Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

	)	
In the Matter of	)	
	)	
Applications of Comcast Corp. and Time Warner Cable, Inc. For Consent to Assign or Transfer Control of Licenses and Authorizations	)	MB Docket No. 14-57
	)	

COMMENTS OF MADERY BRIDGE

These comments are filed in response to the Commission's request for comments concerning the agency's review of the transfer of control of licenses in connection with the proposed transaction with Time Warner Cable, Inc., by Comcast Corp.

This transaction should be given an expeditious review and approved with little to no regulatory conditions.

Resist Temptation to Impose Regulatory Burdens
At times, regulatory bodies have been tempted to place inflated or even new regulatory burdens on an entity that has to come before them for approval of one thing or another. This potential temptation should be refused generally, and also disregarded in this case. While some have urged otherwise, they are merely seeking to further their own agendas of altering public policy in ways that could not currently be achieved through a deliberative policy process. This sort of policy making under exceptional circumstances, where constituents are merely asking government permission to precede strains the trust in government fairness. As that trust diminishes cynicism and ultimately dismissal of government as a legitimate, fair arbiter grow.

If a new or different policy is believed to be needed for an industry then that policy should be made effective across the industry, through a deliberative process into which the public can have the greatest influence, or at a minimum through a formal regulatory rulemaking process.

The practical effects on the economy should be obvious. A key element for a sound and growing economy is investment, particularly capital expenditure which is the investment in the future -- money invested long term spent to buy fixed assets or to add to the value of an existing fixed. Generally speaking, such investments increase and are more likely when the regulatory environment is stable, predictable and applied

evenly. These increased investments lead to a virtuous cycle of economic growth begetting jobs, more investment and greater tax revenue.

This transaction should be considered on its merits, regardless of appeals by special interests to make this some sort of a statement, or to add extraneous conditions as a condition of gaining approval of the transaction. The merits for approval of this transaction are strong, and consumers are not harmed.

Consumers or Market Competitors Protected?

Consumers will not lose any choice and new customers will gain an increase in products and services from this transaction. So what is the concern under antitrust law?

Antitrust law was designed to protect consumers, as opposed to what is called competition policy which is designed to protect “competition.” Part of the antitrust policy in the U.S. is the Sherman Act, and is often misused as a tool for greater regulation.

Senator Sherman, namesake of the Sherman Act, said the purpose of the Act is, "To protect the consumers by preventing arrangements designed, or which tend, to advance the cost of goods to the consumer.” The purpose of the Act was never to shackle competition, or even the actions of a monopoly. Gains of market share because of innovation, skill, better products, and enhanced services, were and should be allowed the rewards of the marketplace – not looked down upon. Market share gained through intense, healthy competition and delivery of greater benefits to consumers was never the issue. Rather, gains made because of actions which made it impossible for others to compete was the target. That straightforward purpose has long been misused as a weapon to go after companies who could potentially “harm” their competitors in the marketplace, instead of used as a means to protect the public in the case of a market failure. Or put another way, the Act focused on that which actually destroyed competition, not on protecting the competitors themselves.

Unfortunately, the Act, and antitrust policy generally, has come to be used to protect competitors from the innovation and healthy competition of their competitors, protection granted and enforced by the federal government. Being used in this way regulators displace courtrooms as the mere threat of action being brought can bring concession from companies who fear long, expensive proceedings that ultimately might cost more than the conditions sought. Hence companies make the rational decision and often settle the issues rather than fight them leading to a series of poorly made regulations applying to only one entity. This is policy making under duress, and is distasteful and unworthy of being accepted in our legal system.

So, since antitrust law is not intended to empower government to pick business winners or losers, but rather to protect consumers, the correct question is whether the proposed transaction would harm consumers and this one clearly does not.

No Overlap in Markets

Comcast and Time Warner Cable serve completely different markets without overlap. So, at the completion of this transaction consumer choice will be absolutely maintained even while consumers gain better technology and greater services. In other words, consumers will merely swap one "cable company" for another. As for Comcast's competitors, which are growing in number, they will still face the same amount of competition.

Antitrust law and free market principles dictate that government should refrain from injecting itself into a transaction unless there is a clear demonstration of an actual market failure. Even in the event that a transaction does lead to a market failure then antitrust law and its accompanying infrastructure could be used to correct such a failure. There is no need for government restrictions or added regulation before a transaction. Given a complete lack of market failure and that consumer choice will be maintained the FCC should not act. Additional considerations also lead to the same conclusion.

The number of cable subscribers has declined in the last eight years, and during those same years satellite subscribers have grown by seven million. Traditional telecommunications companies have scooped up another 11 million. After the transaction, Comcast will end up with around 30 million subscribers, less than 30 percent of all the video subscribers in the U.S., approximately the size it was in 2006.

Any credible analysis of the video market must also include the abundance of "over the top" competitors, such as YouTube, Amazon, and NetFlix. These competitors dramatically increase the challenge of attracting and keeping customers but also demonstrate how rapidly a paradigm shift could overtake the entire industry if the industry is hobbled from effectively competing. The competition is real and fierce, and not about to lessen. Bringing advanced technology and services to consumers is an industry imperative just to be able to stay competitive. New entrants are appearing regularly.

Enhanced Technology Products and Services for Consumers

Faster broadband service will more quickly roll out to the eight million new consumers that Comcast will be serving. Comcast has increased its broadband Internet speeds essentially annually for well more than a decade, including being an industry leader in introducing DOCSIS 3.0, a significant boost to broadband speed, now at speeds of 105

to 505 Mbps. The FCC has noted that Comcast's broadband speeds are consistently higher than those at Time Warner Cable.

How is it that a "cable" company is advancing so rapidly? Cable companies are increasingly "tech" companies and Comcast more so than any. Most of the work of traditional cable companies is now being done in the cloud, not in trenches in the earth.

The new product offerings by Comcast, and those in the pipeline, make clear that his assertion not just wishful thinking, it is the truth. A truism of the technology industry is that anything that can be expressed in hardware can be expressed in software and vice versa as Comcast is now demonstrating in the cloud. The X1 Entertainment Operating System and Comcast's video on demand offerings provide 50,000 choices on TV and offers 300,000 plus streaming choices on XfinityTV.com. Xfinity TV mobile apps offer 35 live streaming channels plus the ability to download to watch offline later. The innovations continue with the integration of Web video into the traditional stream of video content, an improved user interface focused on ease of use and customization, and a voice driven interface for the visually impaired.

As for hardware, Comcast has completed its transition to all-digital networks. In addition, Comcast's newly launched X1 DVR, which enables customers to watch their entire TV channel lineup and DVR recordings on mobile devices in the home, and download recorded content to take on-the-go are leading the industry.

Services too are expanding. Comcast offers a program designed to get more students and families online by offering broadband and a home computer at drastically reduced prices for those who could least afford broadband. The program has signed up more than one million Americans, rapidly adding to the number of people with broadband at home. The low income families who qualify for the service have been using the online connection to try to better their situation. Fifty eight percent of the customers report that they have been using the broadband service to search and apply for employment.

All of these benefits—speed, products, services -- will now be available to new customers, as Comcast's multi-billion dollar upgrade to its system spreads. These sorts of upgrades are exactly what must be done just to stay competitive, not simply as a "cable company," but rather as a technology industry player -- an industry where any real market power is allusive to gain and harder to hold onto.

The Marketplace Message

In the end those best positioned to understand where the market might be headed are those actually competing, innovating and investing in the marketplace itself. They have

every incentive in the world to get it right, not only for the owners, management and employees but for their customers as well. Even then companies regularly fail to understand where a market will go in three, five or ten years. Outside observers, including regulators, are in a nearly impossible position to understand the technology industry trajectory, because the plotted trajectory of today is laughable tomorrow.

The dominant players of tomorrow's broadband and video industries are a mystery that only time will reveal. As history continues to prove, the competition will be fierce and some of today's household names will likely fall by the wayside. In the meantime regulators and government in general must tread carefully to not hinder the ever accelerating innovation marketplace.

Others may try to invent storylines or push stories that spread fear or uncertainty about this proposed business transaction, but the facts make clear that consumers and innovation will win again.

Sincerely,

Bartlett Cleland