

Comments of Tower of Babel, LLC regarding the applications of Comcast Corporation, Time Warner Cable, Inc., Charter Communications, Inc., and Spinco to assign and transfer control of FCC licenses and other authorizations

Tower of Babel, LLC, (Crossings TV) is an independent programmer in a particularly relevant position to comment on the proposed merger of Comcast Corporation (Comcast) and Time Warner Cable as it affects the various Asian and Russian-speaking language communities it serves.

As a cable network, Crossings TV is unique. It is the only basic tier, locally focused, in-language Asian oriented channel with a national reach.¹ Crossings TV has won a number of awards for its programming and the work in which it is engaged with its various communities.² It currently serves nearly four million Asian language and Russian-speaking subscribers.³

Crossings TV believes it can share insight on this transaction from two important perspectives. The first is its relative experience with Comcast and Time Warner Cable in serving Crossings TV's in-language Asian and Russian-speaking communities. The second involves Crossings TV's experience with Comcast specifically as an independent channel.

Background

Crossings TV was formed in 2005 by Frank Washington, a former legal assistant to the FCC chairman Charles Ferris (1976 to 1979) and deputy chief of the FCC's Broadcast Bureau (1979 to 1981). In that capacity, Mr. Washington played a major role in such diversity related FCC actions as the creation of the minority tax certificate.

The initiation of the relationship with Comcast, and the creation of Crossings TV, came in negotiating a retransmission agreement for carriage in the Sacramento, California area via an LPTV, Class A station, KBTW. Although LPTV stations have no must carry rights, Comcast realized that the Asian and Russian-speaking language populations were underserved locally and that a basic channel of this nature could be used to attract new subscribers and promote foreign language premium channels where Comcast was meeting significant satellite TV competition.⁴ Indeed, the very inspiration for Crossings TV came from Comcast.

In 2003, the senior Comcast executive (then overseeing Northern California) pointed out to Mr. Washington that there was a large, unserved, television-wise, Russian-speaking population in Sacramento. Upon further investigation, Mr. Washington determined that there was no locally oriented in-language programming offered to a variety of other, mostly Asian language groups. Quite simply, without Comcast there would have been no Crossings TV.

¹ Crossings TV is currently carried in San Francisco, Chicago, New York City, Seattle and the Central Valley of California. Each market is fed separately with a different language mix varying by market. Approximately ten percent of the programming is local. Different languages are featured in time blocks.

² See Attachment A – List of Awards from Community Organizations.

³ See Attachment B – Breakdown of the languages served and subscribers reached by market served.

⁴ In the California Central Valley, Crossings TV carries programming in Hmong, Cantonese, Mandarin, Tagalog (Filipino), various South Asian languages, Vietnamese and Russian. Approximately 10 percent of this is locally focused.

In 2004, Crossings TV approached Comcast in Sacramento, which by then was under different leadership from the executive who had given Mr. Washington the idea. Nevertheless, Comcast quickly grasped what Crossings TV was proposing and advocated that its service be carried throughout the Sacramento-area on a basis several times wider than its over-the-air signal. By mid-2005, an agreement was signed. What is more, Crossings TV approached Comcast a number of months later about also being carried in Stockton. Comcast not only agreed, but suggested that Crossings TV also be distributed throughout the entire Central Valley, including the Fresno-Visalia DMA, the Chico-Redding DMA and the remainder of the Sacramento-Stockton-Modesto DMA. Crossings TV has received significant carriage by Comcast in these areas since 2006.

Crossings TV also coordinates symbiotically with Comcast in cross-promoting its basic cable service. In this regard, Crossings TV has had extensive access to key Comcast marketing and operational staff.⁵

More recently, Crossings TV also recognized how the Comcast “Internet Essentials”⁶ program would be of particular value to the Crossings TV audience and is working closely with Comcast in promoting it to the Asian communities in which it is carried. Based in part on all these factors, Comcast in 2012 agreed to carry Crossings TV in the additional markets of the San Francisco Bay Area, Seattle, and Chicago, all markets with high Asian populations.⁷

Crossings TV’s relationship with Time Warner Cable began in 2008 in New York City. Carriage was achieved relying on the same approach as with Comcast. Crossings TV proposed serving Asian and Russian language speakers in that market via in-language programming with a local orientation, while cross-promoting the Time Warner Cable products.⁸

While Crossings TV has, on its own initiative, cross-promoted the Time Warner Cable service, it has not been with nearly the same degree of cooperation as with Comcast.⁹ The reasons would appear to be more from operational challenges than any intended lack of good will towards Crossings TV or the communities it serves.

For example, Time Warner Cable has Time Warner Cable’s STEM program as counterpart to Comcast’s “Internet Essentials” program. But despite Crossings TV’s interest in promoting it, there has been no progress in that regard. Indeed, for reasons, mostly associated with differences in marketing approaches, a number of marketing proposals made to Time Warner Cable for improving outreach to the Asian market have gone unfulfilled. Not surprisingly, although Time Warner Cable also serves the Los Angeles market, the largest Asian community in the country, Crossings TV has been unable to establish carriage there, despite several efforts to do so.

⁵ This includes sharing booths at ethnic community events, seats at dinners, and a wide range of distribution of promotional and marketing materials.

⁶ The Internet Essentials program is targeted at low income families with children and is defined by whether they receive subsidized lunches. Beneficiaries under the program receive discounted broadband service.

⁷ Crossings TV now reaches nearly 4 million subscribers. See Attachment B.

⁸ In New York City, Crossings TV offers programming in Russian, Mandarin, Cantonese, Japanese, various South Asian languages and Tagalog (Filipino).

⁹ Perhaps the most evident example of Crossings TV’s promotion of Time Warner Cable was running its channel number with the Time Warner Cable logo on an electric billboard on Queen’s Crossing Mall in Flushing, NY. Flushing is in effect ground zero in the New York Metropolitan area for the Asian community.

Crossings TV and the in-language Asian TV audience: a tale of two cable companies

As should be apparent from the above history, Comcast has played an integral if not essential role for Crossings TV in serving its ethnic, locally underserved markets. The question is why did Comcast do this?

Comcast is known for its fairly tough-minded approach. As with most successful companies, it is motivated by what best serves its customers, stockholders and strategic aspirations. Based on this, Crossings TV approached Comcast with a well thought out business plan, programming concept, and an executive team with the demonstrable ability to execute it. The appeal was based on the fact that much of the Comcast growth opportunity in its mostly urban markets will come from minority audiences.

Comcast decided to carry Crossings TV because of its unique, high quality programming that draws ethnic subscribers who might sign up for ethnic language pay tiers.¹⁰ Comcast has made ethnic programming a priority because it is in its interest to do so. This is Adam Smith's invisible hand operating at its best -- motivating a large, well-run company to cater to under-served audiences, thereby expanding its customer base to the shared benefit of Comcast shareholders. This is what America is all about.

Having said this, Comcast should be given credit for realizing the power and the promise of this country's ethnic communities. Frank Washington's experience in the late seventies with the minority tax certificate and the absence of minority-oriented media alternatives suggest that too often companies either willfully ignore or incompetently overlook the business opportunity represented by this country's minority communities. This is not a mistake Comcast has made or is likely to.

By contrast, Crossings TV's relationship with Time Warner Cable has been very different. Although Time Warner Cable did agree to carry Crossings TV at an early stage in their largest market, there never appeared to be the institutionalized understanding or organizational capability to collaborate in serving the distinctive markets that Crossings TV serves. It is fair to say that as time has gone by, even though there are individuals at Time Warner Cable, who have attempted to work with Crossings TV to reach these audiences (particularly in the marketing area), cooperation in this regard has become even more difficult.

The treatment of Crossings TV as an independent channel by Comcast has been exceptional

Put simply, Comcast gets it. First of all, they understand the importance of the in-language Asian market, not only from a political and regulatory standpoint, but also from a business perspective. Concomitantly, they recognize that the relationship with a company such as Crossings TV that is deeply embedded in the communities it serves can only have an overall benefit financially and otherwise. While the focus here is ethnic, it is not too far a leap to suggest the experience and understanding shown by Comcast with Crossings TV might be extrapolated to the broader case for how it will conduct its treatment of independent programmers.

As mentioned earlier, Crossings TV would not exist but for Comcast. Admittedly, a strategy has been specifically devised for symbiosis with Comcast. Nevertheless, it takes reciprocity for such an approach

¹⁰ See Attachment C - Sample of Crossings TV's locally, unique programming.

to be successful. One must realize that there are distinct differences between independent programmers and that it is appropriate for Comcast, or any distributor, to exercise discretion when it comes to carriage. Crossings TV has found that by presenting a solid business plan backed by a strong leadership team and quality programming, its service is deemed by Comcast as a valuable asset to Comcast's offerings in the marketplace. Crossings TV has enhanced its value by helping Comcast retain customers and attract new ones. Not all independent programmers provide value in the same fashion and shouldn't expect carriage otherwise. Crossings TV most emphatically appreciates and supports the Federal Communications Commissions' diversity of voices focus. That said, to impose independent channel carriage measures in the instance of this transaction would be a disincentive to companies such as Crossings TV, who have expended effort and dollars on devising a successful marketplace approach.

Appendix A: Awards from Community Organizations

Organization	Award/Certificate
OCA- Asian Pacific Americans Advocates	Sacramento Community Partner Award, 2013 Unsung Hero of the Year Award (Jinky Dolar), 2014
Community Broadcasters Association	Community Broadcasters Award: 3 rd Place Locally-Produce Show (Journeys), 2008/ 1 st Place Political Program (Voter's Forum Highlight Show), 2008
My Sister's House	My Sister's House Heroes of the Hope, 2008 Volunteer of the Year (Jinky Dolar), 2013
Asian Pacific Islanders American Public Affairs Association (APAPA)	Major Media Sponsor: API Voters Education & Candidates Forum, 2006
Chinese New Year Culture Association	Certificate of appreciation: Platinum/Diamond Sponsorship of 11th Annual Chinese New Year Festival, 2008/2011/2012/2013/2014
Hmong International New Year, Inc.	Certificate of appreciation and recognition: Sponsorship of Hmong New Year Celebration, 2008-2014
Sacramento Chinese Culture Foundation	Ruby Sponsor: 25th Anniversary Celebration, 2011
Slavic Community Center	The Best Multicultural TV Channel of Northern California, 2008 <i>(Certified by the ANONS Russian-Speaking Community Newspaper)</i>
Russian American Media	The Best Multicultural TV Channel of Northern California, 2008
Davis Chinese Film Festival	Platinum Sponsor, 2014
Thai Christian Community Church	Certificate of Appreciation for Crossings TV's support, dedication and participation of the 2013 Asian Community & Cultural Festival and distinguishing service to the diverse communities
The Healthy Sacramento Coalition	Certificate of appreciation in recognition of valuable contributions to the Healthy Sacramento Coalition, 2012-2013
99 Ranch Market	Certificate of appreciation as the 30th Year Anniversary Sponsor

Appendix B: Crossings TV Coverage

	Chinese	Filipino	Hmong	Japanese	Vietnamese	South Asian	Russian-speaking	Total
New York	439,432	75,459	-	29,355	-	207,108	170,023	921,377
San Francisco	632,634	412,136	-	80,575	199,695	258,305	-	1,583,345
Central Valley	82,729	112,774	87,149	-	42,435	74,993	55,806	455,886
Chicago	117,337	122,475	-	18,524	-	199,714	-	458,050
Seattle	97,020	91,384	-	35,164	-	60,110	-	283,678
Crossings Markets Total	1,369,152	814,228	87,149	163,618	242,130	800,230	225,829	3,702,336

Appendix C: Programming Samples



Dreams Come True
Jiangsu TV Reality Talent Competition
(Chinese)



Primetime News
Shanghai TV's Top-rated daily international news program
(Chinese)



ATV News
Cantonese news from Hong Kong
(Chinese)



Kris TV
Filipino Talk Show
(Filipino)



Baby
Mandarin Drama
(Chinese)



Fuji News
Top news from Japan
(Japanese)



AVS On Location
Behind the scenes look at Bollywood
(South Asian)



Mommy Helper
Locally-produced exclusive program helping mom-entrepreneurs
(South Asian)



Hmong Report
Locally produced Hmong News only on Crossings TV
(Hmong)



CNL
Children's Program
(Russian)



MicroFilm
Locally-produced exclusive showcase of short indie films
(Chinese)



Chân Trời Cỏ Biếc
Vietnamese Drama
(Vietnamese)