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April 23, 2012

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

Re: 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; Promoting Diversification of Ownership In the Broadcasting Services, MB Docket No. 07-294; Petition for Finding of Bad Faith Retransmission Consent Negotiations, MB Docket No. 12-15

Dear Ms. Dortch:

On behalf of Time Warner Cable Inc. (“TWC”), I am writing in response to the allegation by Cordillera Communications, Inc. (“Cordillera”) that TWC’s media ownership comments violated the Commission’s *ex parte* rules by alluding to conduct that is also relevant to Cordillera’s pending “good faith” complaint against TWC.¹ Cordillera’s allegation is baseless, because TWC’s media ownership comments were not “directed to the merits or outcome of” the Complaint proceeding and therefore did not constitute an *ex parte* “presentation.”²

Cordillera’s Complaint asserts that TWC violated the good-faith rules based on the course of retransmission consent negotiations between the parties. TWC’s media ownership comments, however, did not mention those negotiations at all, much less address the merits of Cordillera’s claim that TWC negotiated in bad faith by offering compensation that Cordillera considers insufficient. Far from discussing its retransmission consent negotiations with

¹ Reply Comments of Cordillera Communications, Inc., MB Docket Nos. 09-182, 07-294, and 12-15, File No. CSR-8578-C, at 3 (filed Apr. 17, 2012) (“Cordillera Reply Comments”); see Petition for Finding of Bad Faith Retransmission Consent Negotiations, *Time Warner Cable, Petition for Finding of Bad Faith Retransmission Consent Negotiations, KVOA Communications, Inc., KRIS-TV, Corpus Christi, Texas*, MB Docket No. 12-15 (filed Jan. 12, 2012) (“Complaint”).

² 47 C.F.R. § 1.1202(a).

Cordillera, TWC's comments responded to the *Media Ownership NPRM*'s explicit request that parties address the harms associated with broadcaster sharing agreements generally, and their impact on the retransmission consent process in particular.³ It was entirely appropriate for TWC to provide relevant examples of the harmful effects of sharing agreements based on its own experiences.⁴ Contrary to Cordillera's bizarre suggestion that TWC improperly commented on a "private retransmission consent dispute,"⁵ that dispute is not only a matter of public record, but Cordillera has made frequent (indeed, continuous) statements about it through "news" stories broadcast by KRIS-TV and KZTV and via those stations' respective websites.⁶ In any event, by commenting on Cordillera's misuse of its sharing agreement with SagamoreHill in the course of its dispute with TWC, as opposed to discussing whether *TWC* negotiated in bad faith, TWC did not address the merits of Cordillera's Complaint and thus did not make a "presentation" that would require service of the comments on Cordillera (in addition to the public access afforded via the Commission's website).

In seeking to manufacture an *ex parte* violation, Cordillera mischaracterizes the standard set forth in the Commission's rules. Specifically, Cordillera claims that TWC impermissibly commented on "issues raised in MB Docket No. 12-15,"⁷ but Section 1.1202(a) makes clear that a party does not make a "presentation" unless it addresses the *merits or outcome of the*

³ 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; Promoting Diversification of Ownership In the Broadcasting Services, Notice of Proposed Rulemaking, MB Docket Nos. 09-182, 07-294, FCC 11-186, at ¶ 207 (rel. Dec. 22, 2011) ("*Media Ownership NPRM*") (seeking comment on the "impact of [sharing] agreements on ... retransmission consent negotiations"); see also *id.* ¶¶ 200, 204.

⁴ Significantly, Cordillera could not muster a substantive response to TWC's discussion of the collusive behavior of KRIS-TV and KZTV, despite the *Media Ownership NPRM*'s "strong[] encourage[ment]" to "parties to existing [sharing] agreements of all ... types to respond to th[e] request for comment" so that the Commission may "obtain accurate information on how these agreements operate." *Id.* ¶ 208.

⁵ Cordillera Reply Comments at 3 (emphasis added).

⁶ See, e.g., *Time Warner Customers Likely to Miss Super Bowl Coverage on KRIS*, KRIS-TV, Jan. 6, 2012, available at <http://www.kristv.com/news/time-warner-customers-likely-to-miss-super-bowl-coverage-on-kris> (last visited Apr. 21, 2012); *Super Bowl Now Unlikely Over Time Warner Cable Television*, KRIS-TV, Jan. 26, 2012, available at <http://www.kristv.com/timewarner/> (last visited Apr. 21, 2012); Rachel Cole, *Time Warner Customers Switching Providers for Super Bowl Coverage*, KZTV, Jan. 9, 2012, available at <http://www.kztv10.com/news/time-warner-customers-switching-providers/> (last visited Apr. 21, 2012); *Super Bowl Now Unlikely Over Time Warner Cable Television*, KZTV, Jan. 26, 2012, available at <http://www.kztv10.com/timewarner/> (last visited Apr. 21, 2012).

⁷ Cordillera Reply Comments at 4 (emphasis added).

proceeding in question.⁸ Again, because TWC's media ownership comments did not address the merits of Cordillera's allegations of bad faith or call for denying Cordillera's Complaint, TWC plainly did not make a presentation regarding the merits or appropriate outcome of the Complaint proceeding, regardless of any "issues" that may be pertinent to the rulemaking and the Complaint proceeding alike.

Please direct any questions regarding this matter to the undersigned.

Sincerely,

/s/ Matthew A. Brill

Matthew A. Brill
of LATHAM & WATKINS LLP

Counsel for Time Warner Cable Inc.

⁸ 47 C.F.R. § 1.1202(a) (emphasis added).

CERTIFICATE OF SERVICE

I certify that on this 23rd day of April, 2012, I caused the foregoing letter to be served by first-class mail on the following:

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/s/ Matthew A. Brill

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