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Before the
Federal Communications Commission
Washington, D.C. 20554

FEB 18 2009

In the Matter of	)	
	)	
Applications for Consent to the Assignment and/or Transfer of Control of Licenses	)	MB Docket No. 08-120
	)	WC Docket No. 08-157
Time Warner Inc., and its subsidiaries, Assignor/Transferor	)	
To	)	
Time Warner Cable Inc., and its subsidiaries, Assignee/Transferee	)	

MEMORANDUM OPINION AND ORDER

Adopted: February 11, 2009 **Released: February 11, 2009**

By the Chief, Media Bureau; Deputy Chief, Wireline Competition Bureau; Acting Chief, Wireless Telecommunications Bureau; Acting Chief, International Bureau:

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I. INTRODUCTION AND BACKGROUND

1. In this Order, we grant the applications for the assignment and transfer of control of certain Commission licenses and authorizations ("Application") from Time Warner Inc. ("Time Warner") to Time Warner Cable, Inc. ("TWC" and together with Time Warner, the "Applicants").[1] We find that

[1] *See* Cable Television Relay Service Applications for Assignment of Licenses and Ultimate Transfer of Control from Time Warner Inc. to Time Warner Cable Inc. (filed June 13, 2008) ("Application"). The licenses affected by the applications and their respective file numbers are listed in Appendix A. *See also Time Warner Seeks FCC Consent to Assign or Transfer Control of Licenses and Authorizations in Connection With Time Warner Cable Separation*, MB Docket 08-120, Public Notice, 23 FCC Rcd 10349, DA 08-1574 (MB rel. July 1, 2008); *Domestic Section 214 Application Filed for the Transfer of Control of Time Warner Cable Inc. from Time Warner Inc.*, WC Docket 08-157, Public Notice, DA 08-1975, 23 FCC Rcd 12859, (WCB rel. Aug. 26, 2008); *Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, and De Facto Transfer Lease* (continued....)

grant of the Application complies with the Commission's rules and policies and is consistent with the public interest. Currently, Time Warner, by and through its subsidiaries, controls TWC.[2] Time Warner and TWC have entered into a Separation Agreement, which we describe below. In connection with the Separation Agreement, the Applicants filed with the Commission a series of applications to request authorization for the assignment and transfer of control of certain Commission licenses and authorizations from Time Warner and its subsidiaries to TWC. Post-separation, Time Warner will no longer have an ownership interest in TWC or its subsidiary licensees.

2. *Time Warner, Inc.* Time Warner is a publicly traded Delaware corporation, headquartered in New York City, New York. Time Warner's major businesses encompass an array of media brands, including HBO, TNT, CNN, AOL, People, Sports Illustrated, Time, and Time Warner Cable. Time Warner produces and distributes television series and films.[3] Time Warner classifies its operations into five reportable divisions: AOL, Publishing, Filmed Entertainment, Networks, and Cable.[4]

3. Time Warner's Filmed Entertainment division comprises Warner Bros. Entertainment Group and New Line Cinema Corporation. For the nine months ending September 30, 2008, the Filmed Entertainment division generated revenues of $8.285 billion (22% of Time Warner's overall revenues) and $552 million in operating income.[5] The Filmed Entertainment division has diversified sources of revenues within its film and television businesses, including an extensive film library and a global distribution infrastructure. Warner Bros. is an industry leader in the television business. For the 2008-09 broadcast season, Warner Bros. expects to produce approximately 20 primetime series, with at least one series airing on each of the five broadcast networks, as well as original series for several cable networks.[6] Time Warner's Networks division comprises Turner Broadcasting System, Inc. ("Turner") and HBO. The Turner networks (including TNT, TBS, CNN, Cartoon Network, truTV, and Headline News) are among the leaders in advertising-supported cable TV networks.[7] HBO operates the HBO and Cinemax multichannel pay television programming services. According to Time Warner, the HBO service is the nation's most widely distributed premium pay television service. For the nine months ending September 30, 2008, the Networks division generated revenues of $8.216 billion (22% of Time Warner's overall

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Applications, and Designated Entity Reportable Eligibility Event Applications Accepted for Filing, WTB Report 4330 (WTB rel. Aug. 27, 2008); *Streamlined International Applications Accepted for Filing*, Report No. TEL-01292S (IB rel. July 25, 2008) (initial International Bureau public notice); *Streamlined International Applications Accepted For Filing*, Report No. TEL-01296S (IB rel. Aug. 8, 2008) (subsequent International Bureau public notice removing application from streamlined processing).

[2] Time Warner owns approximately 84% of the common stock of TWC (representing a 90.6% voting interest), and also owns an indirect 12.43% non-voting equity interest in TW NY Cable Holding Inc. ("TW NY"), a subsidiary of TWC. Time Warner, SEC Form 10-Q (Nov. 5, 2008), at 5 ("Time Warner 11/5/08 10-Q").

[3] Time Warner 11/5/08 10-Q, at 2.

[4] We limit our detailed description to Time Warner's Filmed Entertainment, Networks, and Cable segments because commenters in this proceeding have focused on these businesses. Time Warner's AOL segment provides online advertising services on the AOL Network and third-party Internet sites, and it develops and operates the AOL Network, which is a network of web brands and free client software and services for Internet consumers. In addition, through its Access Services business, AOL operates one of the largest Internet access subscription services in the United States. Time Warner's publishing segment consists principally of magazine publishing and related websites, as well as a number of direct-marketing and direct-selling businesses. Time Warner 11/5/08 10-Q, at 2-3, 6.

[5] Time Warner 11/5/08 10-Q, at 5.

[6] *Id.*

[7] Time Warner 11/5/08 10-Q, at 6.

revenues) and $2.532 billion in operating income.[8] In addition, Time Warner has interests in the NBA TV Network, Si TV Network, and The CW, and owns the HTV musica network.[9]

4. *Time Warner Cable Inc.* TWC is the second largest cable operator in the United States and is located mainly in five geographic areas: (1) New York State (including New York City), (2) North and South Carolina, (3) Ohio, (4) southern California (including Los Angeles), and (5) Texas. As of September 30, 2008, TWC served approximately 14.7 million customers who subscribed to one or more of its video, high-speed data, and voice services. Time Warner owns approximately 84% of the common stock of TWC (representing a 90.6% voting interest), and also owns an indirect 12.43% non-voting equity interest in TW NY, a subsidiary of TWC. For the nine months ended September 30, 2008, TWC generated revenues of $12.798 billion (37% of Time Warner's overall revenues) and $2.162 billion in operating income.[10] TWC principally offers three services over its broadband cable systems: video, high-speed data, and voice. Video is TWC's largest service in terms of revenues generated and, as of September 30, 2008, TWC had approximately 13.3 million basic video subscribers.[11] In addition to these cable operations, TWC owns local and regional news networks, regional sports programming (including a minority interest in SportsNet New York), and interests in the MLB Network and inDEMAND.[12]

5. *Corporate Restructuring.* On May 20, 2008, Time Warner and its subsidiaries Warner Communications Inc. ("WCI"), Historic TW Inc. ("Historic TW"), and American Television and Communications Corporation ("ATC") entered into a separation agreement with TWC and its subsidiaries Time Warner Entertainment Company, L.P. ("TWE") and TW NY Cable Holding Inc. ("TW NY") (the "Separation Agreement"). The Separation Agreement provides that Time Warner will complete several initial, internal restructuring transactions prior to separation.[13] At the end of the internal restructuring and pursuant to the Separation Agreement, TWC will declare a special cash dividend, of $10.855 billion in the aggregate, to be distributed on a pro rata basis to the holders of the TWC Class A Common Stock and TWC Class B Common Stock in an amount equal to $10.27 per share of TWC Common Stock (the "Special Dividend"), resulting in the receipt by Time Warner of approximately $9.25 billion from the dividend immediately prior to the separation.[14] Pursuant to its recapitalization plan, TWC then will file

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[8] *Id.*

[9] *See* SNL Interactive: Time Warner Inc. Briefing Book: TV Networks (last visited Jan. 28, 2009).

[10] Time Warner 11/5/08 10-Q, at 4.

[11] *Id.*

[12] Application at Exhibit B-2, n.9; SNL Interactive: Time Warner Cable Inc. Briefing Book: TV Networks (last visited Jan. 28, 2009).

[13] First, Time Warner Companies, Inc. will merge with and into Historic TW, with Historic TW surviving the merger. Second, ATC will merge with and into Historic TW, with Historic TW surviving the merger. As a result of these two pro forma transfers of control, WCI will become a direct subsidiary of Historic TW. Third, WCI will transfer all of its shares of TWC to Historic TW in exchange for a portion of the shares of WCI currently held by Historic TW. Accordingly, TWC will become a direct majority-owned subsidiary of Historic TW. Historic TW will then transfer all of the shares of TWC held by it (including those received by Historic TW in connection with the TW NY Exchange, as described below) to Time Warner in exchange for a portion of the shares of Historic TW held by Time Warner. As a result, Time Warner will become the direct corporate parent of TWC and will hold all of its issued and outstanding equity not already held by the public. Historic TW then will exchange its 12.43% interest in TW NY for 80 million shares of TWC Class A Common Stock (the "TW NY Exchange"). The shares received by Historic TW in connection with the TW NY Exchange will (prior to the Separation Transaction) be transferred to Time Warner as described above. Application at Exhibit B-2, at 1-2.

[14] Time Warner Inc., SEC Form 8-K (May 27, 2008), Item 1.01 ("Time Warner 5/27/08 8-K"); *see also id.* at Separation Agreement, Sec. 2.05. The separation of TWC from Time Warner is termed the "Distribution," which is defined as "the distribution by Time Warner to some (or all) of its stockholders of all of the shares of TWC Capital (continued....)

with the Secretary of State of the State of Delaware a Second Amended and Restated Certificate of Incorporation of TWC to be effective immediately upon filing and pursuant to which each outstanding share of TWC Class A and Class B Common Stock will be automatically converted into one share of common stock (the "TWC Common Stock").[15] Pursuant to the terms of the Separation Agreement, Time Warner will distribute all the issued and outstanding shares of TWC Common Stock then held by Time Warner to (a) its stockholders as a pro rata dividend in a spin-off, (b) to participating stockholders in an exchange offer constituting a split-off, or (c) a combination thereof.[16] Time Warner has not yet made a decision as to the form of the separation. Upon consummation of these transactions, Time Warner's stockholders and/or former stockholders will hold approximately 85.2% of the TWC Common Stock, and TWC's stockholders, other than Time Warner, will hold approximately 14.8% of the issued and outstanding TWC Common Stock.[17]

6. *Transaction Financing.* TWC expects to fund the Special Dividend through its existing $6 billion revolving credit facility; a two-year, $2.07 billion bridge term loan from a syndicate of banks; and $7.0 billion in senior unsecured notes and debentures ("Debt Offering").[18] Time Warner has agreed to provide a supplemental two-year term loan of up to $1.535 billion to enable TWC to repay the third-party bridge loan at its maturity in the event that TWC has not replaced the bridge financing with long-term financing.[19]

7. *Ancillary Agreements.* In connection with the Separation Agreement, the Applicants have entered into a number of ancillary agreements. TWC states that some of the agreements, such as the Registration Rights Agreement, the Shareholder Agreement Amendment, and the Distribution Agreement, will have no further effect at the conclusion of the separation.[20] In addition, TWC states that certain ancillary agreements necessary to facilitate the transaction, including a Transition Services Agreement, a Reimbursement Agreement Amendment, and the Tax Matters Agreement, "will have a relatively insignificant and short term prospective effect."[21] The Applicants also have entered into

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Stock held by Time Warner after the TW NY Exchange, the Internal Restructuring and the Recapitalization, as a Spin-Off, Split-Off, or combination thereof." *Id.* at Separation Agreement, Article I.

[15] Time Warner 5/27/08 8-K, Item 1.01; *Id.* at Separation Agreement, Sec. 2.06.

[16] Time Warner 5/27/08 8-K, Item 1.01. If a spin-off is elected, Time Warner will distribute to all of its shareholders a *pro rata* number of shares of TWC. If a split-off is elected, Time Warner will offer its shareholders the opportunity to exchange their shares of Time Warner stock for a specified number of shares of TWC stock. Following the split-off, any shares of TWC not distributed pursuant to the exchange would be distributed on a pro rata basis to all Time Warner shareholders. Application at Exhibit B-2, at 2.

[17] Time Warner 5/27/08 8-K, Item 1.01.

[18] Time Warner Inc., *Time Warner & Time Warner Cable Agree to Separation* (press release), May 21, 2008 ("Time Warner May 21, 2008 Press Release"); Time Warner Inc., SEC Form 8-K (Dec. 12, 2008), Item 1.01 ("Time Warner 12/12/08 8-K").

[19] Time Warner 12/12/08 8-K, Item 1.01.

[20] Letter from Arthur H. Harding, Fleischman and Harding LLP, Counsel for TWC, to Marlene H. Dortch, Secretary, FCC (Oct. 9, 2008) at 1 ("TWC Oct. 9, 2008 Ex Parte"). The Registration Rights Agreement provides that TWC will file an SEC registration statement required in the event that Time Warner elects to conduct a split-off. The Shareholder Agreement Amendment terminates the existing Shareholder Agreement as of the consummation date of the separation. The Distribution Agreement is between Time Warner and a third-party agent, and governs the actual distribution and/or exchange of TWC shares that will effectuate the proposed separation. *Id.*

[21] TWC Oct. 9, 2008 Ex Parte at 1-2. The Transition Services Agreement outlines procedures for negotiating Time Warner's continued provision of certain services to TWC for a limited time following the divestiture. The Applicants contemplate that the transition services will be limited to assistance from Time Warner with an executive recruiting function for a period of three months post-divestiture. The Reimbursement Agreement Amendment clarifies and makes reciprocal an existing arrangement under which TWC reimburses Time Warner when TWC (continued....)

intellectual property agreements allowing TWC to continue to use the "Time Warner" and "RoadRunner" trademarks post-separation.[22] Finally, Time Warner and TWC have agreed to extend the term of existing program carriage agreements between TWC and (1) Home Box Office Inc. ("HBO") ("HBO Affiliation Agreement")[23] and (2) Turner Network Sales ("Turner Network Affiliation Agreement" and, together with the HBO Affiliation Agreement, the "HBO/Turner Programming Agreements").[24] The Applicants have modified the HBO/Turner Programming Agreements to extend their terms for a defined period beyond their previously specified termination dates. In most cases, the terms of the HBO/Turner Programming Agreements were extended by 30 months.[25]

8. The Applicants contend that this transaction will enable each company to have "greater strategic, financial and operational flexibility," thereby increasing its competitiveness. Post-separation, the companies expect the management teams to be better able to "focus on realizing the full potential of th[eir] respective businesses and ... provide investors with greater choice in how they own this portfolio of assets."[26] Time Warner will concentrate on "creating and distributing ... branded content across traditional and digital platforms," while TWC will strive to deliver "innovative telecommunications services."[27] TWC will retain its programming assets as part of the separation. Specifically, TWC will continue to own its local and regional programming services, such as regional sports networks ("RSNs"), and will retain its minority interests in SportsNet New York (a New York-area RSN), MLB Network, and inDEMAND.[28]

9. In response to the Bureaus' Public Notices about this transaction,[29] we received a petition and comments from RCN Corporation ("RCN"), and comments from DISH Network Corporation ("DISH"), WealthTV, and the National Association of Independent Networks ("NAIN"), along with roughly two thousand brief comments from the public. DISH and RCN express concern that the program access rules[30] will not apply to Time Warner and TWC post-separation because Time Warner will no longer be affiliated with a cable operator.[31] DISH and RCN assert that, if the rules do not apply, Time Warner could favor TWC post-restructuring vis-à-vis TWC's competitors with respect to agreements for the carriage of Time Warner's programming services.[32] WealthTV and NAIN raise similar concerns

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employees exercise Time Warner stock options or upon vesting of restricted stock units that certain employees were granted as part of their compensation. The Tax Matters Agreement defines how basic tax matters will be addressed by the companies as they relate to the time prior to completion of the separation. *Id.*

[22] TWC Oct. 9, 2008 Ex Parte at 2.

[23] Time Warner Nov. 17, 2008 Response to Document Request at TW0169-218 (HBO Affiliation Agreement) and TW0219-272 (Cinemax Affiliation Agreement).

[24] Time Warner Nov. 17, 2008 Response to Document Request at TW0001-0013.

[25] TWC Oct. 9, 2008 Ex Parte at 2; Time Warner Nov. 17, 2008 Response to Document Request at TW0001, TW0017.

[26] Time Warner May 21, 2008 Press Release.

[27] *Id.*

[28] Application at Exhibit B-2, n.9; SNL Interactive: Time Warner Cable Inc. Briefing Book: TV Networks (last visited Jan. 28, 2009).

[29] *See supra* note 1.

[30] *See* 47 C.F.R. §§ 76.1001-76.1003.

[31] RCN Corporation Petition to Condition Consent or Deny Application at 1-2 ("RCN Petition"); DISH Network Corporation Comments at 1-2 ("DISH Comments").

[32] RCN Petition at 6-11; DISH Comments at 2-3.

regarding the nondiscrimination provision of the program carriage rules,[33] arguing that if the rules do not apply there will be potential harm to programmers that compete with Time Warner.[34] A number of comments from members of the public generally argue that we should condition our grant of the Application on TWC's removal of all adult pay-per-view programming from its service offerings.[35]

II. DISCUSSION

A. Public Interest Framework

10. *Standard of Review.* Pursuant to sections 214 and 310(d) of the Communications Act, the Commission must determine whether the Applicants, have demonstrated that the proposed transaction will serve the public interest, convenience, and necessity.[36] In making this assessment, the Commission evaluates whether the proposed transaction complies with the specific provisions of the Act,[37] other applicable statutes, and the Commission's rules.[38] The Commission also considers whether the transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.[39] The Commission employs a balancing process, weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.[40] Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed

[33] 47 C.F.R. § 76.1301(c); *see also* 47 C.F.R. § 76.1301(a) (prohibiting cable operator or other MVPD, regardless of vertical integration, from requiring a financial interest in any program service as a condition for carriage) and 47 C.F.R. § 76.1301(b) (prohibiting a cable operator or other MVPD, regardless of vertical integration, from coercing any video programming vendor to provide, or retaliate against such a vendor for failing to provide, exclusive rights against any other MVPD as a condition for carriage on a system).

[34] Reply of National Association of Independent Networks to RCN's Petition to Condition Consent or Deny Application at 2 ("NAIN Reply"); Reply of WealthTV to RCN's Petition to Condition Consent or Deny Application at 1 ("WealthTV Reply").

[35] *See, e.g.*, Letter from Beth Brown (Jan. 15, 2009); Letter from Robert A. Atkinson (Nov. 25, 2008); Letter from Rev. Daniel J. Lemke, Ashley Wesleyan Church (Nov. 24, 2008).

[36] 47 U.S.C. §§ 214, 310(d).

[37] Section 310(d) requires that the Commission consider the applications as if the proposed transferee were applying for the licenses directly. 47 U.S.C. § 310(d). *See SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, 20 FCC Rcd 18290, 18300, ¶ 16 (2005) ("*SBC-AT&T Order*"); *Verizon Communications, Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, 20 FCC Rcd 18433, 18442-43, ¶ 16 (2005) ("*Verizon-MCI Order*"); *Applications of Nextel Communications, Inc. and Sprint Corporation*, 20 FCC Rcd 13967, 13976, ¶ 20 (2005) ("*Sprint-Nextel Order*"); *General Motors Corp. and Hughes Electronics Corp., Transferors, and The News Corp. Ltd, Transferee*, 19 FCC Rcd 473, 483, ¶ 15 (2004) ("*News Corp.-Hughes Order*"); *Applications for Consent to the Transfer of Control of Licenses from Comcast Corp. and AT&T Corp., Transferors, to AT&T Comcast Corp., Transferee*, 17 FCC Rcd 23246, 23255, ¶ 26 (2002) ("*Comcast-AT&T Order*").

[38] *See, e.g., SBC-AT&T Order*, 20 FCC Rcd at 18300, ¶ 16; *Verizon-MCI Order*, 20 FCC Rcd at 18442-43, ¶ 16; *Assignment of Licenses Pursuant to Section 310(d) of the Communications Act from NextWave Personal Communications, Inc., Debtor-in-Possession, and NextWave Power Partners, Inc., Debtor-in-Possession, to Subsidiaries of Cingular Wireless LLC*, 19 FCC Rcd 2570, 2580-81, ¶ 24 (2004); *EchoStar Communications Corp., General Motors Corp. and Hughes Electronics Corp., and EchoStar Communications Corp.*, Hearing Designation Order, 17 FCC Rcd 20559, 20574, ¶ 25 (2002) ("*EchoStar-DIRECTV HDO*").

[39] *See News Corp. and DIRECTV Group, Inc. and Liberty Media Corp. for Authority to Transfer Control*, 23 FCC Rcd 3265, 3276-77, ¶ 22 (2008) ("*Liberty Media-DIRECTV Order*"); *SBC-AT&T Order*, 20 FCC Rcd at 18300, ¶ 16; *Verizon-MCI Order*, 20 FCC Rcd at 18433, ¶ 16; *Sprint-Nextel Order*, 20 FCC Rcd 13976, ¶ 20.

[40] *See Liberty Media-DIRECTV Order*, 23 FCC Rcd at 3277, ¶ 22; *SBC-AT&T Order*, 20 FCC Rcd at 18300, ¶ 16; *Verizon-MCI Order*, 20 FCC Rcd at 18443, ¶ 16; *Sprint-Nextel Order*, 20 FCC Rcd at 13976, ¶ 20; *News Corp.-Hughes Order*, 19 FCC Rcd at 483, ¶ 15; *Comcast-AT&T Order*, 17 FCC Rcd at 23255, ¶ 26.

transaction, on balance, will serve the public interest.[41] If the Commission is unable to find that the proposed transaction serves the public interest, or if the record presents a substantial and material question of fact, it must designate the application for hearing under section 309(e) of the Act.[42]

11. *Public Interest Standard.* The Commission's public interest evaluation encompasses the "broad aims of the Communications Act,"[43] which include, among other things, a deeply rooted preference for preserving and enhancing competition in relevant markets,[44] accelerating private sector deployment of advanced services,[45] ensuring a diversity of information sources and services to the public,[46] and generally managing the spectrum in the public interest.[47] This public interest analysis may also entail assessing whether a transaction will affect the quality of communications services or will result in the provision of new or additional services to consumers.[48] In conducting this analysis, the Commission may consider technological and market changes, and the nature, complexity, and speed of change of, as well as trends within, the communications industry.[49]

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[41] *See Liberty Media-DIRECTV Order*, 23 FCC Rcd at 3277, ¶ 22; *SBC-AT&T Order*, 20 FCC Rcd at 18300, ¶ 16; *Verizon-MCI Order*, 20 FCC Rcd at 18443, ¶ 16; *Comcast-AT&T Order*, 17 FCC Rcd at 23255, ¶ 26; *EchoStar-DIRECTV HDO*, 17 FCC Rcd at 20574, ¶ 25.

[42] 47 U.S.C. § 309(e); *see also Liberty Media-DIRECTV Order*, 23 FCC Rcd at 3277, ¶ 22; *News Corp.-Hughes Order*, 19 FCC Rcd at 483 n.49; *EchoStar-DIRECTV HDO*, 17 FCC Rcd at 20574, ¶ 25.

[43] *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corp. for Consent to Transfer Control of Licenses and Authorizations*, 19 FCC Rcd 21522, 21544, ¶ 41 (2004) ("*Cingular-AT&T Wireless Order*"); *News Corp.-Hughes Order*, 19 FCC Rcd at 483, ¶ 16; *Comcast-AT&T Order*, 17 FCC Rcd at 23255, ¶ 27; *EchoStar-DIRECTV HDO*, 17 FCC Rcd at 20575, ¶ 26; *Applications to Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Media One Group, Inc. Transferor, to AT&T Corp., Transferee*, 15 FCC Rcd 9816, 9821, ¶ 11 (2000) ("*AT&T-MediaOne Order*"); *Applications of VoiceStream Wireless Corporation or Omnipoint Corporation, Transferors, and VoiceStream Wireless Holding Company, Cook Inlet/VS GSM II PCS, LLC, or Cook Inlet/VS GSM III PCS, LLC, Transferees*, 15 FCC Rcd 3341, 3346-47, ¶ 11 (2000); *AT&T Corp., British Telecommunications, PLC, VLT Co. L.L.C., Violet License Co. LLC, and TNV [Bahamas] Limited Applications*, 14 FCC Rcd 19140, 19146, ¶ 14 (1999) ("*AT&T Corp.-British Telecom. Order*"); *Application of WorldCom, Inc., and MCI Communications Corp. for Transfer of Control of MCI Communications Corp. to WorldCom, Inc.*, 13 FCC Rcd 18025, 18030, ¶ 9 (1998) ("*WorldCom-MCI Order*").

[44] 47 U.S.C. § 521(6) (one purpose of statute is to "promote competition in cable communications and minimize unnecessary regulation"); 47 U.S.C. § 532(a) (purpose of section is "to promote competition in the delivery of diverse sources of video programming and to assure that the widest possible diversity of information sources are made available to the public from cable systems in a manner consistent with growth and development of cable systems"); *see also Applications for Consent to the Transfer of Control of Licenses and Authorizations by Time Warner, Inc. and America Online, Inc. to AOL Time Warner Inc.*, 16 FCC Rcd 6547, 6555-56, ¶ 22 (2001) ("AOL-*Time Warner Order*").

[45] *See, e.g.*, Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 § 706 (1996) (providing for the deployment of advanced telecommunications capabilities).

[46] 47 U.S.C. § 521(4); *see also* 47 U.S.C. § 532(a).

[47] *See, e.g., Liberty Media-DIRECTV Order*, 23 FCC Rcd at 32784, ¶ 24; *Applications for Consent to the Assignment 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*, 21 FCC Rcd 8203, 8218, ¶ 24 (2006) ("*Adelphia Order*").

[48] *See Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21544, ¶ 41; *Comcast-AT&T Order*, 17 FCC Rcd at 23255 ¶ 27; *AT&T-MediaOne Order*, 15 FCC Rcd at 9821-22, ¶ 11; *WorldCom-MCI Order*, 13 FCC Rcd at 18031, ¶ 9.

[49] *See Comcast-AT&T Order*, 17 FCC Rcd at 23255, ¶ 27; *AT&T-MediaOne Order*, 15 FCC Rcd at 9821-22, ¶ 11; *WorldCom-MCI Order*, 13 FCC Rcd at 18031, ¶ 9.

12. The Commission's competitive analysis, which forms an important part of our public interest evaluation, is informed by traditional antitrust principles, but is not limited to them.[50] In the communications industry, competition is shaped not only by antitrust law, but also by the regulatory policies that govern the interactions of industry participants.[51] In addition to considering whether a transaction will reduce existing competition, therefore, the Commission also must focus on whether the transaction will accelerate the decline of market power by dominant firms in the relevant communications markets and the transaction's effect on future competition.[52] The Commission's analysis recognizes that a proposed transaction may lead to both beneficial and harmful consequences. For instance, combining assets may allow a firm to reduce transaction costs and offer new products, but it may also create market power, create or enhance barriers to entry by potential competitors, and create opportunities to disadvantage rivals in anticompetitive ways.[53]

13. Where appropriate, the Commission's public interest authority enables it to impose and enforce narrowly-tailored, transaction-specific conditions that ensure that the public interest is served by the transaction.[54] Section 303(r) of the Communications Act authorizes the Commission to prescribe restrictions or conditions, not inconsistent with law, that may be necessary to carry out the provisions of the Act.[55] Similarly, section 214(c) of the Act authorizes the Commission to attach to the certificate "such terms and conditions as in its judgment the public convenience and necessity may require."[56] Indeed, unlike the role of antitrust enforcement agencies, the Commission's public interest authority enables it to rely upon its extensive regulatory and enforcement experience to impose and enforce conditions to ensure

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[50] *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21544, ¶ 42; *News Corp.-Hughes Order*, 19 FCC Rcd at 484, ¶ 17; *EchoStar-DIRECTV HDO*, 17 FCC Rcd at 20575, ¶ 27; *Application of GTE Corporation and Bell Atlantic Corporation for Consent to Transfer Control of Domestic and International Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, 15 FCC Rcd 14032, 14046, ¶ 23 (2000) ("*Bell Atlantic-GTE Order*"); *Comcast-AT&T Order*, 17 FCC Rcd at 23256, ¶ 28; *WorldCom-MCI Order*, 13 FCC Rcd at 18033, ¶ 13.

[51] *Sprint-Nextel Order*, 20 FCC Rcd at 13978, ¶ 22; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21545, ¶ 42; *Comcast-AT&T Order*, 17 FCC Rcd at 23256, ¶ 28; *AT&T-MediaOne Order*, 15 FCC Rcd at 9821, ¶ 10.

[52] *Bell Atlantic-GTE Order*, 15 FCC Rcd at 14047, ¶ 23; *AT&T Corp.-British Telecom. Order*, 14 FCC Rcd at 19147-48 ¶ 15; *Comcast-AT&T Order*, 17 FCC Rcd at 23256, ¶ 28.

[53] *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21545, ¶ 42; *AOL-Time Warner Order*, 16 FCC Rcd at 6550, 6553, ¶¶ 5, 15.

[54] *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21545, ¶ 43; *Bell Atlantic-GTE Order*, 15 FCC Rcd at 14047-48, ¶ 24; *AT&T Corp.-British Telecom. Order*, 14 FCC Rcd at 19148, ¶ 15; *see also WorldCom-MCI Order*, 13 FCC Rcd at 18032, ¶ 10 (stating that the Commission may attach conditions to the grant of its approval); *Applications of VoiceStream Wireless Corp., Powertel Inc. and Deutsche Telekom AG for Consent to Transfer Control of Licenses and Authorizations*, 16 FCC Rcd 9779, 9782, ¶ 1 (2001) (conditioning approval on compliance with agreements with Department of Justice and Federal Bureau of Investigation addressing national security, law enforcement, and public safety concerns).

[55] 47 U.S.C. § 303(r). *See Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21545, ¶ 43; *Bell Atlantic-GTE Order*, 15 FCC Rcd at 14047, ¶ 24; *WorldCom-MCI Order*, 13 FCC Rcd at 18032, ¶ 10 (citing *FCC v. Nat'l Citizens Comm. for Broadcasting*, 436 U.S. 775 (1978) (upholding broadcast-newspaper cross-ownership rules adopted pursuant to section 303(r)); *U.S. v. Southwestern Cable Co.*, 392 U.S. 157, 178 (1968) (holding that section 303(r) permits the Commission to order a cable company not to carry a broadcast signal beyond station's primary market); *United Video, Inc. v. FCC*, 890 F.2d 1173, 1182-83 (D.C. Cir. 1989) (affirming syndicated exclusivity rules adopted pursuant to section 303(r) authority)).

[56] *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21545, ¶ 43; *Bell Atlantic-GTE Order*, 15 FCC Rcd at 14047, ¶ 24; *AT&T Corp.-British Telecom. Order*, 14 FCC Rcd at 19148, ¶ 15.

that a transaction will yield overall public interest benefits.[57] Despite its broad authority, the Commission has held that it will impose conditions only to remedy harms that arise from the transaction (i.e., transaction-specific harms)[58] and that are reasonably related to the Commission's responsibilities under the Communications Act and related statutes.[59]

B. Program Access and Program Carriage Rules

14. We discuss below the potential public interest harms and benefits that may result from the restructuring.[60] Commenters are concerned that post-separation the program access and program carriage rules will not apply to programming contracts that were executed between Time Warner and TWC when the two entities were integrated, which, commenters contend, could foreclose remedies to competing MVPDs and programmers for unfair or discriminatory practices based on such contracts. Commenters therefore urge the Commission to condition the approval of the restructuring on the continued application of the program access and program carriage rules to programming agreements executed when the two entities were integrated. The Applicants disagree that the restructuring creates any potential harm and argue that the restructuring is in the public interest because it reduces vertical integration by separating Time Warner from TWC. For the reasons discussed below, we agree with the Applicants and conclude that the restructuring is in the public interest. We also conclude that there are no harms to the public interest warranting the imposition of any conditions on the approval of the transaction.

15. Congress has found that vertically integrated program suppliers have the incentive and ability to favor their affiliated cable operators over nonaffiliated cable operators and programming distributors using other technologies.[61] As relevant here, Section 628 of the Communications Act is intended to foster the development of competition to traditional cable systems by facilitating competing MVPDs' access to cable programming services.[62] The Commission's program access rules implementing

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[57] *See, e.g., Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21545, ¶ 43; *News Corp.-Hughes Order*, 19 FCC Rcd at 477, ¶ 5; *Bell Atlantic-GTE Order*, 15 FCC Rcd at 14047-48, ¶ 24; *WorldCom-MCI Order*, 13 FCC Rcd at 18034-35, ¶ 14.

[58] *Sprint-Nextel Order*, 20 FCC Rcd at 13978-79, ¶ 23; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21545-46, ¶ 43; *News Corp.-Hughes Order*, 19 FCC Rcd at 534, ¶ 131; *Comcast-AT&T Order*, 17 FCC Rcd at 23302, ¶ 140; *AOL-Time Warner Order*, 16 FCC Rcd at 6550, ¶¶ 5-6.

[59] *See Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21545-46, ¶ 43; *AOL-Time Warner Order*, 16 FCC Rcd at 6609-10, ¶¶ 146-47.

[60] This transaction does not involve a vertical or horizontal merger, but rather the decoupling of an existing vertically integrated entity into two separate corporate entities. The record in this proceeding focuses on the transaction's likely effects on the Commission's public policy goal of fostering competition among MVPDs and programmers, rather than on a formal analysis of the transaction's effects on competition in a particular product or geographic market. Although we do not here conduct a traditional antitrust analysis to determine what products are substitutes (the "product market"), or where those substitute products are available (the "geographic market"), we note that the Commission has determined that the relevant product market for MVPD services is no broader than the entire MVPD market, but may well be narrower. *See, e.g., EchoStar-DIRECTV HDO*, 17 FCC Rcd at 20609, ¶ 115; *Liberty Media-DIRECTV Order*, 23 FCC Rcd at 3280-81, ¶ 31. The Commission has determined that the relevant geographic market for MVPD services is local because consumers subscribe to MVPD services based on the choices available to them at their residences. However, to simplify the analysis, the Commission aggregates consumers that face the same choice in MVPD products into larger relevant geographic markets. *See, e.g., Liberty Media-DIRECTV Order*, 23 FCC Rcd at 3281, ¶ 32; *News Corp.-Hughes Order*, 19 FCC Rcd at 505, ¶ 62; *Comcast-AT&T Order*, 17 FCC Rcd at 23282, ¶ 90; *EchoStar-DIRECTV HDO*, 17 FCC Rcd at 20610, ¶ 119.

[61] Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 521, nt. 1, § 2(a)(5) ("*1992 Cable Act*").

[62] 47 U.S.C. § 548(a).

Section 628, which apply to cable operators, prohibit price discrimination by programming networks that are vertically integrated with a cable operator unless the price discrimination is based on market conditions.[63] A vertically integrated firm could also attempt to disadvantage its rivals by engaging in a foreclosure strategy, *i.e.*, by withholding a critical input from them. As the Commission has previously explained, its program access rules also generally prohibit exclusive dealing by programming networks that are vertically integrated with cable operators.[64] The Commission's program carriage rules,[65] implementing Section 616 of the Communications Act,[66] address Congress' concerns that "vertically integrated cable operators have the incentive and ability to favor affiliated programmers over unaffiliated programmers with respect to granting carriage on their systems."[67] Therefore, to prevent undue discrimination, our program carriage rules allow competing distributors to bring complaints against vertically integrated entities who may "restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or non-affiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors."[68]

16. DISH and RCN express concern that the program access rules will not apply to Time Warner post-separation because Time Warner will no longer be affiliated with an MVPD, i.e. TWC.[69] DISH and RCN assert that the pre-existing relationship between Time Warner and TWC could result in unfair favoritism by Time Warner toward TWC (or vice versa), to the detriment of other MVPDs. In addition, RCN contends that Time Warner and TWC will continue to have a "substantial, if not total, overlap in their ownership after the Transactions are completed and for the foreseeable future thereafter," to the detriment of other cable operators.[70] RCN asserts that while TWC and Time Warner will no longer be "formally 'vertically integrated' [after the transaction is completed] ... the common ownership and long-standing relationship between the companies, and continued personal and professional relationship among their management" will remain and result in "functional vertical integration."[71] For example, RCN explains that Time Warner and TWC could engage in discriminatory rate structures for national "must have" programming.[72]

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[63] 47 C.F.R. §§ 76.1001 and 76.1002 (describing prohibited unfair practices under the Commission's program access rules).

[64] 47 C.F.R. § 76.1002; *see e.g. Liberty Media-DIRECTV Order*, 23 FCC Rcd at 3295, ¶ 68.

[65] 47 C.F.R. § 76.1301(c).

[66] 47 U.S.C. § 536.

[67] *Implementation of Sections 12 and 19 of The Cable Television Consumer Protection And Competition Act Of 1992 – Development of Competition and Diversity in Video Programming Distribution and Carriage*, MM Docket 92-265, Second Report and Order, 9 FCC Rcd 2642, 2643, ¶ 2 (1993) ("*Program Carriage Order*").

[68] 47 C.F.R. § 76.1301(c).

[69] *See* RCN Petition at 7-10; DISH Comments at 1-3. RCN also filed comments in the Wireline Competition Bureau docket reiterating the arguments it made in its Media Bureau docket petition, and adding that, "[a]lthough the primary impact of the transaction relates to its potential for direct and substantial harm to competition in the video programming arena, to the extent that competitive providers of bundled voice/video/broadband services are less able to compete with Time Warner Cable, competition in the telecommunications market will also be negatively impacted." RCN Comments in WC Docket No. 08-157 at 1; *see also* Time Warner Reply in WC Docket No. 08-157 at 1. We find that RCN's comments in the Wireline Competition Bureau docket are adequately addressed by our treatment of the petition RCN filed in the Media Bureau docket. *See, e.g., infra* paras. 20-21.

[70] RCN Petition at 5-6.

[71] *Id.* at 7.

[72] *Id.* at 6.

17. As a remedy to this potential harm, DISH and RCN propose that the Commission condition its approval of the transaction on continued application of the program access rules post-separation.[73] Further, DISH asks the Commission to apply program access rules to Time Warner until arms-length contracts are entered into with TWC for carriage of Time Warner's programming.[74] DISH reasons that such a condition is appropriate because the existing programming agreements between TWC and Time Warner were executed while the companies were affiliated, and the companies "require time to develop independent corporate identities."[75] RCN expresses similar concerns and asks the Commission to condition our approval on the continued application of the program access rules for six years after consummation.[76]

18. The Applicants oppose such conditions, asserting that the transaction is consistent with all applicable laws and does not present any competitive concerns.[77] The Applicants maintain that the transaction could not diminish competition because it does not involve the combination of assets or any acquisitions of new assets by Time Warner or TWC. The Applicants also claim that the Commission lacks the statutory authority to impose its program access rules on Time Warner programming networks post-separation, because the 1992 Cable Act and its legislative history make clear that the rules apply only to affiliated programming networks.[78] Therefore, the Applicants conclude that post-separation, Time Warner's programming networks will no longer be subject to the program access rules.[79] Furthermore, the Applicants contend that there is no economic justification for the Commission to apply the rules post-transaction because Time Warner will no longer be vertically integrated.[80]

19. NAIN raises concerns that if the nondiscrimination provision of the program carriage rules no longer applies to TWC post-separation, TWC will exploit this opportunity to favor Time Warner programming.[81] NAIN urges the Commission to enforce its program carriage rules as long as there is a risk that the harms these rules seek to address will arise.[82] WealthTV contends that the programming contracts between Time Warner and TWC that will remain in effect post-separation will inherently reflect TWC's and Time Warner's prior vertical integration.[83] Accordingly, NAIN and WealthTV ask the Commission to continue to treat Time Warner and TWC as affiliated for program carriage purposes for five years after the close of the transaction.[84] The Applicants claim a condition is unnecessary, pointing out that even if TWC has an incentive to favor Time Warner pre-separation, TWC's fiduciary duties to its shareholders will erase that incentive post-separation.[85]

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[73] RCN Petition at 8; DISH Comments at 3.

[74] DISH Comments at 1-2.

[75] *Id.* at 2.

[76] RCN Petition at 2-3, 11.

[77] Applicants' Reply at 2.

[78] *Id.* at 10.

[79] *Id.* at 10-11.

[80] *Id.* at 11.

[81] NAIN Reply at 2-3.

[82] *Id.* at 3; *see* 47 U.S.C. § 536.

[83] WealthTV Reply at 1.

[84] NAIN Reply at 2; WealthTV Reply at 1.

[85] Letter from Arthur H. Harding, Fleischman and Harding LLP, Counsel for TWC, to Marlene H. Dortch, Secretary, FCC (Aug. 28, 2008) at 2 ("TWC Aug. 28, 2008 Ex Parte").

20. *Discussion.* We agree with the Applicants that the separation of Time Warner, a major supplier of national and regional programming, and TWC, the second largest cable operator, is likely to benefit the public interest. The transaction will lessen the extent to which TWC is vertically integrated with program providers and will eliminate the vertical integration of Time Warner by separating it from TWC.[86] The Commission has made plain its concerns with vertical integration of content providers and cable operators, including concerns that affiliated entities may disfavor competing cable operators with respect to program access and competing programmers with respect to program carriage.[87] The potential harms created by the type of integration that is being *undone* here are precisely the harms that we seek to remedy by the Commission's program access and program carriage rules. Moreover, Time Warner contends that separating the Time Warner media content businesses from the TWC content delivery platform will place both companies in a better position to improve the number and quality of products and services they provide to the public.[88] Based on the record before us, we agree. For both of these reasons, we believe that this separation should allow for increased competition in the video programming marketplace, to the ultimate benefit of consumers.

21. We do not find it necessary to adopt a condition applying the program access or program carriage rules, as commenters suggest.[89] The statutory provisions reflect Congress' concern that programming vendors and affiliated cable operators and other MVPDs may have an incentive and ability to discriminate in favor of each other. After Time Warner and TWC separate, that underlying premise no longer applies. Neither RCN nor any other commenter has provided any evidence to dispute Time Warner's assertions that the transaction will separate TWC from Time Warner and that the parties will not be affiliated or have attributable interests in each other after consummation of the transaction.[90] And the record does not indicate that, after the Applicants' separation, either firm will be able to exert significant influence over the core operations of the other. Although Time Warner and TWC will have shareholders in common, there will be no overlap of officers or directors. The mere fact that TWC and Time Warner's stock will be widely held by common shareholders, without more, does not lead us to find that the firms should be deemed affiliated, as this fact does not provide evidence that either firm will have the potential for significant influence in the other.[91] Absent such evidence, and the commenters have presented none, there is no reason to believe either firm will have the incentive to favor the other. We therefore conclude

[86] We also disagree with RCN's argument that Time Warner's public interest statement inadequately describes how a separation between media content and delivery businesses will ultimately benefit consumers. RCN Petition at 4-5. The Application, along with the evidence submitted in the record, provided sufficient information that adequately describes the transaction and enables the Commission to act on the assignment and transfer of licenses request.

[87] *See Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Development of Competition and Diversity in Video Programming Distribution: Section 628(C)(5) of the Communications Act: Sunset of Exclusive Prohibition, Renewal of the Commission's Program Access Rules and Examination of Programming Tying Arrangements, Report and Order and Notice of Proposed Rulemaking,* 22 FCC Rcd 17791, 17835, ¶ 63 (2007) ("*2007 Program Access Order and NPRM*"); *Program Carriage Order*, 9 FCC Rcd at 2643, ¶ 2.

[88] Application, Exhibit B-2, at 3-4; Applicants' Reply at 6. *See also* discussion at *supra* para. 8.

[89] *See* RCN Petition at 7; DISH Comments at 2; NAIN Reply at 2; WealthTV Reply at 1.

[90] Further, based on our review of the ancillary and other agreements that will continue to exist between TWC and Time Warner after separation, we see no evidence in the record that the firms will continue to have attributable interests or other connections conferring significant ability to influence each other such that they would warrant a finding of attribution.

[91] Thus, this transaction is distinguishable from *Liberty Media-DIRECTV* where a common shareholder had a controlling interest and served as the chairman of the board of directors of two competing entities. In addition, there was other evidence that the two firms had the potential to significantly influence each other, including, for example, other overlapping directors. To address these competitive concerns, the Commission required that all attributable interests connecting the two firms be severed. *See Liberty Media/ DIRECTV Order*, 23 FCC Rcd at 3284-3294, ¶¶ 41-63.

that after Time Warner and TWC separate, neither will have the incentive to favor the other or discriminate against the other's rivals.[92] We note, however, that if an MVPD believes that Time Warner or TWC violated the program access or program carriage rules while they were vertically integrated, the program access and program carriage complaint provisions provide an avenue for relief.[93]

C. Resolution of Carriage Complaints

22. NAIN and WealthTV contend that the Commission should resolve two pending program carriage complaints pending against TWC prior to taking any action on the Application, so as to foreclose Time Warner from "evad[ing] any remedial obligations that flow from these pending complaints."[94] In response, TWC states the Commission has previously held that it is best to resolve pending rule violations in the adjudicative proceedings in which the allegations were raised, because the Commission has a complete record to review.[95] Moreover, TWC argues that because it will remain subject to the program carriage rules post-transaction, those complaints can be resolved with respect to TWC without undue delay in acting on the Application.[96]

23. The Commission has previously stated that the most appropriate forum to address an alleged rule violation is in the proceeding in which the allegations were raised.[97] Moreover, the Commission has held that it will impose conditions only to remedy harms that arise from the transaction (*i.e.*, transaction-specific harms).[98] The commenters have not provided any reason why we should deviate from previous Commission decisions. Post-divestiture, TWC will continue to be subject to the program carriage rules with respect to the resolution of pending complaints. Thus, it is unnecessary to delay

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[92] Therefore, we are not adopting RCN's suggestion that we impose a condition for six years to all program carriage agreements between Time Warner and TWC or WealthTV's proposal that we consider Time Warner and TWC to be vertically integrated for the duration of the existing contracts and renewals thereof, or for a period of five years, whichever is greater. *See* RCN Petition at 2-3, 11; WealthTV Reply at 1.

[93] 47 C.F.R. §§ 76.1003(g), 76.1302. Provided that an MVPD or programming vendor submits a complaint within the period specified by the Commission's program access or program carriage complaint provisions, the MVPD or programmer can obtain remedies for violations of the program access and program carriage rules even after this transaction closes (including, for example, violations relating to the HBO/Turner Programming Agreements and the modifications thereto referenced in the Separation Agreement). *See Liberty Media-DIRECTV Order*, 23 FCC Rcd at 3325, ¶ 126 *and* n.417.

[94] NAIN Reply at 7 (citing *Applications for Consent to the Transfer of Control of Licenses XM Satellite Radio Holdings Inc., Transferor To Sirius Satellite Radio Inc., Transferee*, MB Docket 07-57, Memorandum Opinion and Order and Report and Order, 23 FCC Rcd 12348 (2008) as precedent ("*XM/Sirius Order*")); WealthTV Reply at 2.

[95] TWC Aug. 28, 2008 Ex Parte at 3 (citing *EchoStar-DIRECTV HDO*, 17 FCC Rcd at 20578, ¶ 33 *and Adelphia Order*, 21 FCC Rcd at 8306, ¶ 240).

[96] *Id.*

[97] *See, e.g.*, *News Corp.-Hughes Order*, 19 FCC Rcd at 607, ¶ 309 (license transfer review is not the proper forum to address broadcaster's complaint); *Applications of Cellco Partnership d/b/a/ Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer of Control*, WT Docket No. 08-95, Memorandum Opinion and Order and Declaratory Ruling, FCC 08-258, ¶ 185 (rel. Nov. 10, 2008) (transaction-related harms alleged in transfer of control proceeding are more appropriately addressed in the rulemaking docket).

[98] *Liberty Media-DIRECTV Order*, 23 FCC Rcd at 3279, ¶ 26; *see also Applications of Nextel Communications, Inc. and Sprint Corporation*, 20 FCC Rcd 13967, 13978-79, ¶ 23 (2005); *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corp. for Consent to Transfer Control of Licenses and Authorizations*, 19 FCC Rcd 21522, 21545-46, ¶ 43 (2004); *News Corp.-Hughes Order*, 19 FCC Rcd at 534, ¶ 131; *Applications for Consent to the Transfer of Control of Licenses from Comcast Corporation and AT&T Corp., Transferors, to AT&T Comcast Corporation, Transferee*, 17 FCC Rcd 23246, 23302, ¶ 140 (2002); *Applications for Consent to the Transfer of Control of Licenses and Authorizations by Time Warner, Inc. and America Online, Inc. to AOL Time Warner Inc.*, 16 FCC Rcd 6547, 6550, ¶¶ 5-6 (2001).

resolution of this matter in order to conclude these proceedings since they are not specific to this transaction.[99]

D. The Adelphia Conditions

24. DISH asserts that the program access conditions adopted in the *Adelphia Order* concerning Time Warner's Regional Sports Networks (RSNs) should continue to apply to Time Warner and any RSNs acquired post-transaction.[100] DISH contends that Time Warner, including its current and future RSNs, should continue to be subject to the *Adelphia* conditions[101] until they sunset in 2012 or until the Applicants successfully petition for reconsideration.[102] The Applicants respond that the conditions adopted in the *Adelphia Order* are inapplicable to Time Warner post-divestiture because the conditions apply only to "*Time Warner Cable, and its subsidiaries, affiliates, parents, successors, and assigns.*"[103] Stating that Time Warner will no longer have any ownership interest in TWC, the Applicants argue that the conditions are inapplicable to Time Warner.[104] Additionally, the Applicants argue that, post-divestiture, the competitive concerns underlying the *Adelphia* conditions will no longer exist because the conditions were motivated by the vertical integration of RSNs with geographically concentrated cable systems.[105]

25. In the *Adelphia* transaction, the Commission conditioned the approval of Comcast's and Time Warner's swaps of cable systems and acquisition of Adelphia's cable systems, adopting arbitration and program access conditions with respect to Time Warner's current and future RSNs.[106] The Commission found that an MVPD's ability to compete effectively with an incumbent cable operator is significantly harmed if it is denied access to "must have" vertically integrated programming, for which there is no good substitute.[107] In the *Adelphia Order*, the Commission stated that, "the basis for the lack of adequate substitutes for regional sports programming lies in the unique nature of its core component: RSNs typically purchase exclusive rights to show sporting events, and sports fans believe that there is no good substitute for watching their local and/or favorite team play an important game."[108] Thus, the Commission reasoned, an MVPD's ability to gain access to RSNs and the price and other terms of conditions of access can be important factors in its ability to compete with rivals.[109] Accordingly, in

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[99] *See Adelphia Order*, 21 FCC Rcd at 8288, ¶ 192. The Commission's decision in XM/Sirius to resolve pending enforcement issues concurrently with the transfer of control application was based on the systemic nature of the allegations, which raised potential licensee qualification issues of both Applicants. *XM/Sirius Order*, 23 FCC Rcd at 12423-12426, ¶¶ 164-173; *see* NAIN Reply at 7-8 *and* WealthTV Reply at 3. The commenters did not raise qualification issues, nor is there evidence that the pending carriage complaints rise to that level.

[100] *See* DISH Comments at 2-3.

[101] *Adelphia Order*, 21 FCC Rcd at 8336-39, App. B (Remedies and Conditions).

[102] DISH Comments at 3. DISH also argues that TWC should continue to be considered a vertically integrated media company subject to the *Adelphia* conditions post-separation. DISH Comments at 2.

[103] Applicants' Reply at 15.

[104] *Id.* As noted below, the Applicants concede that TWC will continue to be vertically integrated after the transaction and will therefore continue to be subject to the *Adelphia* conditions. *See infra* para. 26; Applicants' Reply at 17.

[105] Applicants' Reply at 15-16.

[106] *Adelphia Order*, 21 FCC Rcd at 8274, ¶ 156.

[107] *Id.* at 8227, ¶ 42 (*citing 2002 Program Access Order*, 17 FCC Rcd at 12156 ¶ 69; *see also 2007 Program Access Order and NPRM*, 22 FCC Rcd at 17819-17820, ¶ 41.

[108] *Id.* at 8258-59, ¶ 124.

[109] *Id.* at 8259, ¶ 124.

Adelphia, to counteract potential harms whereby Time Warner could raise the price of access to RSNs, resulting in "increased retail rates and fewer choices for consumers seeking competitive alternatives to ... Time Warner," the Commission adopted arbitration conditions, as well as modified program access conditions that would apply to Time Warner's satellite- and terrestrially-delivered RSNs.[110] Under these conditions, MVPDs that fail to reach mutually acceptable terms with Time Warner's RSNs for first-time carriage or for renewal of an expired agreement may submit a dispute to commercial arbitration. In addition, the Commission required Time Warner's RSNs to comply with the program access rules, regardless of the means of delivery (i.e., whether the RSNs are delivered to the cable headend via satellite or terrestrial facilities).[111]

26. *Discussion.* As an initial matter, we note—and the Applicants concede—that the *Adelphia* conditions will continue to apply to TWC post-restructuring.[112] Thus, TWC's competitors will continue to have access to the RSNs at issue in *Adelphia* under the terms and conditions set forth in that Order. We do agree with Time Warner, however, that post-divestiture, the *Adelphia* program access conditions, by their own terms, will no longer apply to Time Warner.[113] Time Warner will no longer be the parent, or an affiliate, of TWC.

E. Adult Programming

27. The Commission received approximately two thousand brief comments from individuals and groups generally arguing that it should condition its grant of the Application on TWC's removal of all adult pay-per-view programming from its service offerings. We decline to adopt such a condition.

28. Commission rules do not forbid the airing of sexually explicit programming on subscription video services, unless the material is deemed obscene. No commenter has submitted factual evidence demonstrating that the material at issue is obscene sufficient to constitute a *prima facie* case, or filed a petition to deny on the basis of obscenity that would meet the criteria applicable to petitions to deny.[114] Nor has any commenter alleged that the adult pay-per-view programming at issue is obscene or subject to Title 18, Section 1464 of the United States Code, which prohibits obscene programming.[115] Moreover, commenters have not alleged any legal basis on which the Commission could impose a condition prohibiting the distribution of adult-oriented programming on TWC's cable systems and there is no contention that any statute or rule has been violated. Finally, as explained above, the Commission's public interest authority enables it to impose and enforce narrowly tailored, transaction-specific conditions that ensure that the public interest is served by the transaction.[116] This issue is not transaction-specific and accordingly our review of the proposed transaction is not the appropriate forum to request

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[110] *Id.* at 8258, 8276, ¶¶ 123, 162.

[111] Terrestrially delivered programming would not otherwise have been subject to the program access rules. *See Adelphia Order*, 21 FCC Rcd at 8276, ¶ 162; 47 C.F.R. § 76.1001.

[112] Applicants' Reply at 17. Although the *Adelphia Order* imposed additional conditions, the record in this proceeding addresses only the program access condition. *See Adelphia Order*, 21 FCC Rcd at 8253-54, ¶¶ 108-110 (discussing leased access condition), *id.* at 8287-88, ¶¶ 190-191 (discussing program carriage condition); *but see Comcast Corporation Petition for Declaratory Ruling That The America Channel is Not a Regional Sports Network*, 22 FCC Rcd 17938, 17946-47, ¶ 24 (suspending the *Adelphia* program carriage condition).

[113] *Adelphia Order*, 21 FCC Rcd at 8336-39, App. B.

[114] *See* 47 U.S.C. § 309(d)(1); 47 C.F.R. §§ 1.45, 1.939.

[115] 18 U.S.C. § 1464; *see also* 47 U.S.C. § 559 ("[w]hoever transmits over any cable system any matter which is obscene or otherwise unprotected by the Constitution of the United States shall be fined under Title 18 or imprisoned not more than 2 years, or both").

[116] *See supra* para. 13.

such a condition.[117]

III. PROCEDURAL MATTERS

29. On January 28, 2009, TWC notified the Commission that, on December 31, 2008, some of TWC's subsidiaries that hold Commission licenses and authorizations involved in this transaction were merged into their respective corporate parents or dissolved, resulting in a consummated assignment of those Commission licenses and authorizations ("Roll-Up Assignments").[118] Although the Applicants sought authority to assign the Roll-Up Assignments as part of the Application, the Roll-Up Assignments were consummated without prior Commission consent.[119] In this Order, we grant the Application without prejudice to any enforcement action by the Commission for non-compliance with the Communications Act of 1934,[120] as amended, or the Commission's rules.[121]

IV. ORDERING CLAUSES

30. Accordingly, having reviewed the applications and the record in this matter, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), 214, 303(r), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 214, 303(r), 309, 310(d), that this *Memorandum Opinion and Order* IS ADOPTED, and that the Application for Authority to Transfer Control and/or Assignment of various Commission licenses and authorizations held by subsidiaries of Time Warner Inc., as detailed in Appendix A, to Time Warner Cable Inc., and its subsidiaries (collectively "Time Warner Cable"), IS GRANTED, subject to the terms discussed herein, without prejudice to any enforcement action by the Commission for non-compliance with the Communications Act of 1934, as amended, or the Commission's rules.

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[117] Concerns about sexually explicit adult programming on subscription video services are more appropriately resolved in a rulemaking proceeding.

[118] Letter from John R. Wilner, Bryan Cave, Counsel for Time Warner Cable Inc., to Marlene H. Dortch, Secretary, FCC (Jan. 28, 2009) at 2 ("TWC Jan. 28, 2009 Ex Parte"). We note that TWC alleges that these license assignments do not result in a change in ultimate control of the licensee and therefore constitute pro forma assignments pursuant to the Commission's rules. *Id.* TWC states that the following licenses were involved in the Roll-Up Assignments (File No. / Licensee / Call Sign): *CARS* – 20080701CY-08 / C-Native Exchange III, LLC / KA-80623; 20080701CZ-08 / C-Native Exchange III, LLC / WGV-990; 20080701DB-08 / C-Native Exchange III, LLC / WLY-812; 20080701DC-08 / C-Native Exchange III, LLC / WLY-815; 20080701DD-08 / C-Native Exchange III, LLC / WLY-816; 20080701DE-08 / C-Native Exchange III, LLC / WLY-817; 20080701DG-08 / KCCP Trust / KD-55034; 20080701DF-08 / Staten Island Cable, LLC / WHZ-455. *Earth Station* – SES-ASG-20080616-00781 / KCCP Trust dba Time Warner Cable / E040257, E020130. *Land Mobile* – 0003469667 / CAP Exchange I, LLC /KFM729, KNFB326, KNJH360, WNAU571, WNNQ605, WYQ717; 0003469675 / CAT Holdings, LLC / KRU795; 0003469684 / C-Native Exchange III, L.P. / WNYE223; 0003469688 / Staten Island Cable, LLC / WPOB447. *See also* Letter from John R. Wilner, Bryan Cave, Counsel for Time Warner Cable Inc., to Marlene H. Dortch, Secretary, FCC (Feb. 4, 2009) at 2 (removing CARS license WHZ-677 from list of Roll-Up Assignments).

[119] *See id.*; *see also* 47 C.F.R. § 78.35(a); 47 C.F.R. § 1.948; 47 C.F.R. § 25.119. We note that TWC argues that the assignment of certain private land mobile radio licenses in the Roll-Up Assignments was permissible under Section 90.159(c) of the Commission's Rules, 47 C.F.R. § 90.159(c). TWC Jan. 28, 2009 Ex Parte at 3, n.2.

[120] 47 U.S.C. § 310(d).

[121] We do not grant the Roll-Up Assignments *nunc pro tunc*. *See* TWC Jan. 28, 2009 Ex Parte at 3. *See also Applications of Satamatics, Inc., Satamatics Worldwide Limited, and Satamatics Global Limited for Consent to Transfer Control of Licenses and Authorizations and Petition for Declaratory Ruling on Foreign Ownership*, Public Notice, DA 07-3472 (IB rel. July 30, 2007) at 4; *BCE Inc. and Loral Skynet Corporation, Transferors/Assignors, and 4363205 Canada Inc., 4363213 Canada Inc., and Skynet Satellite Corporation, Transferees/Assignees, For Consent to Transfer of Control or Assignment of Licenses and Authorizations held by Telesat Canada, Able Infosat Communications, Inc., Loral Skynet Corporation, and Loral Skynet Network Services, Inc., and Petitions for Declaratory Ruling that the Transaction Is Consistent with Section 310(b)(4) of the Communications Act*, IB Docket No. 07-44, Memorandum Opinion and Order and Declaratory Ruling, 22 FCC Rcd 18049, 18060, para. 33 (2007).

31. IT IS FURTHER ORDERED that pursuant to the authority granted by sections 1, 4(i), 4(j), and 214 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), and 214, and pursuant to the authority delegated in section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, the domestic section 214 application for consent to a transfer of control of Time Warner Cable, Inc., referenced in Appendix B, IS GRANTED.

32. IT IS FURTHER ORDERED that the above grants shall include authority for Time Warner Cable, consistent with the terms of this Order, to acquire control of (a) any license or authorization for any system that is part of these transactions issued during the Commission's consideration of the Applications or the period required for consummation of the transactions, (b) construction permits held by such systems that mature into licenses after closing, (c) any license or authorization issued pursuant to applications filed by such systems that are pending at the time of consummation of the transfers of control or assignments, and (d) licenses or authorizations that are held by such systems that may have been inadvertently omitted from the Applications.

33. IT IS FURTHER ORDERED that pursuant to sections 4(i), 4(j), and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 310(d), the "Petition to Condition Consent or Deny Application" filed by RCN Corporation IS DENIED.

34. This action is taken pursuant to delegated authority under Sections 0.204, 0.261, 0.283, 0.291, and 0.331, of the Commission's Rules, 47 C.F.R. §§ 0.204, 0.261, 0.283, 0.291, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Monica Shah Desai
Chief, Media Bureau

Julie A. Veach
Deputy Chief, Wireline Competition Bureau

James D. Schlichting
Acting Chief, Wireless Telecommunications Bureau

John V. Giusti
Acting Chief, International Bureau

APPENDIX A

Licenses and Authorizations

The application filed by Time Warner Inc.'s subsidiaries includes Commission authorizations and licenses listed below. They are separated by the type of authorization or license, and, within each category, listed by licensee name, application or ULS or IBFS file number, call sign or lead call sign (for ULS filings), and/or other service-specific information, as appropriate. Interested parties should refer to the applications for a more detailed listing of the authorizations or licenses. Each of the Applicants' subsidiaries or affiliates may hold multiple authorizations or licenses of a particular type.

Part 78 – Cable Television Relay Service (CARS)

File No.	Licensee	Call Sign
20080701AA-09	NY1 News	KD-55028
20080701AB-09	Time Warner Entertainment Co. LP	WAE-470
20080701AC-09	Time Warner Entertainment Co. LP	WAE-478
20080701AD-09	Sun Cablevision	WAV-644
20080701AE-09	Time Warner Entertainment Co. LP	WAX-743
20080701AF-09	Time Warner Entertainment Co. LP	WBK-510
20080701AG-09	Time Warner Entertainment Co. LP	WBM-742
20080701AH-09	Time Warner Entertainment Co. LP	WBM-744
20080701AJ-09	Time Warner Entertainment Co. LP	WLY-376
20080701AK-09	Time Warner Entertainment Co. LP	WLY-402
20080701AL-09	Oceanic Cablevision	WLY-415
20080701AM-09	Time Warner Entertainment Co. LP	WLY-678
20080701AN-09	Oceanic Cablevision	WLY-683
20080701AO-09	Oceanic Cablevision	WLY-684
20080701AP-09	Time Warner Entertainment Co. LP	WLY-685
20080701AQ-09	Time Warner Entertainment Co. LP	WLY-713
20080701AR-09	Time Warner NY Cable, LLC	KB-60101
20080701AS-09	Time Warner NY Cable, LLC	KD-55007
20080701AU-09	Time Warner NY Cable, LLC	WAD-626
20080701AV-09	Pullman TV Cable Co., Inc., Debtor-in-Possession	WAE-605
20080701AW-09	Pullman TV Cable Co., Inc., Debtor-in-Possession	WAE-606
20080701AX-09	Yuma Cablevision, Inc., Debtor-in-Possession	WAJ-458
20080701AY-09	Time Warner NY Cable, LLC	WLY-609
20080701AZ-09	Time Warner NY Cable, LLC	WAX-28
20080701BA-09	Highland Carlsbad Operating Subsidiary, Inc.	WGV-957
20080701BC-09	Time Warner NY Cable, LLC	WGZ-335
20080701BD-09	Frontiervision Operating Partners, L.P., Debtor-in-Possession	WGZ-433
20080701BF-09	Southwest Colorado Cable, In.c, Debtor-in-Possession	WHZ-293
20080701BG-09	Southwest Colorado Cable, In.c, Debtor-in-Possession	WHZ-301
20080701BH-09	Frontiervision Operating Partners, L.P., Debtor-in-Possession	WHZ-446
20080701BJ-09	Century-TCI California, L.P., Debtor-in-Possession	WLY-269
20080701BL-09	Time Warner NY Cable, LLC	WLY-662
20080701BM-09	Time Warner NY Cable, LLC	WLY-807
20080701BN-09	Time Warner NY Cable, LLC	WLY-809
20080701BO-09	Time Warner NY Cable, LLC	WLY-852
20080701BP-09	Time Warner NY Cable, LLC	WSJ-903
20080701BQ-09	Time Warner Cable LLC	WGZ-435

File No.	Licensee	Call Sign
20080701BR-09	Time Warner Cable of Southeaster Wisconsin, LP	WLY-745
20080701BS-09	Time Warner Entertainment - Advance/Newhouse Partnership	KB-60127
20080701BT-09	Time Warner Entertainment - Advance/Newhouse Partnership	KD-55003
20080701BU-09	Time Warner Entertainment - Advance/Newhouse Partnership	KD-55017
20080701BV-09	Time Warner Entertainment - Advance/Newhouse Partnership	KD-55024
20080701BW-09	Time Warner Entertainment - Advance/Newhouse Partnership	KD-55026
20080701BX-09	Time Warner Entertainment - Advance/Newhouse Partnership	KD-55027
20080701BY-09	Time Warner Entertainment - Advance/Newhouse Partnership	KD-55031
20080701BZ-09	Time Warner Entertainment - Advance/Newhouse Partnership	KYX-61
20080701CA-09	Time Warner Entertainment - Advance/Newhouse Partnership	KYX62
20080701CB-09	Time Warner Entertainment - Advance/Newhouse Partnership	WAF-861
20080701CC-09	Time Warner Entertainment - Advance/Newhouse Partnership	WBF-574
20080701CD-09	Time Warner Entertainment - Advance/Newhouse Partnership	WGI-757
20080701CE-09	Time Warner Entertainment - Advance/Newhouse Partnership	WGZ-450
20080701CF-09	Time Warner Entertainment - Advance/Newhouse Partnership	WGZ-452
20080701CG-09	Time Warner Entertainment - Advance/Newhouse Partnership	WGZ-464
20080701CH-09	Time Warner Entertainment - Advance/Newhouse Partnership	WHZ-339
20080701CI-09	Time Warner Entertainment - Advance/Newhouse Partnership	WHZ-548
20080701CJ-09	Time Warner Entertainment - Advance/Newhouse Partnership	WHZ-780
20080701CL-09	Time Warner Entertainment - Advance/Newhouse Partnership	WLY-235
20080701CM-09	Time Warner Entertainment - Advance/Newhouse Partnership	WLY-306
20080701CN-09	Time Warner Entertainment - Advance/Newhouse Partnership	WLY-449
20080701CO-09	Time Warner Entertainment - Advance/Newhouse Partnership	WLY-451
20080701CP-09	Time Warner Entertainment - Advance/Newhouse Partnership	WLY-786
20080701CQ-09	Time Warner Entertainment - Advance/Newhouse Partnership	WLY-787
20080701CR-09	Time Warner Entertainment - Advance/Newhouse Partnership	WLY-788
20080701CS-09	Time Warner Entertainment - Advance/Newhouse Partnership	WLY-843
20080701CT-09	Time Warner Entertainment - Advance/Newhouse Partnership	WGZ-451
20080701CU-08	CAC Exchange I LLC	WHZ-879
20080701CV-08	CAC Exchange I LLC	WHZ-880
20080701CW-08	CAC Exchange I LLC	WHZ-886
20080701CX-08	C-Native Exchange I, LLC	WLY-893
20080701CY-08	C-Native Exchange III, LLC	KA-80623
20080701CZ-08	C-Native Exchange III, LLC	WGV-990
20080701DB-08	C-Native Exchange III, LLC	WLY-812
20080701DC-08	C-Native Exchange III, LLC	WLY-815
20080701DD-08	C-Native Exchange III, LLC	WLY-816
20080701DE-08	C-Native Exchange III, LLC	WLY-817
20080701DG-08	KCCP Trust	KD-55034
20080701DF-08	Staten Island Cable, LLC	WHZ-455

Part 25 – Earth Station Licenses

File Nos.	Licensee	Call Signs
SES-ASG-20080616-00781	KCCP Trust dba Time Warner Cable	E040257 E020130
SES-T/C-20080616-00782	Time Warner Entertainment Company, L.P.	E010308 E030142
SES-T/C-20080616-00783	Time Warner Entertainment-Advance/Newhouse Partnership	E020046 E040258

File Nos.	Licensee	Call Signs
		E020012
		E020045
		E050260
		E990041
		E050253
		E020162
		E040450
		E930422
		E4063
		E930421
SES-T/C-20080611-00756	Home Box Office, Inc.	E910207

Parts 90 and 101 – Wireless Licenses

File No.	Licensee	Call Sign
0003467890	Time Warner Cable LLC	KBE579
		KFI554
		KXL770
		KYD420
		KZG687
		WNZV590
		WPKX512
		WPOD376
		WPPT945
		WPRJ821
		WPXN359
		WYW409
0003467964	Time Warner Cable of Maine, L.P.	WPMF361
		WPRJ819
0003468012	Time Warner Entertainment Co., L.P.	KCG802
		KD51495
		KKY765
		KMM421
		KNCT853
		KNGZ955
		KRK440
		KTC582
		KUB374
		KWE967
		KWI239
		KXI775
		KZA314
		KZM402
		KZS468
		WAJ419
		WNBH251
		WNDG716
		WNQJ943
		WNWE827
		WPGQ804
		WPMD511
		WPPS493

File No.	Licensee	Call Sign
		WPRT915 WPUQ862 WQGJ785 WRJ898 WSI431
0003468103	Warner Bros. Studios Facilities, a division of WB Studio Enterprises Inc.	KC7450 KD28151 WPLD733 WPXB369
0003468173	Warner Bros. Studios Facilities, a division of WB Studio Enterprises Inc.	WQCE400
0003468183	Home Box Office, Inc.	KB51583 WPDV459 WPLP425 WPLY449 WQDP537
0003468228	TWFanch-one Co.	WPYX606
0003468235	Time Warner Cable of Southeastern Wisconsin, L.P.	WQGH689
0003468245	Time Warner NY Cable LLC	KBL655 KEY243 KDV713 KNEP681 KNEP792 KNEW327 KNFK741 KNHB711 KST750 KVE273 KVH831 KVP226 KXO480 KYA708 KYT511 KZL214 WNJQ722 WNJQ723 WNKN324 WNKS662 WNKW791 WNMD682 WNSG819 WNTM202 WNTP502 WNTP503 WNTZ483 WPAA343 WPAJ330 WPCI360 WPCZ429

File No.	Licensee	Call Sign
		WPHV911
		WPJD443
		WPJD444
		WPJF315
		WPNA608
		WPNB364
		WPNC608
		WPNI666
		WPNJ491
		WPNJ860
		WPOT691
		WPOU242
		WPQR366
		WPUJ297
		WQCW526
		WRW654
		WSV238
0003468319	Time Warner Entertainment - Advance/Newhouse Partnership	KEU343
		KFC257
		KGG771
		KJO371
		KKO393
		KLE540
		KLG713
		KNAA980
		KNAG471
		KNAO831
		KNCQ213
		KNDJ878
		KNEM219
		KNFH709
		KNFS485
		KNFX911
		KNGD681
		KNGQ432
		KNGQ592
		KNHG678
		KNHV455
		KNNP318
		KP3939
		KQQ669
		KRE807
		KRU568
		KSP492
		KST683
		KSX886
		KTB466
		KTK417
		KTT329
		KUM850
		KVI746
		KVI925
		KXO253
		KXU777
		KXW245

File No.	Licensee	Call Sign
		KXW246
		KYB324
		KZM401
		KZW413
		WAN551
		WDY834
		WNBD741
		WNBT764
		WNDF692
		WNEW367
		WNEW368
		WNEW370
		WNHR511
		WNLI265
		WNMR964
		WNMS621
		WNMS967
		WNQK499
		WNTB802
		WNZF562
		WPAC931
		WPDM936
		WPFE250
		WPFV417
		WPFZ212
		WPGS403
		WPHM787
		WPJT583
		WPLI586
		WPLL555
		WPMQ877
		WPPN885
		WPPT340
		WPVQ709
		WPVR884
		WPWE580
		WQAS388
		WQCH652
		WQDW614
		WQT492
		WRN321
		WRS860
		WSY900
		WXC411
		WXF579
		WXQ208
		WYJ530
		WYK776
		WZH437
0003468351	Erie Telecommunications Inc.	KNCA620

File No.	Licensee	Call Sign
0003469667	CAP Exchange I, LLC	KFM729 KNFB326 KNJH360 WNAU571 WNNQ605 WYQ717
0003469675	CAT Holdings, LLC	KRU795
0003469680	C-Native Exchange I, LLC	WSU819
0003469684	C-Native Exchange III, L.P.	WNYE223
0003469688	Staten Island Cable, LLC	WPOB447
0003469693	Warner Bros. Studios Facilities, a division of WB Studio Enterprises Inc.	WPSE434
0003469796	Time Warner Entertainment Company, LP	WNWE827
0003494827	Time Warner NY Cable LLC	WAT979 WAT980 WAT982 WAU277 WBA757 WBA758 WBA759 WBA760 WBA868 WBA869 WBA979 WBB360 WCG255 WCU212 WLN795 WMJ750 WPNJ386
0003494842	Time Warner Cable LLC	KAY61 KCM71 KCM72 KCM73 KCM74 KCM75 KOC70 KPR32 KPR33 KPZ25 KYC43 KYC44 KYC45 KZS97 WAH469 WAN96 WBB351 WBB352

File No.	Licensee	Call Sign
		WBO58
		WBO60
		WCG290
		WCG291
		WDU371
		WDU487
		WHA531
		WHA532
		WHC954
		WHC955
		WHO382
		WLB832
		WLC250
		WLM267
		WLN481
		WLU282
		WLU363
		WLU364
		WLU649
		WLV612
		WLW657
		WML930
		WMN600
		WMN847
		WMQ559
		WMW651
		WPJD844
		WPNL677
		WPQM209
		WPRU461
		WPRU462
		WPST350

Section 214 Authorization

Part 63 – International Section 214

File No.	Licensee	Authorization Number
ITC-T/C-20080718-000326	TWC Communications, LLC	ITC-214-20030117-00043

APPENDIX B

Section 214 Authorization

Part 63 – Domestic Section 214

Applicants filed a domestic section 214 application for consent to a transfer of control of Time Warner Cable, Inc. from Time Warner Inc., WC Docket No. 08-157.