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December 22, 2011

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Notification of *Ex Parte* Presentation of Time Warner Cable Inc. in 2010 Quadrennial Regulatory Review -- Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 09-182; and Amendment of the Commission's Rules Related to Retransmission Consent, MB Docket No. 10-71

Dear Ms. Dortch:

On December 20, 2011, Cristina Pauzé of Time Warner Cable Inc. ("TWC"), along with Michael Egge and the undersigned, both of Latham & Watkins LLP, met with William Lake, Nancy Murphy, and Steven Broeckaert of the Media Bureau to provide a status report on TWC's expiring retransmission consent agreements and to reiterate previously expressed concerns about collusion by competing broadcast stations in retransmission consent negotiations.

At the meeting, we noted that, as TWC has advised the Commission in the past, broadcast stations are abusing the retransmission consent rules and undermining the public interest by threatening blackouts as a means of extracting unreasonable compensation from video distributors like TWC. We also explained that collusive negotiations by broadcast stations that are parties to local marketing agreements, shared services agreements, and similar arrangements further exacerbate these harms. We argued that ostensibly independent broadcasters are colluding in violation of the antitrust laws,¹ as well as the Commission's good-faith rules and

¹ See *United States v. Texas Television, Inc.*, Civil No. C-96-64, Competitive Impact Statement at 8 (S.D. Tex. Feb. 2, 1996), available at <http://www.justice.gov/atr/cases/texast0.htm> ("Although the 1992 Cable Act gave broadcasters the right to seek compensation for retransmission of their television signals, the antitrust laws require that such rights be exercised *individually* and *independently* by broadcasters.") (emphasis added).

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public interest standard, when they jointly negotiate the sale of retransmission consent to MVPDs. While price fixing is unlawful regardless of its effects, we explained that joint negotiations by competing broadcast stations—especially those affiliated with Big Four networks—have led to significantly increased price demands that far exceed the compensation sought by comparable stations that do not engage in collusive negotiations. We cited the Greenville/New Bern, North Carolina DMA as an example of such harmful price effects, and we noted that multicasting arrangements involving multiple Big Four signals, such as in the Parkersburg, West Virginia DMA, result in the same types of harm.

We urged the Commission to investigate such collusive negotiations, including through its impending media ownership rulemaking, and to take corrective action in the pending retransmission consent rulemaking.

Please contact the undersigned if you have any questions regarding these issues.

Sincerely,

/s/ Matthew A. Brill

Matthew A. Brill
of LATHAM & WATKINS LLP
Counsel for Time Warner Cable Inc.

cc: William Lake
Nancy Murphy
Steven Broeckaert