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November 10, 2006

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWB-204
Washington, DC 20554

Re: *Ex Parte Presentation in MB Docket No. 05-311, Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*

Dear Ms. Dortch:

On November 9, 2006, Gary Matz, Vice President and Assistant General Counsel of Time Warner Cable Inc. ("TWC"), Steven Teplitz and Susan Mort of Time Warner Inc., and Seth Davidson of Fleischman and Walsh, L.L.P., met in separate meetings with Heather Dixon and Krista Witanowski of the Office of Chairman Martin, Cristina Pauze of the Office Commissioner McDowell, and Bruce Gottlieb of the Office of Commissioner Copps, to discuss the above-referenced rulemaking proceeding. The presentation focused on the following three points:

First, the record does not establish that the franchising process is creating a barrier to competitive entry by providers of multichannel video service, particularly telephone companies. Mr. Matz discussed the fact that in TWC's experience, local franchising authorities ("LFAs") have welcomed additional entry, and while there may be a few isolated examples to the contrary, LFAs by and large have acted in a reasonable and timely fashion in granting franchise applications. Moreover, Mr. Matz noted that Verizon has publicly stated that it is not having difficulty obtaining franchises, and that the enactment of state laws streamlining and simplifying the local franchise process has changed the landscape over the past year. Mr. Matz pointed out that, despite the fact that these laws make franchises readily available to new entrants, in many instances the telephone companies have elected not to aggressively seek new franchises and have not initiated service in many of those areas where they have obtained the requisite authority.

Second, the legal justification for the Commission's possible intervention in the local franchising process is questionable. Congress created a clear mechanism for the courts, not the Commission, to review local franchising decisions and gave the Commission no authority to abrogate state and local level playing field provisions and build-out requirements. Moreover, as a policy matter, the case has not been made that the new statewide franchising laws that have been passed, or that are currently being considered by a number of other states, are not sufficient to ensure that franchising does not impede competition. Even assuming that the Commission has the legal authority to establish rules pursuant to Section 621, the new state laws should be given an opportunity to work before the Commission seeks to federalize the franchise process with preemptive national standards.

Third, to the extent that policy makers are seeking ways in which to expedite negotiations between LFAs and providers of multichannel video services (which should include not only initial franchising, but also renewals and transfers, the Commission should consider certain targeted actions that will address areas that can lead to delay both for new entrants and incumbent operators, including (i) clarification that the revenues on which franchise fees are based are determined according to GAAP; (ii) clarification that attorneys fees, consultant fees, and PEG operational funding all fall under the 5 percent franchise fee cap; and (iii) the establishment of limitations on the amount of bandwidth that local franchising authorities can require a cable operator to devote to PEG access programming.

Finally, in addition to the above points, it was suggested that recent proposals by Verizon relating to the terms of MDU contracts were without merit and, in any event, did not involve franchising-related issues and thus were outside the scope of this proceeding.

In accordance with section 1.1206 of the Commission's rules, an electronic copy of this notice is being submitted for inclusion in the record of each of the above-referenced proceedings.

Respectfully submitted,



Seth A. Davidson
Counsel for Time Warner Inc.

cc: Heather Dixon
Krista Witanowski
Cristina Pauze
Bruce Gottlieb

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