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

In the Matter of Applications of Comcast Corporation, Time Warner
Cable Inc., Charter Communications, Inc., and
Spinco to Assign and Transfer Control of FCC
Licenses and other Authorizations

MB Docket No. 14-57

Response to Comments
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In this response to comments, we do not take a position on the Comcast-Time Warner merger. However, we note that several of the comments made by other interested parties mention productivity. Given the weakness of productivity growth in today's economy, we see this as a very important issue. Therefore, in this response, we strongly advocate that the FCC analysis of the public interest benefits of a merger should take into account the merger's potential impact on productivity, investment, growth, innovation and job creation.

Background

Over the past 20 years, the U.S. economy has emphasized consumption over production. The result has been weak productivity growth, huge trade deficits, the accumulation of debt, the lack of business investment, weakness in job creation, and the hollowing out of manufacturing (hidden by a variety of data flaws).

Even the economic recovery has been tilted towards consumption and away from production. Since 2007, when the economy first slipped into recession, real personal consumption expenditures have risen by 8.2 percent. That's faster than the 6.6 percent increase in real economic output, and double the 4.1 percent increase in business investment. Largely as a result of the below trend business investment, productivity growth has been extremely weak, averaging only 0.7 percent annually since 2012.

The implication is that our economic and regulatory policies should move us more towards a "production economy" rather than a "consumption economy." That means regulators and policymakers should emphasize:

- Productivity growth
- Investment
- Global competitiveness
- Job Creation
- Americans as workers rather than Americans as consumers

We believe that a regulatory emphasis on productivity and the production economy is strongly in the public interest, and should be heavily weighted in the mix of issues that the FCC considers as being relevant to assessing this and any other merger under its public interest mandate.

Antitrust and Productivity

What does this have to do with antitrust and mergers? Historically antitrust policy has been oriented towards the consumer, broadly speaking. The 2010 Horizontal Merger Guidelines from the Department of Justice and the Federal Trade Commission noted that "the Agencies normally evaluate mergers based on their impact on customers."[1] Indeed, the current approval guidelines contain hundreds of references to customers and consumers, but no mention of words like 'productivity', 'growth', 'jobs', 'capital spending' or 'investment'. [2]

The FCC, of course, assesses mergers and other transactions under a different standard, based on section 310(d) of the Communications Act. By this standard, the transaction has to serve the "public interest, convenience, and necessity."

We suggest that the FCC analysis of the public benefits from a merger should put heavy weight on "production-side" effects on productivity and investment. To the degree that a merger increases productivity and investment, it will have major public benefits. Regulators should weight such benefits as well as market power in their consideration of a merger.

There are several important channels by which a merger could positively impact productivity and investment. First, the combined companies may themselves show a gain in productivity and efficiency as the result of the merger. For example, a merged company would be able to extract internal efficiencies and productivity in areas like information technology, human resources and procurement management.

The second channel is the impact on productivity via investment. A merger may give the combined companies greater financial resources, efficiencies and ability to make investments that they would not have made otherwise. That is, the increased size will generate scale efficiencies that will likely increase investment. Examples could be software enhancements or upgrades to broadband networks to extract higher speeds made more viable through these scale efficiencies. This investment could lead to greater productivity and growth in two ways. First, it could add to business investment at a time when that is below trend growth. Second, investment like the development of new software could have flow-on productivity effects. And more specifically, higher investment in broadband leads to productivity gains for all sectors, as businesses are able to make better use of the new capacity to make productivity-enhancing improvements to their businesses.

The link between investment and size of company is, of course, controversial. The argument is often made that larger companies will have more market power and therefore less incentive to invest. Our research, however, suggests the opposite: In the current economic environment, given the rapid pace of innovation, the largest communications companies continue to put billions into domestic capital expenditures. Indeed, our latest study of domestic corporate investment shows that communications companies, including Comcast, occupy 3 out of the top 7 spots in our list of “Investment Heroes.”[3]

Another way in which a merger might enhance productivity and growth is by bringing greater competition into the business services market. Discussion about competition in merger analysis often focuses almost exclusively on the residential market. Regulators must also focus on the business services market, and do so with equal weight. Video, voice and broadband services are a key input into business output, and any increase in competition in those services will add to the productivity of the business sector. A merged company’s larger footprint that cuts across regions, along with the scale efficiencies, can enable it to be more effective a competitor for small, medium and enterprise businesses.

Finally, the fourth channel by which a merger might boost productivity is through other innovations. Large enterprises are usually seen to be defenders of the status quo, relying on market power rather than technological innovation. However, historically innovation has come as often from large companies as from small [4]. In fact, the nature of the challenges facing today’s economy may favor innovation coming from larger actors. The reason is simple: The sectors of the economy with the weakest productivity growth, such as health and education, are large-scale integrated systems that are heavily resistant to change. Implementing systemic innovations in these industries may require scale. If a larger combined company can help create a platform for improved productivity in these and similar sectors, the FCC merger analysis should capture and weigh that value.

In conclusion, we strongly advocate that the FCC's evaluation of the public interest benefits of a merger include an assessment of productivity, investment, innovation and jobs effects.

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[1] "Horizontal Merger Guidelines," Department of Justice and Federal Trade Commission," August 2010.

[2] Michael Mandel, "Scale and Innovation in Today's Economy," Progressive Policy Institute Policy Memo, December 2011; Michael Mandel and Diana G. Carew, "Innovation by Acquisition: New Dynamics of High-Tech Competition," Progressive Policy Institute Policy Memo, November 2011.

[3] Diana G. Carew and Michael Mandel, "U.S. Investment Heroes of 2014: Investing at Home in a Connected World," Progressive Policy Institute, September 2014.

[4] Mandel, 2011.