April 9, 2014

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
U.S. Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
U.S. Senate
Washington, DC 20510

Dear Chairman Leahy and Senator Grassley:

In advance of the Committee's hearing to explore the competitive ramifications of the proposed combination of the nation's two largest cable operators, Comcast Corporation ("Comcast") and Time Warner Cable ("TWC") in a $45.2 billion transaction, the American Cable Association ("ACA") and NTCA– The Rural Broadband Association ("NTCA") wish to share their initial views on how the combination will result in harm to competition and consumers. Combined the ACA and NTCA comprise approximately 850 small and medium-sized multichannel video programming distributors ("MVPDs") that provide video, broadband Internet, and phone services in all 50 states to nearly 7 million video subscribers. Members range from family owned companies and cooperatives serving small cities and rural areas to multiple system operators serving urban areas.

ACA and NTCA are most concerned about the competitive effects of the transaction in two vertically related industries - the (downstream) MVPD industry, which distributes video programming to consumers, and the (upstream) video programming industry, which provides this programming to these distributors. Comcast is a behemoth in both industries. In the downstream MVPD industry, it is the largest MVPD with 21.7 million cable subscribers. In the upstream video programming industry it owns the NBC network, 10 NBC owned-and-operated stations ("O&Os"), 13 regional sports networks ("RSNs"), and a large number of the most popular national cable networks including USA Network, CNBC, Golf Channel, Syfy, Bravo, E!, and MSNBC. TWC is also a giant in the downstream video distribution industry. It is the second largest cable operator in the nation with 11.4 million cable subscribers. TWC also has a significant presence in the video programming industry through its ownership of 16 RSNs.

From an economic perspective, this means that the transaction has both horizontal and vertical components and that a complete analysis of the potential competitive harms must consider all of these aspects. More specifically, ACA and NTCA are most concerned with the following three components of the transaction.

Component #1: The upstream horizontal component, which is the horizontal combination of Comcast's programming assets with TWC's programming assets.

Component #2: The vertical component, which is the vertical combination of Comcast's programming assets with TWC's distribution assets.

Component #3: The downstream horizontal component, which is the combination of Comcast's distribution assets with TWC's distribution assets.

ACA and NTCA were active participants in this Committee's and the Department of Justice's ("DOJ") review of the competitive effects of Comcast's acquisition of NBC Universal's ("NBCU") programming assets as well as the Comcast-NBCU license transfer proceeding before the Federal Communications Commission ("FCC"). That deal brought together the nation's largest cable operator, Comcast, with one of the nation's largest programmers, NBCU. Comcast also had a major presence in the programming industry primarily through its ownership of 13 RSNs in major metropolitan areas. Thus, this previous deal also had vertical and horizontal aspects. In particular, it exhibited the first two of the three components identified above, an upstream horizontal component (the horizontal combination of Comcast's programming assets with NBCU's programming assets) and a vertical component (the vertical combination of NBCU's programming assets with Comcast's distribution assets.) The FCC concluded that significant competitive harms would result from both aspects of the transaction and imposed conditions that were intended to ameliorate these harms.

Our joint concerns with the first two components of the current transaction before the Committee are substantially similar to the concerns we expressed regarding the competitive effects – and the ultimate effects on consumers – of these components in the review of the Comcast-NBCU transaction. With respect to the upstream horizontal component, we are concerned that the combination of Comcast's programming assets with TWC's RSNs will allow the merged entity to exercise greater bargaining power against all MVPDs that carry this programming, by bundling more "must have" programming together. This effect will occur in the areas where TWC offers its popular RSNs, and will be most severe in the designated market areas ("DMAs") where there is both an NBCU O&O and a TWC RSN, such as the New York, Los Angeles, and Dallas DMAs. All MVPDs in these regions and markets will be affected by this harm regardless of whether they compete against Comcast or TWC.

With respect to the vertical component, our concern is that the merged entity will have an incentive to disadvantage MVPDs that compete with TWC by either withholding Comcast programming from them permanently or temporarily during negotiation impasses, or simply by forcing them to pay higher prices for this programming. ACA and NTCA have at least 20 members representing more than 1.5 million subscribers that have at least a 10% competitive overlap with TWC. However the vertical competitive harm will not necessarily be limited to only these MVPDs. Due to the fact that many of these MVPDs obtain their programming through a buying group, which serves as the buying group for most small and medium sized MVPDs, Comcast-TWC will have an incentive to raise the prices that it charges to this buying group, and these price increases will harm all MVPDs that obtain their programming through the group. Customers of these small and medium-sized MVPDs will ultimately pay the price.

The FCC adopted arbitration conditions that were intended to ameliorate these harms and our understanding is that Comcast and TWC have indicated that they would be willing to abide by these same conditions as a condition for approving the current transaction. However, such conditions will definitely not be enough to solve the problems that will be created by this transaction, because these conditions, although well-intended, have turned out to exhibit a number of defects and problems which limit their effectiveness, particularly for small and medium sized MVPDs. In particular, arbitration is too expensive for individual small and medium sized MVPDs to use, and the manner in which buying groups could potentially avail themselves of the arbitration conditions was poorly and incompletely described. We hope to work closely with both the Committee and the FCC throughout the year to explain the problems with the Comcast-NBCU conditions and explore ways to fix them.

The third component of the current transaction - the horizontal combination of Comcast's distribution assets with TWC's distribution assets - did not arise in the Comcast-NBCU transaction and raises significant and troubling new issues. We have read many press reports where the merging parties glibly deny that there is any horizontal problem at the MVPD level by noting that Comcast and TWC do not compete at this level. As Paul Krugman of the New York Times and others have noted, however, this facile response ignores the main problem created by this massive horizontal combination, which is the dramatic increase in the merged entity's bargaining power with respect to and control over the video programming industry. With more than 30% of all MVPD subscribers, the merged entity will become a "must have" distribution outlet for programmers. In the short run, the merged entity will gain additional competitive advantages over its MVPD competitors, through demanding larger volume discounts than its rivals are able to obtain, thereby weakening the competitive position of these rivals or perhaps driving them out of business entirely. Programmers subject to the enhanced bargaining power of Comcast-TWC will seek to make up for lost revenues either by charging higher prices to other MVPDs or by reducing their investments in programming. In the longer run, Comcast-TWC may be able to leverage its increased dominance in the MVPD industry to increase its market share in the video programming industry, therefore ultimately reducing the competitiveness of this industry as well. In any event, the final result will likely be higher prices and fewer choices for consumers.

We are currently actively engaged in additional research and fact-finding and will report our findings and conclusions to the Committee, the DOJ, and the FCC as our analysis progresses. Please do not hesitate to let us know if you or your staff requires additional information or clarification of our views.

Sincerely,

Matthew M. Polka	Shirley Bloomfield
President and Chief Executive Officer	Chief Executive Officer
American Cable Association	NTCA– The Rural Broadband Association

Cc: Members of the Senate Judiciary Committee

The American Antitrust Institute

April 4, 2014

The Honorable Patrick J. Leahy
Chairman
U.S. Senate Committee on the Judiciary
437 Russell Senate Building
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member
U.S. Senate Committee on the Judiciary
135 Hart Senate Office Building
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The Honorable Amy Klobuchar
U.S. Senate Committee on the Judiciary
Chairman
Subcommittee on Antitrust, Competition
Policy and Consumer Rights
302 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Michael S. Lee
U.S. Senate Committee on the Judiciary
Ranking Member
Subcommittee on Antitrust, Competition
Policy and Consumer Rights
316 Hart Senate Office Building
Washington, D.C. 20510

RE: APRIL 9TH HEARING: EXAMINING THE COMCAST-TIME WARNER CABLE MERGER AND THE IMPACT ON CONSUMERS

Dear Chairman Leahy and Honorable Committee Members:

The American Antitrust Institute (AAI) commends the Senate Judiciary Committee for convening a hearing to address Comcast's proposed merger with Time Warner Cable (TWC).[1] The deal would create an entity with a vastly larger footprint – covering over one-third of cable and broadband internet subscribers nationwide – and put control of essential content distribution "pipes" into the hands of a single company. Together with Comcast-TWC's enormous content holdings, the merged company would have control over the production and distribution of important news, opinion, sports, and entertainment video programming to tens of millions of American consumers. The economic, political, and social implications of such control are potentially concerning.

The AAI believes that the proposed merger raises pressing issues related to competition, consumer welfare, and the protection of free speech that a diverse and independent media ensures. A merged Comcast-TWC could potentially exercise undue control over: (1) the timing, method, quality, and pricing of content and its distribution; (2) the rivals that produce and distribute content; (3) the scope and nature of content; and (4) the pace of innovation in broadband development. Moreover, the proposed merger comes strategically at a time when the U.S. is grappling with fundamental policy questions regarding network

[1] The AAI is an independent non-profit education, research, and advocacy organization. Its mission is to advance the role of competition in the economy, protect consumers, and sustain the vitality of the antitrust laws. For more information, see www.antitrustinstitute.org.

neutrality and the role of increasingly larger and more powerful broadband gatekeepers.

The AAI is currently completing research based on publicly available information on the likely effects of a Comcast-TWC merger. We anticipate releasing a White Paper in late April that provides an analysis of the major competitive and consumer effects of the proposed transaction. The AAI White Paper will cover a number of possible issues. For example, how might combining the cable television and broadband distribution systems of Comcast and TWC enhance the merged company's ability to restrict competing content providers' access to a significant base of consumers through distribution channels controlled by the merged company? The White Paper may also address how the combination of TWC's content assets with Comcast's vast content portfolio may enhance the ability of the merged company to frustrate access by rival cable, digital broadcast satellite, broadband, and telco rivals to valuable content controlled by the merged company.

The AAI White Paper will be made available to this Committee, the Federal Communications Commission, and the U.S. Department of Justice Antitrust Division. In the interim, the upcoming hearing is a key venue in which to vet a number of critical questions. We respectfully submit to the Committee the following questions that the AAI believes are particularly important.

1. The merger may shift relative bargaining power between the merged company and rival content providers. How will this affect the competitive landscape, pace and type of innovation, and benefits to consumers? How could the merged company's enhanced bargaining power lead to superior outcomes for consumers, relative to preserving existing competition between content providers and distributors?

2. The deal comes at a time when regulatory policies regarding network neutrality are in flux. What role will current and probable future regulatory protections play in addressing the merged company's ability to engage in restrictive practices, particularly toward online content providers and content delivery networks? How does the proposed transaction affect competition in the market for "last mile" interconnection services?

3. The size of a combined Comcast-TWC, coupled with very limited competition in video programming distribution in the U.S., means that rival video programmers could be foreclosed from access to a sizable share of the distribution market, potentially affecting tens of millions of consumers. How should this concern be addressed?

4. In light of the merged company's vast content holdings, there is a significant risk that distributors of video programming that currently and potentially compete with TWC could be foreclosed from access to competitively valuable Comcast-TWC content. How should this concern be addressed?

5. The merged company will control an even larger set of cable and broadband "pipes" than it currently does. How is the transaction likely to change Comcast-TWC's decisions regarding the nature and pace of innovation and competition involving the two distribution channels?

6. The merging parties state that Comcast and TWC do not overlap or compete with each other. If this is true, then how might the merged company realize claimed operating efficiencies such as scale economies in video and high-speed data for TWC customers? More generally, how credible are the merging parties' claims of cost savings and consumer benefits, and how would they be passed through to consumers in the light of reduced horizontal and vertical competition? What are the implications of Comcast's claims regarding competition and efficiencies for future mergers and acquisitions that the company might propose?

7. There is very limited existing head-to-head competition in pay television and broadband access. How, therefore, will the merger enable Comcast-TWC to better compete against larger rivals (regionally and nationally), as claimed by the merging parties? How does Comcast-TWC's logic apply in the context of Regional Sports Networks?

8. Limited competition in U.S. broadband development is known to have produced higher prices, lower quality, and less innovation than in Europe and elsewhere. The American public seems to be particularly unhappy with its cable companies. How will an even larger Comcast-TWC possess competitive incentives to provide pro-consumer bundles of services and to offer more choice in the pricing and quality of products and services?

9. Cable and broadband rivals have a history of agreeing to forbear from entering each other's markets. How would the proposed merger – by further concentrating the market for video programming distribution – change incentives for entering into such agreements? How might the merger affect competition and innovation in wireless broadband, in light of past agreements between cable and wireless competitors?

10. The remedies imposed in the DOJ consent decree and FCC order in Comcast-NBCU are controversial. How have those remedies been challenged, modified, violated, or litigated since the Comcast-NBCU transaction? If such conditions are extended to the even more complex and significant competitive concerns in Comcast-TWC, why should they be expected to be effective?

We would be pleased to discuss these questions and issues with the Committee Staff in advance of the April 9th hearing.

Respectfully,

Albert A. Foer

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The Honorable Elizabeth Warren
The Honorable Sheldon Whitehouse
The Honorable Bob Goodlatte
The Honorable John Conyers Jr.

ConsumersUnion
POLICY & ACTION FROM CONSUMER REPORTS

April 8, 2014

The Honorable Patrick J. Leahy, Chairman
The Honorable Chuck Grassley, Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Leahy and Senator Grassley:

Consumers Union, the public policy and advocacy division of Consumer Reports, appreciates your holding a hearing regarding the proposed merger between Comcast and Time Warner Cable. We believe this merger would be extremely harmful to consumers and to the video and internet marketplace, and that the more closely the merger is examined, the more obvious these harms will be.

A combined Comcast/TWC would control nearly two-thirds of the nation's cable TV service, nearly 40 percent of its Internet broadband service, and half of its video-voice-Internet "triple-play" service – far exceeding the next-closest competitor in any of those categories.

Comcast is claiming that the merger should not raise concerns with either the Federal Communications Commission or the Justice Department's Antitrust Division, because the two companies do not currently compete in each other's geographical territories. But this overlooks important ways in which the combined companies' market power would be further increased, to the detriment of competition, consumers, and programming diversity, now and for years to come.

The fact that Comcast and Time Warner Cable have previously not competed in each other's territories does not indicate that they couldn't or wouldn't ever likely compete. Indeed, as technology evolves, including with increased incorporation of wireless technology, these two well-established video and broadband companies could prove to be strong rivals. Allowing the merger would obviously foreclose this future competition.

Equally important, the merger will solidify and increase the two companies' combined market power not only as sellers of TV and broadband to consumers, but also as buyers of programming that consumers want. As gatekeepers of such an enormous portion of consumers – and monopoly gatekeepers in numerous major markets – the combined firm would have the ability to extract higher "admission tolls" from programming content producers seeking to reach those consumers. The fact that Comcast already owns its own broadcast network and production company only increases its incentive to extract these tolls from rival networks and content producers. Those networks and content producers would then be forced to raise prices, cut corners on quality, or go out of business. Any of these results would be at the expense of consumers and programming diversity.

Attached are materials from recent Consumer Reports publications illustrating the importance of the concerns and issues at stake: a chart showing how cable rate increases have continuously surpassed inflation; a summary of and press release regarding our recent survey showing Comcast and Time Warner Cable near the bottom of customer satisfaction for pay-TV providers; and three articles from *The Consumerist* – responding to a recent op-ed in the New York Times, assessing the benefits and shortcomings of Comcast's "Internet Essentials" program, and describing Comcast's data caps on Internet service.

We urge you to convey these concerns strongly and clearly to the FCC and the Justice Department. We want their investigations to be thorough. We believe that once their investigations are concluded, it will only be clearer that this proposed merger is not in the public interest. – that it will substantially harm competition, restrict consumer choice in programming, lead to price hikes, and retard innovation. This merger should not be permitted to go forward.

Respectfully,

Delara Derakhshani
Telecommunications Policy Counsel

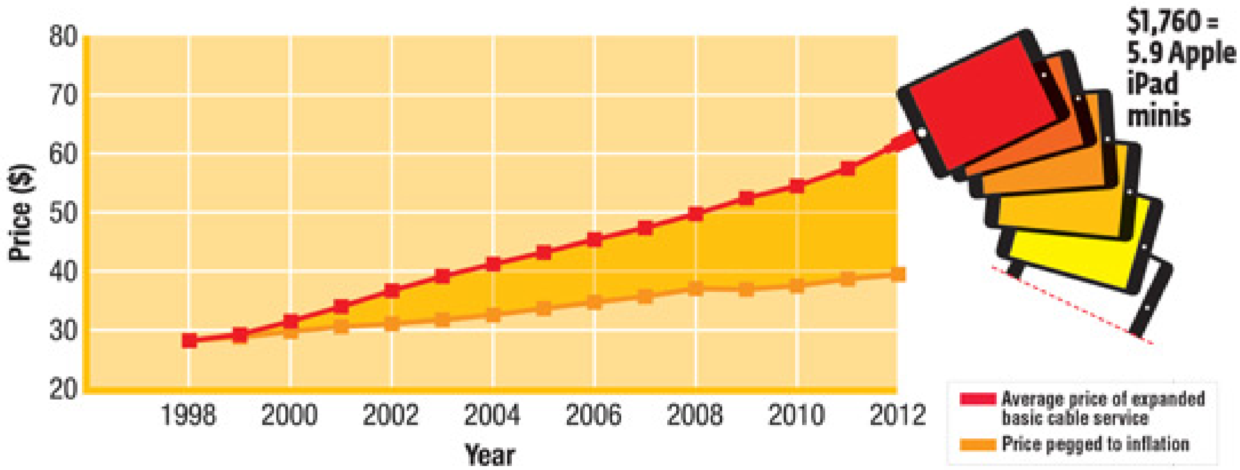
George P. Slover
Senior Policy Counsel

cc: Members of Senate Judiciary Committee

Attachments

Cable vs. inflation

Every year since 1993, the Federal Communications Commission has published data on the average price of expanded basic cable television packages in the U.S. (Expanded basic cable is a step up from the entry-level package offered by most providers.) We took the FCC's pricing data from 1998 through 2012, then compared that with what cable would have cost if it had been pegged to the standard rate of inflation as defined by the Consumer Price Index. We found that over the course of those 15 years, the average American cable-watching household had forked over about $1,760 more than it would have if the price of cable had matched inflation. That's enough to have purchased almost six iPad Minis for each household.



Consumers still don't like cable TV companies

Comcast and Time Warner rank near the bottom in our survey

Published: March 26, 2014 11:00 AM

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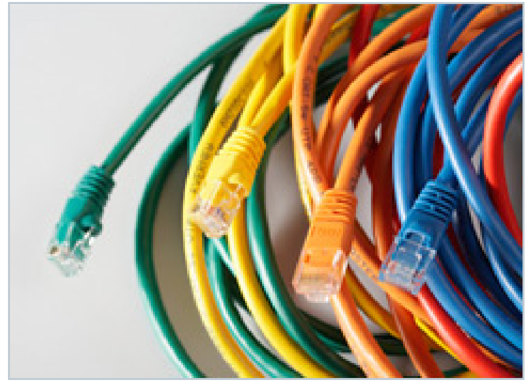
Telecom services



Do you subscribe to cable, but don't exactly love the TV services you're getting? Join the club. Once again, some of the largest cable TV companies—including Comcast and Time Warner, which are in the midst of a merger—are among the bottom feeders in overall customer satisfaction for TV service, according to the Consumer Reports National Research Center's latest annual telecom survey.

In fact, if it weren't for Mediacom Communications, a cable company that serves a little more than a half-million customers in the Midwest and Southeast, Time Warner and Comcast would have ranked lowest in the survey. Comcast came in 15th out of 17 pay-TV providers for customer satisfaction with TV service, with an overall score of 59 out of 100. The company had low scores for value and customer support. Its proposed merger partner, Time Warner, did no better, ranking 16th overall for TV service with an overall score of 58. Time Warner had low scores for value, reliability, and customer support. Mediacom trailed the entire pack with an overall score of 54.

But the flip side is that two smaller cable companies, Armstrong Cable and WOW (WideOpenWest), topped the Consumer Reports survey for TV service. Those companies were followed by Verizon FiOS, which came in third, Wave/Astound, DirecTV and Dish Network, and then AT&T U-verse.

The two cable giants fared a bit better for broadband service in the survey although both were still nestled in the bottom third of all ISPs. Topping the chart (again) for broadband were WOW and Verizon FiOS.

These findings are just a small part of our annual telecom bundling story.

Find out how your TV, Internet, and phone company did in our newly updated telecom services Ratings.

In addition to ranking the TV, broadband, and telecom bundled services from 14 major providers, the article provides tips and advice to help consumers save money on their telecom services and select the best providers. One way is to haggle with your provider—we found that 92 percent of the respondents who attempted to negotiate a better bundle package got some sort of deal. Another is to build your own bundle by piecing together services from different sources. Just be aware that many companies are talking tough about cracking down on serial negotiators.

In the interest of disclosure, Consumers Union, the advocacy arm of Consumer Reports, is opposing Comcast's takeover of Time Warner, a merger between the country's two largest cable companies. Consumers Union believes the consolidation is anti-consumer, contending that the combined company would be able to extert even greater control over the cable and broadband Internet markets, leading to higher prices, fewer choices, and worse customer service for consumers. The Federal Communications Commission is currently reviewing the merger. We'll follow the progress, so keep checking back for the latest updates.

—James K. Willcox

Tuesday, March 25, 2014

Comcast and Time Warner Cable Score Low on Latest Consumer Reports Customer Satisfaction Survey

Low Scores Show Why The Companies Shouldn't Be Allowed To Merge

WASHINGTON, D.C. – Comcast and Time Warner Cable earned low customer satisfaction scores in the latest Consumer Reports National Research Center's survey of consumers about their experiences with television and Internet services.

The low customer satisfaction scores should give the Federal Communications Commission and Department of Justice ample reason to be skeptical of a proposed merger between the two companies, according to Consumers Union, the policy and advocacy division of Consumer Reports.

"Both Comcast and Time Warner Cable rank very poorly with consumers when it comes to value for the money and have earned low ratings for customer support," said Delara Derakhshani. "A merger combining these two huge companies would give Comcast even greater control over the cable and broadband Internet markets, leading to higher prices, fewer choices, and worse customer service for consumers."

While the Consumer Reports survey on telecom providers found almost universally low ratings across providers, both Comcast and Time Warner earned scores toward the bottom of all companies included in the analysis.

Comcast ranked 15th among 17 television service providers included in the ratings and earned particularly low marks from consumers for value for the money and customer support. Time Warner ranked 16thoverall for television service with particularly low ratings for value, reliability, and phone / online customer support.

Comcast and Time Warner Cable were mediocre on overall satisfaction with Internet service. Both companies received especially poor marks for value and low ratings for phone / online customer support.

"In an industry with a terrible track record with consumers, these two companies are among the worst when it comes to providing good value for the money," said Derakhshani. "The FCC and Department of Justice should stand with consumers and oppose this merger."

In early February, Comcast announced a proposed $45 billion takeover of Time Warner Cable. The deal is likely to be reviewed by the Department of Justice, which could sue to stop it. The Federal Communications Commission must review the merger to determine whether it serves "the public interest" and it must approve the licensure transfers to allow the deal to move forward.

Ratings are based on responses from 81,848 Consumer Reports readers to the Consumer Reports National Research Center's 2013 Annual Telecommunications Service survey. The full report on in-home telecom services can be found in the May Issue of Consumer Reports and **online** at **ConsumerReports.org**.

Contact: David Butler, **dbutler@consumer.org** or 202-462-6262 or Michael McCauley, **mmccauley@consumer.org** or 415-902-9537 (cell) or 415-431-6747, ext 126 (office)

Let's Count The Ways In Which The NY Times' Love Letter To The Comcast Merger Is Full Of Bull

By Chris Morran March 29, 2014

A Vision Beyond Cable for Comcast After Merger

MARCH 28, 2014

Brian Roberts, Comcast's chief executive, sees its major competitors as the media companies of the future, like Google and Apple. Tracie Van Auken for The New York Times

Common Sense

By JAMES B. STEWART

Comcast's chief executive, Brian Roberts, was stung four years ago when Reed Hastings, chief executive of the then-fledgling Netflix, dismissed Comcast with a rhetorical question: "Why would we want to do a deal with

This NY Times column from March 28 reads like it was written by Comcast's PR department.

Yesterday, the NY Times' "Common Sense" column demonstrated anything but common sense in a thinly-veiled love letter to Comcast CEO Brian Roberts, who is apparently the savior of cable TV and will somehow bestow wonderful, magically-awesome levels of customer service on Time Warner Cable… if only those big-bad regulators in D.C. would just see what is so obviously a perfect deal for consumers. If only that were true.

Let's look at author James B. Stewart's article and try to figure out exactly how much Kabletown Kool-Aid he's consumed…

1. Ignoring Comcast's Role In Current State Of Cable TV

Early in the article, Comcast-inheritor Roberts laments the current state of cable competition, in which a company's presence is often determined by deals made with municipalities many moons ago.

"Cable is a relic of an antiquated model," admits Roberts. "The result is we're not in New York or Los Angeles. How great can that be?"

In a sense, he's right. Comcast should have been in New York City and/or Los Angeles, but not as the sole provider like TWC is for many of the residents of those two cities. No, Comcast should have been able to compete with everyone else, giving consumers choice and compelling providers to compete on rates and customer service.

But Roberts can not wash his hands of the situation that he (and his company-founding father before him) played no small part in creating, and from which Comcast has benefited greatly.

Take the Philadelphia area, which has long been dominated by Comcast, but which used to have multiple regional providers serving different parts of the region. In the last two decades, Comcast has gobbled up most of those companies, creating an effective monopoly in the area thanks to all those exclusivity deals each of the acquired providers had made in the '70s and '80s.

Furthermore, while Philly leadership pretends it's about prettying up the city, a recent move to regulate and remove satellite dishes from buildings all around the city has Comcast written all over it.

And don't forget Boston, a city is so ridiculously overrun by exclusive Comcast coverage that former Mayor Thomas Menino had to petition the FCC to allow the city to regulate the company's soaring prices.

It is the cable industry, including Comcast, that sought these sorts of deals and guarantees, and which has allowed them to continue because they allow providers to get away with charging high rates and providing minimal customer service.

Roberts even admits as much later in the Times piece, when he says the only feasible way for Comcast to be a player in NYC is for it to buy Time Warner Cable, as it would be too expensive to run its own lines.

2. No One Asked Us…
Stewart then goes on to make a completely asinine statement about those who are against the Comcast merger:

> The sheer size of the deal, and the intense public interest in unfettered Internet access, have galvanized an array of opponents, from Senator Al Franken, Democrat of Minnesota, to the Consumers Union to the Writers Guild of America…I suspect few of them, if any, are Time Warner Cable customers.

Let's just look at how utterly, absolutely stupid of an assumption that is.

First, I'm not going to speak for my colleagues at Consumers Union, but I happen to know for a fact that they — and many other employees of Consumer Reports, including myself, and several other Consumerist writers — have had, or currently have, cable and Internet service from Time Warner Cable. Consumers Union's headquarters is located in Yonkers, NY, only a few miles north of NYC, and many of CR's employees live in areas where TWC is the only option. A simple phone call or e-mail, and anyone at the company would have told Mr. Stewart so.

And then there's the Writers Guild, which has a large number of members in New York City (that's why there is a WGA East office in Manhattan, Mr. Stewart.) All those writers for Comcast's own Saturday Night Live and Tonight Show are probably TWC customers. That's not to mention all the people who write for the soap operas, talk shows, and the various series that film in NYC. Again, I'm sure someone at the Guild, or the use of the author's much-touted common sense, would have sorted this one out.

I don't know Sen. Franken's current living situation, but I do believe he's lived in NYC at some point in the past 25 years, since he used to broadcast his Air America radio show from Manhattan, and worked on Saturday Night Live in the early '90s, which means he's likely to have been a TWC customer at some point.

3. Personal Bias Is A Bad Measuring Stick
Let's just assume that Mr. Stewart's ill-informed attempt to discredit merger critics was based in actual fact and that none of these people concerned about a merger between the nation's two largest cable and Internet providers have ever had to deal with TWC's horrendous service.

What does that matter?

Did one need to be either an AT&T or T-Mobile customer to oppose that failed merger? Does he think that members of the FCC and the DOJ are going to say, "Well, I can't be part of this decision because I'm a DirecTV gal"?

In fact, it may be best if the people making the decision have minimal experience with either provider, as their personal biases can't get in the way. The last thing I want is some regulator deciding they will approve this merger because they once got double-billed by Time Warner Cable and somehow think this merger will stop such nonsense from happening in the future (Spoiler Alert: It won't.)

Speaking of which…

4. The Grass Is Always Slightly Less Brown

Stewart seems to be living under the delusion that Comcast's customer service couldn't possibly be worse than TWC's. He even cites J.D. Power regional ratings to back up his point, saying that TWC was the lowest-rated in almost every region for its pay TV service. And this is indeed true.

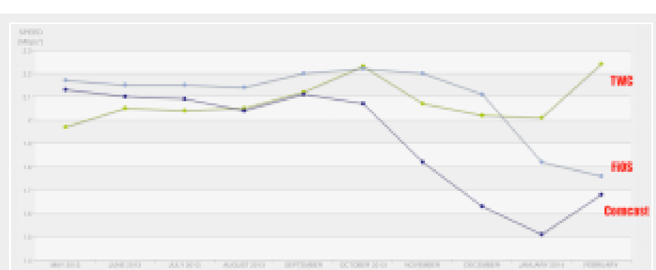
A summary of the JD Power ratings for Comcast and TWC's pay-TV services. We've circled all the instances in which the two companies scored the same or in which TWC outscored Comcast. Note that neither company managed to do better than a 3 on the JD Power scale, indicating a score of "About Average." Click chart for full-size.

What the author at the venerated newspaper omits is a link to the JD Power study, as that would show that Comcast performed just as poorly half of the time, and the instances in which Comcast outscored Time Warner Cable, it did so only marginally (a fact Stewart waits until the very end of the story to even mention before allowing Roberts to shrug it off with all the awesome super-rad tech that will help curmudgeonly Stewart finally find Mad Men on his cable listings… Kids today!). Nowhere in the seven rated categories for each of the four regions does either company score better than "About Average."

And you'll notice that of all the companies that rank or rate TV and Internet providers, Stewart cherry-picks one that sort of helps to make the case that Time Warner Cable is a bad company.

In fact, there are multiple sources that would have indicated the same thing, but which would have also shown that Comcast is just as bad, if not worse.

Circling back once again to our colleagues at Consumer Reports, whose recent survey of telecom providers turned up equally bad results for the two merger partners, and where Comcast received especially low marks for customer support.



Recent data from Netflix showing how Verizon and Comcast have allowed its downstream speeds to slow

Stewart conveniently left out this information from Netflix, showing that Time Warner Cable downstream speeds have remained sufficient, and even improved, during the months that the all-great Comcast passive-aggressively throttled Netflix content by allowing it to bottleneck until the Internet's biggest traffic consumer decided to pay the toll.

And the folks at the American Customer Satisfaction Index, whose latest ratings of pay-TV companies and ISPs showed to a crawl during the last half of 2013, while TWC continued to provide adequate support for the service. Click for full-size chart.

both Comcast and Time Warner Cable bringing up the rear in the two categories. Comcast was the bottom-scraper when it came to Internet service, while it allowed TWC the honor of being the caboose on the pay-TV train.

Neither company has provided any shred of evidence that customer service, billing, or reliability will improve post-merger. There has been lip-service paid to the notion that by combining their assets, they will be better able to invest in much-needed resources.

But given the potholed track record of these two companies, why would we have any reason to believe that savings on manpower, networks, maintenance, and content will be reinvested in improving customer service when all a merger would do would be to create an even larger company with minimal competition and even fewer reasons to provide competitive rates or customer service?

5. The Myth Of Geographic Overlap
Here's the argument you hear repeatedly from Stewart and other cheerleaders for this merger: Comcast and Time Warner Cable don't currently overlap, so it's not really creating a monopoly.

It's a valid point, and one that those opposed to the merger will have to repeatedly rebut in the coming months, but it's a deflection of the bigger issues involved here.

Because the cable industry has virtually no competition — even the large satellite companies can't compete in providing broadband services — they can get away with things like unexplained rate increases; new fees for old products and services; using customers as hostages in blackout battles with broadcasters.

Far from giving Comcast a reason to pass savings on to customers, a nearly-doubled subscriber base could actually provide the company with an incentive to continue nickel-and-diming customers. An extra dollar a month from 30 million customers is a nice chunk of change at the end of the year. Data caps and usage-based pricing for Internet users would be a gold mine for the merged company, especially since their consumers have few-to-no alternatives for broadband service.

Stewart mocks the notion put forth by law professor and author Susan Crawford, among others, that a merged Comcast/TWC would create a "monopsony," a company that would effectively be negotiating with vendors on behalf of an entire industry. The mega-provider would be able to demand the absolute lowest rates from networks and other providers, which Stewart sees as only resulting in good, claiming the future Comcast-zilla "has an incentive to pass at least some of those savings on to customers to increase demand for its services with lower prices."

Again, we ask where he's imagining this incentive coming from? If Comcast has no competition and customers can't get their Internet and TV service elsewhere, why on Earth would the company not continue to chisel away at subscribers' wallets?

6. Who Cares About The Broadcasters?
Continuing on with the discussion of creating a monopsony, the Comcast ad in the Times— (because that's what it is: a huge, effectively sponsored, story that only cost Comcast a few bucks to get Stewart to Philly and show him around its shimmering USB drive on JFK Blvd.) — rightfully points out that antitrust law is intended to protect consumers, so why should anyone care about broadcasters and other content creators not getting their full due?

"It's hard to imagine that the wildly popular ESPN or Netflix needs protection from regulators in Washington," writes Stewart, ignoring the ripple effects and other problems associated with monopsony.

Say Comcast goes to Sony to discuss online streaming rates for its TV and movie studios' content. The megacompany, which not only has cable customers, but also Internet users, a built-in TV audience on a major broadcast network, multiple news channels, and a slew of cable offerings, could use that leverage to guarantee it pays a lower rate than anyone else in the industry. This drives up rates for competitors, who either pass that cost on to customers or who have to be more selective about what they license for their customers' use.

It provides a barrier for entry to start-up companies or new ventures from existing companies; makes it harder for smaller, regional providers to grow and compete; and could drive some companies — on both the content and provider side — out of business. Less choice, higher prices. That's a consumer issue, Mr. Stewart.

Additionally, cable companies are the gatekeepers for much of the information entering Americans' homes. With no current net neutrality rules, **a cable company can literally decide what its customers can and can't see.** Even though Comcast is still obligated to oblige by the recently-gutted rules through 2018, the above-referenced Netflix standoff shows that it has the means and the leverage to get around such weak-kneed regulation.

7. Someday My Cable Prince Will Come...
Stewart makes the fallacious claim of an "array of consumer television and broadband options" available to consumers, disregarding all studies showing that very few people have access to more than one cable provider; that satellite TV customers generally need a cable company to get broadband; that Verizon has stated publicly that it has no immediate plans to build out its FiOS fiber network into new areas of the country.

He even made me laugh a bit by speculating that Google may bring its Google Fiber network to New York City at some point in the next millennium. Verizon, which has the poles and the existing landline network in place, has been trying to wire that city for years with FiOS and has barely made a dent in Manhattan and many of the more populated areas of the city.

I actually did a spit-take when Stewart tossed out the suggestion that Sprint's pie-in-the-sky plan to provide wireless broadband service would someday be a viable non-cable option for consumers. At this point, that idea exists only in the speeches that SoftBank CEO Masayoshi Son gives to make the case for his own desired merger of Sprint and T-Mobile USA. Yes, widespread broadband Internet seems like an inevitable future for data to the home, but it's unlikely to come from any of the major wireless providers who are currently too busy enjoying their tiered data plans and their associated overage fees. And the notion that Sprint, which has not been able to keep up with its competitors in terms of speed and reliability, would be the superhero to swoop in and provide competition to New Yorkers is just ludicrous.

You simply can't wipe away all the problems with this merger with a few glib, biased complaints about how much you currently hate Time Warner Cable. You can't just say that the deal won't create a monopoly because there already is one. You can't pin your hopes for future competition on what-ifs and maybes.

How Comcast Uses Low-Income Families To Look Good For Regulators

By Kate Cox March 29, 2014

(spidra)

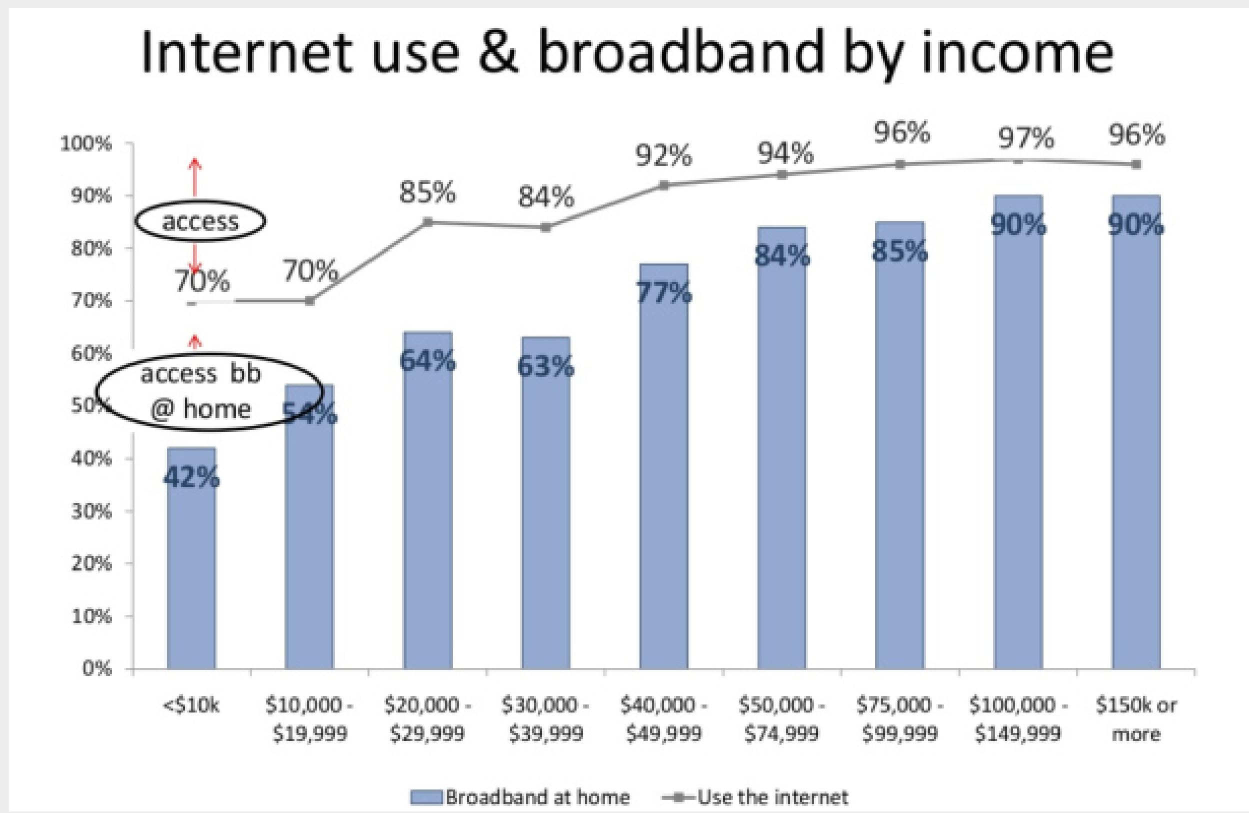
Back in 2011, Comcast launched a program to help low-income families. The program, Comcast Internet Essentials, lets certain families enroll in 5 MBps broadband for $10 a month. In timing that was completely coincidental we're sure, shortly after announcingtheir plan to buy Time Warner Cable, Comcast announced an indefinite extension to the program.

It's not the first time that Comcast has waved the flag of its commitment to underserved populations right as regulators were poised to take a fine-toothed comb to its business dealings. Internet Essentials is now here to stay — but who does it really serve?

The Internet Essentials program is aimed at helping a niche that badly needs help.
Let's say this up front, and clearly: expanding broadband access to lower-income households is a laudable and deeply necessary goal. In 2014, internet access is basically how everyone does everything. Need to apply for a job? Do it online. Need to access state and federal services? Do it online. Need to contact a school, do your homework, research something? Do it online.

Internet access isn't just about the newest in entertainment (though it is that, too). It's access to jobs, to education, to commerce, to news and information, to friends and family, and basically to the entire world at large. Being locked out of it due to high prices can be crippling in a hundred little ways, especially to a family with children who may be falling academically and socially behind their more moneyed peers.

The gap of the digital divide is real, and it's persistent. The Pew Internet Project has tracked internet access for years. On average, 85% of Americans access the internet. But an average is just that: averaged. Breaking down the data by household income, on the other hand, highlights the disparity.



Broadband internet access by income, via The Pew Internet Project.

Pew's research, from last fall, shows just how big that divide is, and the correlation is undeniable: the more money you make, the more likely you are to have broadband internet access.

Given how expensive a utility broadband can be, it's not surprising that workers hanging onto the lowest rung of the economic latter have trouble buying into it. But as digital tools become more and more prevalent in the classroom, kids who aren't well-versed in them are at a distinct disadvantage for catching up to their classmates.

So with Internet Essentials, Comcast really is trying to fill in service for a segment of the population that generally goes underserved. 300,000 families are using the service, according to Comcast's most recent progress report, and that's 300,000 families who weren't connected before.

That's the good news. Now here's the rest.

There aren't as many families benefiting from Internet Essentials as there could be.
While it's great that over a quarter million families have enrolled, it could be a lot more. But somehow, Comcast just keeps managing to stand in its own way.

There are two major obstacles to getting low-income families enrolled in the program, according to outreach workers. The first is is the set of eligibility requirements Comcast lays out. To enroll in Internet essentials, families must:

- Be located where Comcast offers Internet service
- Have at least one child eligible to participate in the National School Lunch Program
- Have not subscribed to Comcast Internet service within the last 90 days
- Not have an overdue Comcast bill or unreturned equipment

Of those four requirements, that 90-day requirement is apparently the biggest stumbling block. Families who were overextending themselves to pay for a full-price Comcast package have to go completely without all service for three full months in order to reduce their costs. 90 days is a full semester of the school year — a long time for a family to cut itself off.

The other barrier is the enrollment process itself: Internet Essentials is separate from Comcast's standard service. It uses a different website and phone number for enrollment and information. Consumers who call Comcast's regular line and try to ask for the cheap internet generally get shunted into some kind of promotional triple-play package. Comcast representatives don't redirect callers to the other phone number.

So the consumers most likely to be able correctly to sign up for Internet Essentials are high-information consumers who have the time and resources to use the internet to research how to get the best choice in internet access. And the target user of Internet Essentials is a lower-information consumer, potentially with education and/or language barriers, who doesn't necessarily have the time and resources, or internet access, to do all the research over best choices.

It's not just the enrollment that has a mismatch between "service on offer" and "needs that need filling." Comcast has been touting their partnership with Khan Academy as a way to provide more free online education to low-income families… and while that sounds nice, the truth is, low-income kids aren't the ones really using streaming online courses. College-educated men are.

Comcast benefits far more than low-income families do.
The other main problem with Internet Essentials is that it's crap. A download speed of "up to 5 Mbps" is, by the standards of 2014, painfully slow. Those fancy online educational tools that are supposedly the main benefit of the program? Many of them don't work so well on that connection.

In other words, Comcast is giving their low-income customers access to what they pay for — not access on par with what most other Comcast customers can buy. It's both a fifth of the cost and a fifth of the service.

The focus on families with children eligible for free or reduced lunch is also a big problem with the program. Pew found that "internet non-users are heavily dominated by older adults." No kids at home? No connection.

And what about when those kids grow up? Eligibility is directly tied to having children in the home. When Junior, thanks to his reduced-rate Comcast connection, graduates from high school and gets a full scholarship to State U, will Mom and Pop back home still be able to get e-mails from him? Slate wondered about that in a piece questioning Comcast's motives back in January. Comcast exec David L. Cohen immediately fired back with a complete non-answer:

> "As to the issue of families losing access when kids graduate, the piece ignores our commitment to continue to offer Internet Essentials to any family so long as there is a single eligible child in the household."

And as to the issue of families losing access when kids graduate, the executive ignores families' commitment to not producing infinite children, and eventually having a youngest who turns 18 and graduates, thus ending the parents' eligibility.

Comcast, meanwhile, is not acting out of a sense of charity or philanthropy. They'resatisfting federal requirements to help bring broadband access to the poor. And Internet Essentials is only available where Comcast already operates — so Comcast isn't spending a dime to run infrastructure to any place where it doesn't already exist.

They sure get to benefit from looking philanthropic, though. Community outreach is ahuge part of Comcast's extensive lobbying efforts. And in looking to gain the blessing of federal regulators on their impending buyout of Time Warner Cable, “benefit to the community” is one of their best cards to play.

If Comcast succeeds in buying out TWC, they can argue, then that means they can expand the Internet Essentials program to 19 of the 20 biggest cities in the country. Since broadband access is a huge factor in the merger, Comcast wins from being able to claim that expanding their reach equals reducing the digital divide. If the poor and underserved get to benefit just as much as executives do well the merger must be a good idea, right? Right?!

And of course, every added customer for Comcast is, well, another customer for Comcast. Although actual provider choice and competition are terrible for everyone, options can be even more limited for lower-income families. It’s not just for reasons of cost; it’s because they’re generally renters, not property owners. Renters in multi-unit buildings generally have exactly one choice for TV and internet access: the company their landlord has signed a contract with.

Having Internet Essentials gives Comcast the leverage to go to a community and say, “we have this low-income program; sign more contracts with us so we can help disadvantaged families in your area.” And cities do. More reach, more leverage, less competition: a win all around for Comcast.

So is it just window-dressing?
Just because Comcast gets to win all around, of course, doesn’t mean low-income families have to lose. A terrible internet connection is still better than no internet connection, and over a quarter million families probably are better off now than they were before. That’s not a bad thing.

But as often happens with Comcast, the good news they’re selling isn’t the whole story. When it comes to the digital divide, and to fairly serving the underserved, there’s a long way yet to go.

Comcast: We Don't Have Data Caps, We Have "Data Thresholds"

By Chris Morran April 4, 2014

We like to imagine this terrifying display inside the Comcast HQ lobby in Philadelphia is actually a live feed of the images playing through CEO Brian Roberts' mind (photo: Kevin Burkett)

In its ongoing effort to put lipstick on the pig that is its planned acquisition of Time Warner Cable, Comcast is once again attempting to hide behind double-speak. First, it claimed that it was the greatest supporter of net neutrality around, when it really meant that it was the biggest supporter of what Comcast believes net neutrality should be. Now, another Comcast executive is trying to downplay data caps with the more marketing-friendly term "data thresholds."

In March, the Writers Guild of America came out in opposition to the merger, expressing concern that a post-merger Comcast would use "[data] caps, tiers, metering, or other usage-based pricing" to dissuade consumers from using bandwidth-heavy competitors like Netflix or Amazon, both of which offer consumers an alternative to traditional cable television.

But rather than respond to the actual concerns expressed by the WGA and others, Comcast decides to focus on semantics.

"We don't have data caps — and haven't for about two years," Sena Fitzmaurice, Comcast's VP of government communications, wrote in an e-mail to the International Business Times in response to the WGA filing. "We have tested data thresholds where very heavy customers can buy more if they want more — but that only affects a very small percentage of our customers in a few markets."

A CAP BY ANY OTHER NAME…

And indeed, back in May 2012, Comcast did stop enforcing its standard 250GB/month data cap, but only so it could begin testing 300GB caps — sorry, "thresholds" — that the allows heavy users to buy additional buckets of data at $10 per 50GB. This initial test has since expanded to more markets.

The fact is that it's still a cap; it still represents a maximum amount of data that standard users can access without having to pay more. Call it a threshold, or a limit, or a thingyamdoo, a cap by another name would still smell as, well… whatever caps smell like.

GETTING OFF-TOPIC

This talk of whether or not Comcast is currently testing caps/thresholds is a distraction from the actual concerns expressed by the WGA. The Guild, like many others opposed to the merger, are worried about what lengths a SuperComcast might go to make it less attractive for customers to access disruptive online competitors like Netflix and Amazon.

Merely stating that the company got rid of "caps" in 2012 does nothing to indicate what Comcast plans to do going forward. It's like a spouse claiming they won't cheat in the future by pointing out that it's been a couple years since they last cheated (though they've been doing a lot of "flirting" around the office).

The fact that Comcast has expanded its testing of these kind-and-gentle thresholds seems to indicate that it's been having success with them. To me, it's also a sign that Comcast is more than aware that in a few years' time, a fully-connected household will be brushing up against that 300 GB number more and more frequently.

If Comcast were truly only instituting these thresholds to rein in a small percentage of data-hogging customers, it would have just raised the data cap universally from 250GB to 300GB. These tests are to likely so the company can see how unrestricted customers behave compared to capped customers so that it has a better idea of what to expect when everyone is downloading all of their movies, music, and especially video games, as files for big-name titles for the new Xbox One and PS4 consoles can be several times the size of an HD movie.

THE TRUTH ABOUT CAPS

When pushed on the topic of data caps, ISPs often fall back on the old excuse that these limits are needed to relieve congestion. But the cable industry itself had plainly admitted that they aren't about congestion but about getting heavy users to pay their fair share.

Similarly, the cable industry claims that tiered or usage-based pricing should be the standard so that the grandma who only uses the Internet once a month to send an e-mail to her grandson at summer camp isn't subsidizing the bachelor, who is streaming Netflix while playing a video game online and Skyping with 23 friends all around the world.

But it's been shown that the cost for storing and delivering data continues to drop, while the cost to consumers remains flat or increases, meaning the Comcasts of the world are making larger profits as they drive down their own expenses without passing those savings on to consumers.

At the same time, you have former FCC Chair-turned-face of the cable industry Michael "Yes, my dad is Colin, but I swear I deserve this job" Powell urgently exhorting the cable companies to switch to usage-based pricing before it's "too late for businesses to change consumers' minds that tiered pricing is a good thing."

ISPs have been monkeying around with tiered pricing for years, and have been licking their lips as they watch their cousins in the wireless world reap the benefits of their many data tiers. And barring regulation or legislation that puts a cap on data caps, it seems inevitable that ISPs will at the very least follow Comcast's lead and establish what currently appear to be reasonable limits, but which will soon be par for the course once even the aforementioned granny learns she can watch Matlock reruns online.

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Testimony of Eric Sherman, Chief Executive Officer, Veria Living
To the Senate Judiciary Committee, for its Hearing, April 9, 2014,
"Examining the Comcast-Time Warner Cable Merger and the Impact on Consumers"

Mr. Chairman, Senator Grassley, and members of the Committee, thank you for the opportunity to comment on the pending merger of Comcast and Time Warner Cable. I am Eric Sherman, Chief Executive Officer of independent cable TV network Veria Living. We are the only U.S. network offering 100 percent original programming 24/7 focused on health and wellness.

Veria is taken from the Latin "*veritas*", or truth, and I am here today to discuss a simple truth: The future of independent cable networks will be in jeopardy if the Comcast merger is allowed to proceed without specific government-imposed conditions. Few advertising-supported independents will survive if Comcast shuts them out of its new territory – one that includes 28 of the nation's top 30 markets.

A quick bit of history... Veria Living was launched seven years ago on DISH Network and has since expanded to Cablevision/Optimum, FiOS, GCI, RCN and others, but not to Comcast or Time Warner.

We've pursued Comcast on a regular basis, but their message has been plain, namely, that they will meet with us as many times as we like, but not give us a deal.

Comcast's manner of compliance with the FCC NBC Universal consent decree raises doubts about the company's commitment to supporting truly independent, creative, entrepreneurial networks. Under the decree, Comcast launched channels of limited original content, opting for endless sitcom reruns and music videos already widely available on TV. In at least one instance, Comcast appears to have some ownership interest in a network it chose to carry under the decree. The public deserves more robust evidence that Comcast is not discriminating against independent programmers.

If the merger is to be approved, Congress as well as the Department of Justice, Federal Communications Commission and Federal Trade Commission should press Comcast for enforceable guarantees and impose specific conditions requiring the new cable giant to assure fair access for independent networks. That means allocation of ample bandwidth for linear video channels, transparent evaluation and selection processes, inclusion of diverse voices, and good-faith negotiation of fair and non-discriminatory terms and conditions. It is in the public interest that Comcast carry independent

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networks whose programming is original and diverse as well as entertaining. The government should also ensure that Comcast carries independent networks on similar or equitable terms as those enjoyed by networks carried under the Comcast-NBCU consent decree (e.g., Aspire, El Ray and Revolt Networks).

Veria Living embodies the best of independent programming. We all recognize that there is a health crisis in the United States, yet there are only two TV networks that claim to focus on healthy living: Veria Living, with 100% healthy lifestyle original content, and Discovery Fit & Health, which delivers shows like "Secret Sex Lives: Swingers", "Extreme Cheapskates" and "Long Island Medium". Diabetes, obesity and heart disease are ravaging America and particularly our inner cities. Television has the power to inform, educate and literally save the lives of millions with timely, actionable tips and advice delivered in an entertaining fashion. Veria Living does this, but only in those homes where cable systems allow us carriage.

Our daily line-up includes "Good Food America", "Workout from Within", "Peggy K's Kitchen Cures", "Rock Your Yoga", and "Veria Living Live", which recently hosted a senior Administration figure explaining the ins and outs of the Affordable Care Act.

Attesting to the unique public health value of Veria Living, the Chief Executive Officer of the American Association of Naturopathic Physicians, Jud Richland, MPH, wrote Chairman Leahy (excerpts follow):

> "I hope you will extract from Comcast an assurance that public health messages, including those from natural healthcare providers, will not be stifled in a post-merger media world. This is of direct concern to the nation's 4,400 licensed naturopathic physicians -- graduates of accredited four-year naturopathic medical schools, dedicated to prevention-oriented, whole-person care.
>
> "Outnumbered by and working with fewer financial resources than entrenched medical societies and the pharmaceutical industry, naturopathic physicians are at a disadvantage in seeking positive exposure in news and entertainment programming on major networks. We have, however, found an important ally in the independent cable network, Veria Living.
>
> "This relationship of a network with the natural health profession is unique and important, not only to the public and to naturopathic physicians, but to

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> the economy as well. Given the rising costs of health care, the anticipated shortage of primary care physicians, and the ever-expanding interest in holistic health and wellness, the public deserves to know more about naturopathic medicine.
>
> "We respectfully request that you, the committee and Congress press Comcast for an ironclad assurance that it will carry vital independent content providers like Veria Living without imposing unreasonable terms and obstructions."

In the absence meaningful conditions, Comcast will reject fare like ours and instead favor those networks it owns or controls, directly or indirectly, and opt for more-of-the-same: sports, movies, reruns and little original, quality programming. Minority voices will continue to be underrepresented. Alternative messages will continue to be stifled. All we ask for is a fair and equitable opportunity for carriage.

Veria Living, it should be noted, may be the most vocal independent network on the subject of the merger, but we are just one of many independents not being carried by Comcast. Others include AWE, Rural TV, Blue Highways, Entertainment Studios Networks (Cars.TV, Recipe.TV, etc.) and more. All deserve to be considered on their merits.

Our chairman wisely insists that all Veria Living employees ask themselves a question as they make each business decision: *Have I helped someone today?* Mr. Leahy and committee members, I applaud the work you are doing today to help the American viewing public and the nation's free market of commerce and ideas.

I will be pleased to respond to any questions.

Thank you.

Eric Sherman
CEO, Veria Living

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The FFA Mission: FFA makes a positive difference in the lives of students by developing their potential for **premier leadership, personal growth and career success** through agricultural education.

NATIONAL FFA ORGANIZATION

April 7, 2014

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

To Whom It May Concern:

My name is Dwight Armstrong, and I serve as chief executive officer for the National FFA Organization and the National FFA Foundation. I would like to provide comment pertinent to the Senate Judiciary Committee's public hearing on the proposed merger between Comcast Corporation and Time Warner Cable Inc., particularly the importance of rural programming to the industry of agriculture and to rural and urban communities.

As you may know, the FFA (formerly Future Farmers of America) is an organization of students in public schools preparing for careers in the science, business and technology of agriculture. FFA is one of three vital components of a total agricultural science education system that helps develop students' potential for leadership, personal growth and career success in the food, fiber and natural resources systems of agriculture. Approximately 580,000 FFA members study in 7,500 school-based chapters in 50 states, Puerto Rico and the Virgin Islands. The organization and foundation operate as separate 501(c)(3) nonprofit organizations, and FFA operates under a charter received from the U.S. Congress in 1950.

While fewer Americans today are engaged in on-farm production, the industry of agriculture is one of our nation's largest, most productive economic sectors. The diversity of careers and opportunities in the field cannot be overstated. To attract a talented and well-prepared workforce, it is essential that American agriculture reach rural, suburban and urban audiences. It is equally important that the issues vital to rural communities are shared and explored with urban audiences as well. To this end, television, radio and online programming that deliver that messaging is essential to the national interest.

For the millions of Americans that have been engaged in the FFA and agricultural education, and the many millions more in communities we serve, a major communications outlet for the past 25 years has been RFD-TV, based in Omaha, Nebraska. Since its inception, RFD-TV has been an important partner for FFA and agricultural education, providing an indispensable channel of communication and making available extensive broadcast production support. RFD-TV airs our educational programming at no cost to the organization. Through their creative and philanthropic efforts, FFA has been able to telecast hundreds of hours of live and taped portions of our past three national FFA conventions held annually in the fall. These conventions, the largest annual student gatherings in the country, are attended by 63,000 individuals each year. Thanks to RFD-TV's coverage, we are able to share the important educational and motivational content with millions of current and former members, educators, supporters and the general public.

In addition to the national FFA conventions, RFD-TV has made it possible for FFA to develop a monthly, hour-long program titled "FFA Today" which shares important information about the work of agricultural education, the achievements of our members and the diverse career opportunities in the industry. This program has been an outstanding success and is highly valued by our FFA-related audiences and the general public. Promoting agriculture, raising awareness of agricultural science education and developing grassroots support for our teachers and school programs are direct results of the support FFA has received—at no cost—through the generous support of RFD-TV.

Ensuring this programming is available to urban audiences through cable television distribution is of paramount importance to American agriculture and to FFA. Today, FFA has chapters and school programs in 15 of the 20 largest U.S. cities, including New York, Chicago, Houston, Philadelphia and Los Angeles. Urban students must understand the issues and opportunities within the industry of agriculture. If programming such as RFD-TV is blocked from urban markets, it would do significant harm to agriculture and to the nation's rural communities.

More than a broadcast outlet, RFD-TV has been a generous and indispensable partner in support of FFA chapters and their communities. When the southern coastal states were ravaged by hurricanes beginning with Katrina, RFD-TV played a pivotal role in helping FFA with "Seeds of Hope," a campaign to raise funds and rebuild agricultural education programs devastated in Texas, Louisiana, Mississippi, Alabama and Florida. In addition to airing our public service announcements, RFD-TV's management contributed significant funding through the National FFA Foundation, and additional funds were contributed from the RFD-TV viewing audience. We deeply appreciate the support FFA has received from RFD-TV President Patrick Gottsch, his organization and the network's viewers.

In another example, to help FFA reach hard-pressed Native American communities, RFD-TV provided resources to bring Native American students to the national FFA convention and Washington, D.C., to ignite a spark of leadership and career development. Such efforts are part and parcel of RFD-TV's commitment to providing opportunities for the next generation of leaders for agriculture and American communities.

Agricultural education and FFA are playing a vital role for our nation, not just in developing tomorrow's agricultural workforce, but in cultivating the leadership abilities of local citizens who will contribute to the social, economic and civic well-being of the nation's communities. RFD-TV's help in communicating with our constituencies will be increasingly important in the future. To be sure, our broadcasting efforts would not be possible today without the committed support we receive from RFD-TV. To date, no other broadcasting or publishing entity—either agricultural or general media—has offered this unqualified support to the National FFA Organization. We are grateful for their efforts.

For these reasons, we respectfully request Congress do all it can to ensure outlets such as RFD-TV have access to urban media markets. Their work in connecting city and country is particularly important as the nation considers the challenge of providing food, fiber and natural resources for a global population forecast to grow to 10 billion by 2050. It will require that agriculture have access to the best talent of all of our nation's youth to secure the innovation and collaboration needed to avoid a humanitarian disaster. Your decisions regarding access to broadcast markets have very real and far-reaching consequences.

On behalf of agricultural educators across the nation, I want to thank the Senate Judiciary Committee for its diligence in safeguarding the public's interest as it considers the merger between Comcast Corporation and Time Warner Cable Inc. We urge you to ensure that channels such as RFD-TV may continue serving American public education and local communities by making available important programming such as ours that benefits agriculture and education. That is an investment in the future we can all support.

Thank you for this opportunity to add comment. If the National FFA Organization can be of further assistance, please let me know.

W. Dwight Armstrong

W. Dwight Armstrong, Ph.D.
Chief Executive Officer
National FFA Organization
National FFA Foundation

April 7, 2014

The Honorable Patrick Leahy
Chairman
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building,
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member
United States Senate Committee on the Judiciary
152 Dirksen Senate Office Building,
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

In anticipation of your upcoming hearing entitled *Examining the Comcast-Time Warner Cable Merger and the Impact on Consumers*, we write to you today to highlight a few key points that are of great importance to this potential merger and its effect on programming choices and media access for the African-American community, as well as other racial and ethnic minority communities and viewers throughout our Nation.

An active, robust and diverse media sector, both in terms of ownership and content, is essential for the success of a modern democratic society. Our nation's media systems, from broadcast television and radio, to cable television, should be fully representative of the communities that they serve. Less than ten years ago there were 21 full-power commercial television stations licensed to African-American controlled companies in the United States, and even though 21 stations is woefully short of parity, today there are only four. Unfortunately, to make matters even more deeply concerning, there are no present indicators that this dismal decline in diverse media ownership is likely to be reversed in the foreseeable future. One of the glimmers of hope that can be found is in minority-owned cable networks, like TV One, which provides daily news and quality original programming, from the African-American point of view, as well as shows like the prestigious NAACP Image Awards, Authentic and positive representation of African-American culture, history and diversity are greatly welcomed and sorely needed.

But, even a network like TV One, which is respected by the communities it serves, is not available to all viewers because of the tier on which the programming is placed by some cable operators. Often networks like TV One are relegated to one of the more expensive tiers thus making programming for and about the African-American community more costly for a group of consumers who are often economically disadvantaged and yet rely more heavily on cable products for their information, news and entertainment.

The way the public views certain issues about our communities, our Nation, and our world is directly related to the manner in which these subjects are covered by available media. We need the voices of and platforms for racial and ethnic minorities, including African-Americans that have scale, to achieve the goal of diverse, fair, balanced and comprehensive coverage. This means that the interest of a racially and ethnically diverse public is best addressed when our nation's media systems are representative of, accessible to, and affordable by the communities that they serve.

Thank you for the opportunity to share our views with you during this crucial hearings process. If you have any questions on this matter you can reach Hilary O. Shelton, Director of the NAACP Washington Bureau and Senior Vice President for Policy and Advocacy at (202) 463-2940 or Jim Winston, NABOB Executive Director and General Counsel.

Sincerely,

Director
NAACP Washington and
Senior Vice President for Policy and Advocacy

NABOB Executive Director and
General Counsel

cc: Full Senate Judiciary Committee

RFD-TV – Rural America’s Most Important Network

Connecting City With Country

RFD-TV is recognized as one of America’s leading independent cable television channels. Launched in December 2000 as a direct result of the FCC’s mandate for Direct Broadcast Satellite (“DBS”) providers to set aside 4% of their channel capacity for noncommercial educational or informational programming, RFD-TV has now grown to have a master affiliation agreement with nearly every major cable operator, enjoying distribution into over 41,000,000 U.S. homes. Nielsen rated, RFD-TV is currently ranked as the nation’s #1 cable channel for Adults 50+, #1 in C&D County Viewership, and #1 Time Spent Viewing as a percentage of the Adults 50+ Audience Composition, plus was voted the #1 Bargain over all 400+ cable channels by the Independent Cable News 2013 survey of independent operators.

RFD-TV signed its first distribution agreement with DISH Network, and then also added full carriage on DIRECTV in 2002 due to the same FCC mandate from the Cable Television Consumer Protection and Competition Act of 1992. Since then, what has followed is truly an American success story. Given the opportunity, RFD-TV quickly found a large audience with its original and unduplicated 24-hour schedule, filling a void for viewers seeking programming devoted to agriculture, equine, rural lifestyle, and traditional family-oriented music and entertainment.

In 2007, because those same public interest mandates were not in place with major cable operators, and in order to grow and position the network to obtain affiliation agreements with Multichannel Video Programming Distributors (“MVPDs”) in urban markets who were requiring commercial insertion as a standard term to be considered for carriage, Rural Media Group, Inc. was formed and RFD-TV became a for-profit entity. Over the next several months, long-term agreements were quickly reached and signed with the following MVPDs: Comcast Corporation, Time Warner Cable, Verizon FiOS, Cox Communications, Mediacom, Suddenlink Communications, Charter Communications, and Bresnan Communications, in addition to restructuring agreements with DISH Network and DIRECTV.

Since then and until 2013, Rural Media Group, Inc. has experienced explosive growth, which included:

- Established RFD-TV The Theatre in Branson, Missouri in March 2007.
- Launched RURAL TV in 2008, the first international channel devoted to rural programming.
- Surpassed 200,000 paid subscribers in 2010 for RFD-TV The Magazine.
- Purchased FamilyNet in August 2012, the company’s second channel devoted to family-oriented programs, which provided access to 15,000,000 new homes, primarily in urban markets.
- Made the largest single, unrestricted cash donation to the Future Farmers of America.
- Launched RURAL RADIO on SiriusXM Channel 80, in July 2013, North America’s first 24/7 radio channel devoted to agriculture and western sports in the U.S and Canada.
- Produced & broadcast The American, the world’s largest one-day rodeo in March/2014.

Most importantly, RFD-TV has been able to establish its own, dedicated news bureaus in Washington, DC and Chicago and now produce over 30 hours of “live” news each week. Market Day Report and the RURAL EVENING NEWS cover news, weather, and markets from the rural perspective that is not available from the urban-based news channels. RFD-TV provides an important link to city viewers who desire to keep informed on rural issues and stay connected with their rural roots, witnessing firsthand the farmers/ranchers who work so hard to produce the food that is consumed each day by all.

On August 13, 2013, despite strong ratings and over the vehement objections from thousands of supportive RFD-TV viewers, Comcast dropped RFD-TV on all its cable systems in Colorado and New Mexico. RFD-TV lost 399,560 homes in Colorado and 70,461 subscribers in New Mexico – 43% of its very limited Comcast distribution. Comcast launched another programming network on these same Colorado/New Mexico cable systems on August 15, 2013 – Al Jazeera America.

RFD-TV worked diligently to understand Comcast's decision and to find a solution. The City of Pueblo, Colorado and Governor Jim Hickenlooper mobilized significant efforts to persuade Comcast to reverse its decision and return RFD-TV's popular, western-themed programming to these two states with strong ties to the western lifestyle. Meetings were held with Comcast's regional Denver programing executives to no avail. RFD-TV then requested a meeting directly with Brian Roberts (Chairman and CEO of Comcast Corporation). On September 11, 2013 a meeting with Comcast's programming executives in Philadelphia was granted where RFD-TV's most recent Nielsen weekend prime-time ratings were presented, along with emails from over 4,000 Colorado/New Mexico customers requesting RFD-TV's return. The request was denied.

Comcast's decision to drop RFD-TV is not supported by RFD-TV's ratings or cost issues, as RFD-TV has one of the lowest per subscriber carriage rates among all programing networks:

- RFD-TV was ranked #72 in Denver (out of 289 channels), #42 in Colorado Springs/Pueblo, and #63 in Albuquerque, NM markets as measured by Nielsen Market Research in May/2013.
- No rate dispute – RFD-TV's carriage agreement with Comcast does not expire until December 31, 2015 and the channel has never raised its rate with Comcast, or any other cable provider.
- Comcast currently distributes RFD-TV into only 643,000 of its 21,700,000 homes served, and refuses to carry RFD-HD in many markets.

Actions by any programming distributor "taking undue advantage of programming vendors" is inconsistent with Section 616 of the Communications Act and FCC goals to foster the development of independent programmers and to meet the needs of underserved markets. RFD-TV's carriage issues with Comcast started after Comcast merged with NBC Universal. The 2011 merger was granted by the FCC with conditions, in part, to ensure that Comcast did not discriminate against independent programmers in favor of affiliated programming. However, Comcast's treatment of RFD-TV and RFD-HD appears to be inconsistent with the intent of the FCC's non-discrimination merger condition requiring Comcast to make 10 channels available to independent programmers over an eight year period of time.

With the proposed merger of Comcast and Time Warner Cable, Comcast will control 22 of the top 24 Nielsen-rated television markets in the United States. RFD-TV, its 146 independent programmers, and all of the rural/agricultural associations, including the American Farm Bureau Federation, FFA, and 4-H, who depend on this network for its distribution, are concerned that we will be shut-out of these important urban markets, limiting our joint efforts to bridge the gap between rural and urban America.

RFD-TV is a public interest set-aside success story. Comcast has not been responsive to the concerns of consumers, independent programmers or local and state government officials. Rural Media Group respectfully requests that Comcast reverse its decision to stop carrying RFD-TV, and instead begin distributing RFD-HD in all franchised areas to the benefit of all. Moreover, additional measures are needed to ensure that independent programmers are protected against MVPD consolidation in the future, to reinforce the goals of Congress and the FCC to foster the development of independent programmers.

UNITED STATES HISPANIC CHAMBER OF COMMERCE

April 9, 2014

Senator Patrick Leahy
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Senator Chuck Grassley
Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley,

We are writing you today in regard to the Judiciary Committee's hearing entitled, *Examining the Comcast-Time Warner Cable Merger and the Impact on Consumers*. The United States Hispanic Chamber of Commerce (USHCC) advocates on behalf of nearly 3.2 million Hispanic-owned businesses that together contribute in excess of $468 billion to the American economy each year. We thank you for holding this important hearing and for allowing the USHCC to share its perspectives with the Committee.

The USHCC believes that the evidence strongly suggests that this proposed merger would not threaten consumer choice. As you know, the internet has allowed for multiple innovative platforms for content enjoyment. Consumers now enjoy an unheard of proliferation in means to access content as well as companies that provide these services. This innovation has initiated strong competition. Today consumers can choose between traditional over-the-air broadcasting, cable, satellite, and multiple online platforms. The vitality of this market does not stand to be weakened by this merger.

The same is true for consumer choice of high-speed internet. As you know, numerous telecommunications firms are now offering competitive high-speed internet options. As consumers are increasingly turning to mobile technologies such as smart phones and tablets, the high-speed networks of mobile carriers are competing with traditional internet service providers like Comcast. Although the advent of these technologies is relatively new, more than half of the world owns a smart phone and roughly half of them use mobile broadband as their primary or exclusive means of accessing the internet.

Google has also begun deploying a revolutionary internet access service called Google Fiber that will offer alternatives to consumers in certain markets.

In addition to discussing how the internet ecosystem is changing the way we should think about competition in the telecommunication space, it is also important to note that the merger of Comcast and Time Warner Cable should not reduce consumers' options because these companies have virtually no overlap. Of the 30 million Comcast and Time Warner Cable customers, less than 0.01 percent of them live in zones of overlap.

The robust competition in the telecommunications industry is one of our economy's greatest assets. We at the USHCC believe that Comcast-Time Warner Cable merger will not only preserve consumer choice, but also generate innovation and efficiencies that will support this competitive environment.

Respectfully Submitted,

Marc Rodriguez
Chairman of the Board
USHCC

Javier Palomarez
President & CEO
USHCC