can open a direct link to the Internet.

IBC request that the Commission require Time Warner and Comcast (and all other cable operators under its jurisdiction) to utilize Internet ready settop cable converters.

Cable Internet Ready (CIR) Settop Converters

As IBC has fully demonstrated in its previous filings, the advances of technology have made it possible to make every cable TV box Internet accessible.

With the insertion of a simple chip, every cablebox can become Internet ready and allow TV set reception of all visual and audio data distributed via the Internet. This will immediately open a path for all program suppliers into cable homes across the country, thus bypassing the Cable Oligopoly gatekeepers.

IBC's basic position is that cable companies such as Time Warner, Comcast and others want to utilize this worldwide electronic medium to make ever increasing profits from the Internet, a basically free medium. Accordingly, they should be mandated to provide a channel on the cable for the Internet access over television. Such an access channel would parallel similar pathways in computers and wireless devices.

The advantages to be gained from such a Cable-Internet-Ready (CIR) settop box are substantial, including the following:

- The CIR will open the Internet to low income families that have television access available.
- The CIR will provide a low cost entree point for senior citizens.
- The CIR will provide a venue for an ever-expanding program production industry seeking access for their content.
- The CIR will provide immediate access to in-home television sets for the Homeland Security Agency, obviating the need to construct a newcommunications network to access the country's 85+ million cable TV homes.
- The CIR will expand and extend all types of communications – local, regional, national and international.

IBC notes that CIR type settops are already becoming standard in various European countries. Thus, as is the case of high definition technology, by failing to adopt CIR type settop converters, the United States is falling behind the advanced telecommunications technologies being used in the rest of the world. For this reason alone, the Commission without question should have launched a full scale exploration of this critical issue as outlined in detail in IBC's Comments and Reply Comments. To have failed to do so, constitutes an action which must be found to be arbitrary and capricious and directly violative of the Commission's primary obligation to assure that U.S. citizens are provided access “ to a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities…” (47 USC § 151).

CIR Transfer Condition

As IBC has previously noted, the advantages offered by CIR equipped cable systems are truly unprecedented. Consequently, IBC respectfully restates its request that the MO&O be set aside and the key issues raised by IBC be considered and addressed in their entirety. Following such reconsideration, IBC requests that all licenses and permits transferred pursuant to applications under review in this proceeding be conditioned on the following requirement:

> Within 12 months of the grant of the subject transfer applications, all settop converters used by the Transferee(s) shall Cable Internet Ready, i.e. converters shall be so equipped to provide at least one channel position for direct reception of the Internet by cable customers.

Respectfully submitted,

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By /s/ Fank Liberman

Frank Lieberman
Its President.

Dated: August 19, 2006