TIME WARNER CABLE INC.
Form 425
September 25, 2014

Filed by Comcast Corporation
(Commission File No.: 001-32871)
Pursuant to Rule 425 of the Securities Act of 1933
and deemed filed pursuant to Rule 14a-6(b)
of the Securities Exchange Act of 1934

Subject Company: Time Warner Cable Inc.

Commission File No. for Registration Statement
on Form S-4 filed by Comcast Corporation: 333-194698

The following Comcast and TWC Opposition to Petitions to Deny and Response to Comments was made available on Comcast's website:

REDACTED – PUBLIC INSPECTION
Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

OPPOSITION TO PETITIONS TO DENY AND RESPONSE TO COMMENTS

Comcast Corporation 300 New Jersey Ave., N.W. Suite 700 Washington, D.C. 20001	Time Warner Cable Inc. 901 F. Street, N.W. Suite 800 Washington, D.C. 20004

September 23, 2014

REDACTED – PUBLIC INSPECTION

TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY 1

II. STANDARD OF REVIEW 25

A. Applicants Have Met Their Burden of Proof. 26

B. Petitioners Have Not Met Their Burden. 30

III. THE TRANSACTION WILL PROVIDE SUBSTANTIAL PUBLIC INTEREST BENEFITS, AND CHALLENGES TO THESE BENEFITS ARE WITHOUT MERIT. 36

A. The Transaction Will Accelerate the Deployment of Advanced Broadband Services, Increase Broadband Competition and Innovation, and Expand Broadband Adoption. 36

1. The Transaction Will Accelerate the Deployment of Advanced Broadband Services to the Acquired Systems. 36

2. The Transaction Will Foster Greater Broadband Competition and the Virtuous Cycle of Innovation. 43

3. Expansion of Internet Essentials to Many New Communities Will Increase Broadband Adoption and Reduce the Digital Divide. 49

a. Commenters Overwhelmingly Endorse Internet Essentials as a Leading Program for Bridging the Digital Divide. 50

b. Petitioners' Complaints About Internet Essentials Are Over-stated, Unfounded, and Often Self-Serving. 53

B. The Transaction Will Acclerate the Deployment of Advanced Video Products and Services. 59

C. The Transaction Will Promote Greater Voice Competition and Services. 66

D. The Transaction Will Enhance Competition and Choice for Businesses of All Sizes. 67

E. The Transaction Will Accelerate the Deployment and Adoption of Next-Generation Cable Advertising Technologies. 74

F. Other Transaction Benefits 79

REDACTED – PUBLIC INSPECTION

1. The Transaction Will Generate Key Efficiencies That Will Drive the Public Interest Benefits. 79

2. The Extension of Commitments and Conditions from the Comcast-NBCUniversal Order Will Further Enhance the Public Interest. 82

3. The Transaction Will Extend Comcast's Leading Accessibility Initiatives and Innovations to the Acquired Systems. 104

4. The Transaction Will Produce Other Consumer and Competition Benefits by Increasing the Contiguous Service Areas of Systems Owned by Comcast, Charter, and GreatLand Connections. 106

5. The Transaction Will Create a More Reliable and More Secure Network for More Homes and Businesses. 110

IV. THE TRANSACTION WILL NOT HARM COMPETITION OR THE PUBLIC INTEREST. 112

A. Petitioners Erroneously Define Certain "Relevant Markets." 113

1. Broadband Market Definition 113

a. The Broadband Market Is Local, Not National. 115

b. The Relevant Broadband Product Market Must Consider DSL, Wireless, and Other Technologies. 120

2. MVPD Market Definition 136

3. "Homes Passed" Is Not a Relevant Metric for Any Service. 142

B. No Horizontal Harms: The Transaction Presents No Threat of Horizontal Harm in Any Relevant Market. 143

1. No Harm to Broadband Services Competition 144

a. National "Market" Share Figures Are a Red Herring. 144

b. There Will Be No Anticompetitive Concentration of Internet Backbone Services. 146

2. No Harm to Video Programming 147

a. Comcast's Increased Scale as a Buyer of Programming Will Not Give Rise to Any Competitive Harm. 147

b. Comcast's Increased Programming Assets Will Be Minimal and Will Not Give Rise to Any Competitive Harm with RSNs or Local News. 171

3. No Harm to Video Distribution Services 175

4. No Harm to the Equipment Marketplace 176

a. The Transaction Will Not Limit the Device Options for Other MVPDs. 177

b. Comcast Is Increasing, Not Restricting, Customer Access to TVE Services On Retail Devices. 182

c. Contrary to Commenters' Claims, Comcast Is an Industry Leader in Enabling Consumers to Access Cable Services on Retail Devices. 185

d. The X1 Platform Will Not Impede Customer Access to Over-The-Top Video. 187

5. No Harm to Voice Services 190

6. No Harm to Business Services 192

7. No Harm from Loss of "Benchmark" Competition 193

C. No Vertical Harms: The Transaction Will Not Facilitate Anticompetitive Foreclosure or Other Exclusionary Conduct. 194

1. No Vertical Foreclosure of OVDs on the Broadband Network 195

a. Broadband Foreclosure Claims Are Not Transaction-Specific. 195

b. The Combined Company Will Have No Enhanced Incentive to Foreclose OVDs. 197

c. The Combined Company Will Have No Enhanced Ability to Foreclose OVDs. 205

d. Usage-Based Billing Does Not Give Rise to Public Interest Harms. 233

2. No Vertical Foreclosure in the Sale of Programming to Rival MVPDs or Unaffiliated OVDs 236

a. Comcast's Video Programming Ownership Will Not Substantially Increase. 237

b. Expanding Its Customer Base Will Not Increase Comcast's Incentive or Ability to Foreclose Rival MVPDs and OVDs from its Programming. 238

3. No Vertical Foreclosure in the Carriage of Unaffiliated Programmers 246

a. Transaction Reviews Have Too Often Been Used for Frivolous Program Carriage Advocacy. 248

b. No Affiliation-Based Discrimination Against National Programmers 251

c. No Affiliation-Based Discrimination Against Spanish-Language Programmers 260

d. No Affiliation-Based Discrimination Against Regional or Local Programmers 263

D. No Harm to Advertising 265

1. Overview of the Advertising Marketplace 265

2. The Transaction Poses No Harm to Advertising. 269

a. No Competitive Harms for National or Regional Advertisers 269

b. No Competitive Harms for Local Cable Advertisers 269

3. No Competitive Concerns for Advertisers from a Reduced Supply of Local Advertising or from Bundling 272

4. No Competitive Concerns for Cable Advertising Representation Services 273

5. No Competitive Issue with NCC Media 277

6. The Transaction Will Not Stifle The Development of Advanced Advertising Services. 278

V. OTHER ISSUES RAISED BY COMMENTERS ARE NOT TRANSACTION-SPECIFIC, ARE ADDRESSED IN OTHER PROCEEDINGS, OR ARE OTHERWISE EXTRANEOUS, AND THUS ARE IRRELEVANT TO THE COMMISSION'S ANALYSIS. 279

A. Customer Service 279

B. Customer Prices 285

REDACTED – PUBLIC INSPECTION

C. PEG Programming 291

D. Local Franchising Issues/Enforcement 298

E. Workforce Issues 300

F. Customer Privacy and Character Issues 303

G. Municipal Broadband 307

H. Wholesale Access 308

I. iN Demand 310

J. Headend in the Sky 312

K. Broadcaster Issues 314

L. Beach TV 317

M. Future Industry Consolidation 319

VI. CONCLUSION 320

EXHIBITS

1. Reply Declaration of Dr. Mark A. Israel
2. Reply Declaration of Dr. Gregory L. Rosston and Dr. Michael D. Topper
3. Declaration of Dr. Dennis W. Carlton
4. Declaration of Kevin McElearney
5. Declaration of Dr. Constantine Dovrolis
6. Comcast's Leading Track Record on Diversity and Community Involvement and Citizenship
7. Select Comcast-NBCUniversal Diversity and Inclusions Awards (2010-2014)
8. Select Comcast-NBCUniversal Community Investment Awards (2010-2014)

REDACTED – PUBLIC INSPECTION

I. INTRODUCTION AND SUMMARY

In this proceeding, Applicants have demonstrated that the license transfers from the Comcast Corporation ("Comcast") and Time Warner Cable Inc. ("TWC") transaction and related exchange of systems with Charter Communications, Inc. ("Charter") (collectively, the "Transaction") will produce substantial, verifiable public interest benefits that advance core Commission objectives. The Transaction will greatly expand the quality of communications services available to millions of additional consumers and businesses. It will also provide the combined company with the greater scale and synergies essential to continue to invest in and upgrade its networks, innovate, and compete more effectively against the growing number of communications, media, and technology providers with national and global scale. This, in turn, will spur greater competition, investment, and innovation by other providers.

Specifically, Applicants have demonstrated that the Transaction will result in the following substantial benefits for millions more American consumers and businesses, and not a single opponent or commenter demonstrates otherwise:

- accelerated deployment of higher broadband speeds and enhanced broadband services;
- greater availability of advanced video and voice services and technologies;
- accelerated digital upgrades for the acquired systems, which will enhance network reliability and security and foster next-generation services;
- greater choice in video offerings (including the most advanced and robust video-on-demand ("VOD") and TV Everywhere ("TVE") experience);
- greater scale and scope efficiencies leading to more investment and innovation;
- increased business service and wireless backhaul competition resulting in lower prices and enhanced service offerings;
- deployment of a more robust and expansive Wi-Fi network;

1

REDACTED – PUBLIC INSPECTION

- development and deployment of dynamic ad insertion ("DAI") and addressable technologies for more effective advertising, particularly in VOD and online content; and

- geographic rationalization-related efficiencies leading to other enhanced service offerings, better performance, and more competition.

Comcast has pledged to make substantial incremental investments – hundreds of millions of dollars annually – to TWC's planned upgrades and enhancements over the next three years to accelerate improvements to TWC's plant and facilities. Based on the information Comcast has obtained so far, it projects that the acquired customers in each market will have access to all of Comcast's products and services within 36 months of the closing date of the Transaction, although some markets will be fully transitioned within a period as short as 12 months or even sooner. Together, these investments will help realize the many transaction-specific consumer and competition-related benefits throughout the combined company's expanded footprint.

Even more significant, when Comcast invests, it incentivizes competitors to invest too, fueling the virtuous cycle of investment and reinvestment referenced by Chairman Wheeler in his recent remarks on broadband competition, and benefiting even more Americans. As AT&T's CEO Randall Stephenson observed, the Transaction "puts a heightened sense of urgency" on competitors to "very, very aggressive[ly]" invest capital in their networks and improve the quality of their services – including, for example, AT&T's recent announcement to expand its Project VIP, 1 Gig service to up to 100 new cities. Such competitive investment is a highly desirable outcome for consumers and for the national economy.

Beyond these substantial benefits to the quality and growth of our nation's advanced communications infrastructure and services, the Transaction will provide other important public interest benefits. Notably, it will extend Comcast's acclaimed broadband adoption program, Internet Essentials, to millions of additional low-income families throughout the acquired systems. Comcast has already connected over 1.4 million low-income Americans to the Internet, far more than any other program of its kind. And Comcast will extend many other public interest benefits from the NBCUniversal transaction to the acquired TWC and Charter systems – including Comcast's commitments to standalone broadband offerings, diversity, accessibility, and the protections of the Commission's 2010 Open Internet rules.

REDACTED – PUBLIC INSPECTION

These many transaction-specific benefits are precisely the kind of verifiable, non-speculative benefits that the Commission has long recognized as satisfying its public interest standard. Indeed, most of these benefits are substantially similar to ones that Comcast has previously committed to deliver in prior cable transactions approved by the Commission. And the record shows that, in each prior case, Comcast has met and often far exceeded those commitments. It will do the same here.

These benefits are also confirmed by the comprehensive expert declarations previously submitted by Dr. Mark Israel of Compass Lexecon and Drs. Gregory Rosston of Stanford University and Michael Topper of Cornerstone Research. As part of this Opposition and Response, Applicants provide additional evidence and econometric analyses that further demonstrate the benefits that will derive from the Transaction, and also comprehensively rebut the assertions in each of the economic and other reports filed by opponents. Applicants' additional submissions include:

(1) Further economic and econometric analyses in reply declarations by (i) Dr. Dennis W. Carlton of Compass Lexecon, (ii) Dr. Israel, and (iii) Drs. Rosston and Topper;

(2) A declaration by Kevin McElearney, Senior Vice President, Network Engineering for Comcast Cable, setting out the accurate facts relating to Comcast's traffic exchange practices and experience and dealings with Cogent, Netflix, and other partners; and

REDACTED – PUBLIC INSPECTION

(3) A declaration by Dr. Constantine Dovrolis, a professor of Computer Science and Engineering at Georgia Institute of Technology and an expert on Internet peering and transit, providing the overall technical and economic context of Internet interconnection and responding to misrepresentations made in the declarations submitted by Netflix and Cogent regarding these issues.

The record evidence that Applicants have provided demonstrating the significant public interest benefits from the Transaction is further bolstered by over 500 substantive, supportive comments and letters filed by third parties. These supporters of the Transaction span a wide range of individuals and entities, including business development and community organizations, diversity groups, advertisers, programmers, schools and universities, elected officials and other policymakers, and private citizens. Each commenter's support is based on first-hand experiences with Applicants, and powerfully reinforces that the Transaction is pro-consumer, pro-competitive, and strongly in the public interest.

State and local elected officials representing diverse populations from New York to California, including urban and rural districts in both Comcast and TWC areas, have underscored the significant benefits this Transaction will provide for their constituents. These officials understand better than anyone their local needs and attest to the greater investment, innovation, and quality of services that the Transaction will bring to their communities.

- For example, a joint filing of more than 50 mayors – Republicans and Democrats, from Comcast and TWC cities – notes that "[c]ities joining the Comcast service area will benefit from increased network investment, faster Internet speeds, improved video options and leading community development programs to help us tackle important community challenges like the digital divide."

- Rahm Emanuel, Mayor of Chicago, writes that "we are optimistic that the increased resources of the combined corporation will lead to more investment in local network infrastructure and faster Internet speeds."

- Governor Peter Shumlin of Vermont writes that "I am pleased to report that Comcast has delivered on the promise [to expand broadband to some of our most rural areas] and has invested nearly $128 million in our state. . . . I look forward to Comcast's continued investment in my state and expect that [the Commission's] approval of this transaction would enhance Comcast's commitment to continue working to bring services to low-income and rural Americans."

4

Over 100 chambers of commerce and business organizations across the country have similarly voiced their strong support for the Transaction. These include national minority business organizations, such as the National Black Chamber of Commerce, Latinos in Information Sciences and Technology Association, the National Puerto Rican Chamber of Commerce, and the U.S. Pan Asian American Chamber of Commerce Education Foundation. Each organization attests to Comcast's proven commitment to providing high quality services and recognizes the competitive benefits a geographically larger and stronger Comcast could bring to business of all sizes (including minority-owned businesses).

- For example, the California Hispanic Chamber of Commerce notes that "our members will have more choices of providers for high-end services, and our larger business members with locations in both the northern and southern parts of the state will be able to better integrate their operations, thus increasing efficiency and lowering operating costs."

- The Redwood City-San Mateo County Chamber of Commerce observes that the "entry of Comcast's business offerings into more markets where our members operate will create new competition for telecom services. As a result, our members will have more choices of providers for high-end services, and our larger business members with locations in both the northern and southern parts of the state will be able to better integrate their operations, thus increasing efficiency and lowering operating costs."

- The Fort Worth Chamber of Commerce states that "[t]he businesses and consumers of Fort Worth would benefit from access to these top-of-the-line services, and by approving the proposed transaction, the FCC could allow Fort Worth to catch up to current Comcast markets."

- The Associated Industries of Massachusetts also recognizes that the Transaction "will ramp up competition among communication companies for customers among small and medium businesses and consumers. The result will mean innovation and cutting edge products and services for our consumers and businesses."

Likewise, industry innovators, such as Cisco, TiVo, Broadcom, and Arris, understand the relevant competitive dynamics and investment incentives at play, and are confident that the Transaction will produce benefits for consumers. These companies attest to Comcast's long history of investing in next-generation technologies and partnering to bring best-in-class products and services to its customers.

- Cisco writes that the combined company's greater scale will "enabl[e] it to increase its investments in cutting-edge technologies and services and spread the costs across a larger customer base" and "allow Comcast and Charter to better rationalize their geographic footprints, producing efficiencies that will provide more room for investment and innovation."

- Broadcom states that the Transaction "will give Comcast the scale required to build on its industry leading technology initiatives and to invest in further innovation in video and broadband services. This investment will benefit consumers by accelerating the deployment of all-digital cable systems that offer higher broadband speeds, more advanced services and a more robust and secure network."

- And TiVo observes that, "[b]ased on Comcast's history of working with TiVo to facilitate innovation, . . . the [transaction] should benefit consumers that wish to use retail devices to access their pay-TV programming as we would expect Comcast's leadership and supportive policies to continue and expand."

A host of start-ups, like Maker's Row, Nextdoor, Quantifind, Shuddle, Inc., SundaySky, and Versa, similarly support the Transaction. These commenters vouch for Comcast's commitment to supporting new and innovative businesses, and recognize that the Transaction will provide greater scale and efficiencies that enable the combined company to increase those kinds of investments. And they rebut – with real-world practicality – any assertion that the Transaction would be harmful for start-up companies or budding entrepreneurial businesses.

REDACTED – PUBLIC INSPECTION

A substantial and diverse group of programmers, including independent programmers, further attest to Comcast's commitment to carry diverse, quality programming – regardless of affiliation – that meets the needs and interests of its customers. These programmers all support the Transaction without qualification and include, among others, Access La Porte County, BabyFirst Americas, Bedford Community Television, Berks Community Television, Cape Cod Community Media Center, Condista, Crossings TV, El Rey, Hallmark, INSP, JTV, New England Sports Network ("NESN"), Outside TV, Ovation, PBS Hawaii, REELZ, REVOLT, Rutland Region Community Television, Starz, Television Korea 24, and UnionTV34.

- Ovation states, for example, that "Comcast has the best record of any pay-TV provider in launching independent networks like Ovation, as well as many minority-owned channels, such as TV One."
- INSP adds that the Transaction "will be a great development for independent networks."
- NESN confirms that "Comcast has a strong record of supporting independent sports networks—even those that compete with Comcast's own CSN."
- BabyFirst America reports that "Comcast's support for our network over the last two years demonstrates how great Comcast is in supporting diversity and independent channels."
- Outside Television shows that "[a]lthough Comcast already carried a wide variety of sports programming, including NBC SportsNet and regional sports networks, Comcast saw that Outside Television could serve an untapped niche with tremendous upside."
- Crossings TV affirms that "[w]ithout Comcast there would have been no Crossings TV."

These programmers are among the more than 160 purely independent networks (over 100 networks focused on diverse programming) that Comcast carries today; and, since the NBCUniversal transaction, Comcast has expanded its carriage of 141 independent programmers by 217 million customers, collectively. Their direct experiences with Comcast reinforce the new opportunities that the Transaction will provide to programmers throughout the country by significantly expanding Comcast's distribution network.

REDACTED – PUBLIC INSPECTION

And while a handful of commenters have tried to suggest that the advertising market could be harmed by this Transaction, the only advertisers participating in the proceeding disagree. Major advertising agencies like GroupM, Horizon Media, and MediaVest – which represent top advertisers across the globe and place tens of billions of dollars in advertising annually in the U.S. alone – filed in support of the Transaction, attesting to the significant benefits it will bring to the advertising industry, including the accelerated development and deployment of next-generation technologies like DAI and addressable advertising.

- GroupM, for instance, notes that the Transaction will enable the combined company to offer DAI across its expanded footprint, and that "deploying it at such scale would help make it an industry standard, thereby reinstating advertiser confidence that their ads are being viewed."

- Horizon Media echoes that, to date, "[a]ddressable advertising has largely been difficult to achieve because of lack of reach," but that "[t]hrough the merger, the combined entity would deliver the kind of scale required to make such hyper-targeting a viable option, [thereby] allow[ing] clients to more effectively and strategically reach their target consumer."

The record further reflects widespread enthusiasm for Comcast's promise to extend its strong commitment to diversity and diversity and inclusion practices to the legacy TWC and Charter markets, and to improve on and integrate the best of those companies' practices. Over 150 diversity groups and community partners endorse the Transaction, representing African American, Asian American, Hispanic, LGBT, People with Disabilities, and Native American communities. These commenters attest to Comcast's proven commitment to promoting diversity across all of its corporate operations, from governance, workforce recruitment and retention, procurement, programming, and philanthropy to community investment.

- The NAACP observes that "Comcast has played a large, positive role in African American hiring in the networking space [and] Comcast's demonstrated record in diverse hiring practices makes [us] confident that the result will be positive for our members and for communities of color throughout the country."

REDACTED – PUBLIC INSPECTION

- The African American Mayors Association notes that Comcast has consistently been ranked among the top places to work for minorities and women and concludes that, "[w]hile many companies struggle with inclusion, at Comcast people of color account for 40% of the employee population."

- The National Foundation for Women Legislators states that "[Comcast's] work toward increasing diversity in the workplace has been recognized throughout the industry."

- The United States Hispanic Leadership Institute adds that "Comcast is the nation's most extensive provider of Spanish-language networks, having invested in the development of independent channels like El Rey and BabyFirst Americas."

- MANA, a national Latina organization, emphasizes that Comcast has launched a package containing 50-60 Spanish language channels in major Hispanic markets, increased the amount of Spanish language programming available on their On-Demand service, and made continued investments in Telemundo, allowing for more Spanish language programming news broadcasts.

- The California Asian Pacific Chamber of Commerce cites "Comcast's efforts to support small and minority owned businesses [as] exemplary, and according to the company's own disclosures, business with minority-owned suppliers has totaled over $4 billion since 2010."

- The United States Hispanic Chamber of Commerce recognizes "[o]ne of the ways that Comcast was able to keep its commitment to diversity was by implementing a new method for recruitment as well as leadership training programs aimed at cultivating a robust pipeline."

- The DC Chamber of Commerce states that "Comcast's inclusive practices, when it comes to awarding supplier contracts to women and minority-owned businesses, is a model for other employers."

- The Graham Memorial Community Church notes "Comcast's commitment to promoting diversity and providing opportunities for minorities in our community. It is a fact that African-American neighborhoods are often left behind when it comes to technology and infrastructure investments, but Comcast has long demonstrated its commitment to our community by making meaningful investments to ensure our citizens have access to the highest quality services."

REDACTED – PUBLIC INSPECTION

Community and non-profit organizations and political leaders across the country confirm Comcast's longstanding commitment to supporting local communities in a variety of important ways. These commenters include, among others, Big Brothers Big Sisters, Boys & Girls Club, United Way, Urban League chapters, By the Hand Club for Kids, City Year, and La Voz Latina. Educators from Colorado, Massachusetts, Missouri, and Hawaii also attest to the importance of Comcast's community investment and community service initiatives, including Comcast Cares Day, the nation's largest single-day corporate volunteer effort.

- Governor Markel of Delaware states that "Comcast's corporate citizenship doesn't operate from 9 to 5. We see their sustained partnerships everywhere we look in our communities. Comcast employees fully participate in making our towns and cities better places to live through corporate programs like Comcast Cares Day and United Way contributions, which drew nearly 1,000 volunteers and 1,000 pledges in 2013 alone, respectively."

- The American Association of People with Disabilities, The Arc, and Easter Seals applaud Comcast's proven commitment to, and innovation in, making its products and services accessible for all consumers. As Easter Seals states, "Accessible TV navigation options like voice command, closed captioning across platforms, and adaptation of mobile and web applications are among some of the things Comcast is offering or piloting to enrich user experience for all. Through a union with Time Warner Cable, many Americans living with disabilities would have newly gained access to these game changing technologies."

- Cape Cod Community Media Center observes that "[o]ften times large companies' community investment can be seen as half-hearted 'window dressing.' That is absolutely not the case with Comcast. Comcast is a true and genuine community leader. Beyond our partnership, Comcast has shown it is dedicated to bettering our community."

- The Virginia Holocaust Museum notes that "Comcast has consistently supported programs here in the vital areas of diversity and citizenship training, math and science and literacy development, and tolerance in a democratic society. Comcast puts their money where only the mouths of others are in community endeavors. They were the first corporate sponsor at the founding of this Museum seventeen years ago, and have supported it in all the years since."

- Big Brothers and Big Sisters "partnered with Comcast [to] develop[] the Beyond School Walls program, which is currently the nation's largest workplace mentoring program for young people. Last school year, some 300 'Littles' participated in the mentoring program in 13 Comcast offices nationwide, each paired with a Comcast 'Big' whose time and guidance has led program participants to earn higher grades, post lower truancy rates, and increase graduation rates. I am impressed with Comcast's commitment to this program and their desire to see a meaningful outcome for each child."

REDACTED – PUBLIC INSPECTION

- The Middlesex United Way credits partnering with Comcast for helping "to build our first 'Born Learning Trail.' . . . This trail gives children a chance to experience outdoor learning that would otherwise be inaccessible to them, thus furthering our goal of improving the education of the children in our community. The trail offers a variety of activities that help to lay the foundation for developing problem solving, critical thinking, leadership and team building by encouraging children to talk, listen, read, think, imagine and create."

- The Savannah Chamber of Commerce recognizes "Comcast's commitment to education . . . evidenced through its signature scholarship program, Leaders and Achievers. The program rewards young people for getting involved in their schools and making positive change in their communities. Since its inception in 2001, numerous Savannah area students have been recognized as Comcast Leaders and Achievers. . . . To date, Comcast has awarded close to $20 million to nearly 20,000 Leaders and Achievers Scholarship winners throughout the country."

Similarly, hundreds of commenters extol Comcast's commitment to bridging the digital divide through its Internet Essentials program, effectively rebutting the unsupported and inaccurate criticisms of the program by a couple of commenters with their own agendas independent of the Transaction.

- As the Democratic Governors Association explains, "Comcast's Internet Essentials program closes the gap in access between rich and poor by offering affordable Internet and computer literacy partnerships to families across the country."

- The Cuban American National Council further observes that "Internet Essentials addresses virtually all the leading obstacles to broadband adoption that experts have identified. If we are going to truly close the digital divide in this country, we need to expand these efforts, as Comcast proposes to do through this transaction."

- The National Hispanic Caucus of State Legislators describes Internet Essentials as "a lifeline to underserved communities," and emphasizes "the possibilities for empowerment if the program is extended to some of our largest Latino centers, like Los Angeles and New York City."

REDACTED – PUBLIC INSPECTION

- And the Boys & Girls Club of America observes that "Data on Internet Essentials suggests that 59% of participating families believe Internet access helped at least one person in their household to find a job – a reminder that Comcast's program is stimulating economic growth in its communities."

The comments quoted above are only a small subset of the hundreds of similar comments attesting to the many significant and wide-ranging benefits that this Transaction will bring to individuals, businesses, institutions, and community organizations across the nation. Taken as a whole, therefore, the record amply demonstrates that the Transaction will serve the public interest, convenience, and necessity in specific, verifiable ways – including many that the Commission has already found meet its public interest standard in prior license transfer review proceedings. Remarkably, there is, in fact, little dispute as to these transaction-specific benefits. There is almost no attempt by opposing commenters to rebut the significant public interest benefits demonstrated by Applicants. And the handful of feeble efforts to question certain elements of the public interest benefit case fail for lack of factual support.

The record also confirms that granting the license transfer applications will not result in any harms to the public interest. The Transaction involves no horizontal consolidation in any relevant market. After the Transaction closes, customers in the Comcast and former TWC and Charter markets at issue will have at least as many providers to choose from – for Internet, video, voice, and business services, and advertising – as they have today. No customer in any of these markets will lose a single competitive choice as a result of the Transaction. Nor does the Transaction raise any vertical concerns. The record shows robust and increasing competition for all of these services in each of the relevant markets in which the combined company will operate. And, together with well-established antitrust laws and Commission rules, various conditions adopted in the NBCUniversal Order will extend to the acquired systems and provide an additional safeguard against any vertical harms.

REDACTED – PUBLIC INSPECTION

* * *

In contrast to the strong record established by Applicants and others in support of the license transfer applications, opponents (referred to herein variously as “petitioners” and “commenters”) have failed to demonstrate that granting those applications will disserve the public interest in any material respect.

The majority of arguments and allegations raised by petitioners are not transaction-specific and, therefore, are irrelevant to the Commission’s analysis in this proceeding. To be sure, there are extended riffs on a generalized “big is bad” theme, but this is symptomatic of the overheated rhetoric that large transactions always evoke. Consider the following quotations:

- “What is at stake here is nothing less than the future of the Internet, and whether the future Internet will be open or closed to independent and diverse voices and viewpoints . . . . Will consumers retain the freedom to access any website, as they could when government policies were in place that ensured nondiscriminatory access, or will they be restricted to visiting sites approved by – or in business with – the ‘gatekeeper’ that provides high speed Internet access? By definition, approval of this transaction cannot be in the public interest.”

- “It is quite clear that as the commercial value of the Internet grows, these huge communications corporations are more than willing to destroy its fundamental openness . . . . Competition and open communications would suffer a disastrous setback.”

- “Comcast and Time Warner are the nation’s dominant residential broadband providers . . . Increasing their national and regional concentration will permit them to block both [broadband-based providers] and potential video programming rivals, such as TiVo/Netflix.”

- “Offering Internet service under the closed cable TV system model will, quite literally, change the character of the Internet as an engine of creative technological and marketplace innovation, open entry, economic growth, and free expression.”

REDACTED – PUBLIC INSPECTION

Tellingly, the above "doom and gloom" predictions – while reflective of the petitions and certain comments in this proceeding – were, in fact, submitted in opposition to prior cable and other transactions approved by the Commission as far back as 1998.[1] These naysayers began their apocalyptic forewarnings ages ago – when most of us were connecting to the Internet at 14 or 28 thousands of bits per second, and a few had begun to use 56k modems. That's when cable really "rolled the dice" – not on a way to control the Internet, but on a risky new technology to create a service that Americans had no idea they would even want. Yet, as soon as cable modem technology started to work, and even more so with every attempt by any two parties to get together to enhance their competitive footprint and capabilities, the doomsayers predicted calamity resulting from cable's alleged "bottleneck power." The sky, they claim, has been falling ever since.

Except that it hasn't. Telcos rolled out DSL; cable operators improved cable modem service; telcos then invested more in advanced DSL services and FTTP; many companies invested and explored other technologies like terrestrial microwave, satellite, and broadband over power lines; first 2G, then 3G, and now 4G wireless were invented and deployed. All told, hundreds of billions of dollars were invested; some things worked; others did not, but vastly more households started connecting. And as Internet networks developed, so did online video distributors ("OVDs") – becoming a new part of the program buying marketplace and offering new competition to at least part of the established video provider business model. In turn, with this explosion of online video traffic, cable operators, telcos, and other providers continued rapidly upgrading their networks and their broadband speeds, thereby helping to catapult video streaming services even farther, and pushing OVD subscriber levels to 10, 20, 30 million and more. Today, the Internet is wide open and faster than ever before – thanks in large part to thoughtful regulatory policies that removed barriers to competitive entry, reduced regulation, and allowed this vibrant marketplace to grow and flourish.

---

1 The "doom and gloom" opposition quotes above are, respectively, from AT&T Inc. and BellSouth Corp. Application for Transfer of Control, Comments of Center for Creative Voices in Media, WC Docket No. 06-74, at 2 (Oct. 24, 2006); Application of America Online, Inc. and Time Warner, Inc. for Transfer of Control, Statement of Dr. Mark N. Cooper, Consumers Union, Consumer Federation of America, Media Access Project, and Center for Media Education before the En Banc Hearing, CS Docket No. 00-30, at 4 (July 27, 2000); Applications for the Consent to the Assignment and/or Transfer of Control of Licenses Adelphia Communications Corp. to Time Warner Cable Inc., Petition to Deny of Free Press et al., MB Docket No. 05-192, at 16 (July 21, 2005); Joint Application of AT&T Corp. and Tele-Communications, Inc. for Approval of Transfer of Control of Commission Licenses and Authorizations, CS Docket 98-178, Petition to Deny of Consumers Union et al., at 12 (Oct. 29, 1998). The same "doom and gloom" prophecies are repeated again in this proceeding. See, e.g., Consumer Federation of America et al. ("CFA et al.") Petition to Deny at 63-64 ("Allowing firms that have been at the forefront of the industry-wide efforts to undermine competition to become a 'fearsome Goliath' that towers over the rest of the industry would deal a severe, if not a death blow to emerging competition."); Free Press Petition to Deny at 7 ("This proposed transaction would create a telecommunications and pay-TV giant of unprecedented proportion. It would also bestow upon Comcast unprecedented and unchecked gatekeeper power over the Internet, in ways that eclipse the control once held by the monopoly Bell System.").

REDACTED – PUBLIC INSPECTION

In short, investment, innovation, and competition are continuing – and, in fact, flourishing. Every morning we wake up to an Internet that is better in every respect than the one we had the night before.

Yet, every step of the way, we continue to hear cries of alarm about "bottlenecks" and "chokepoints" not only on the Internet, but also in the programming and video distribution marketplace, as well as the program buyers' marketplace. In fact, all of these marketplace segments are more competitive today than they have ever been before. Nevertheless, opponents of this Transaction (e.g., Dish, Free Press, Consumer Federation, Consumers Union/Common Cause, Netflix) persist in making the same speculative and unsupported claims here that have been made for years in every major cable transaction. These claims are as unfounded today as they were when the Commission rightly and repeatedly rejected them in prior decades.

Indeed, their claims are even more unfounded here because many of them are being made only because Comcast refused to grant various self-interested requests that were made directly to Comcast soon after the Transaction was announced – almost always with an express or at least an implicit offer to support the Transaction (or stand down, at minimum) if the requester's demands were met. These include requests for free backbone interconnection, requests for participation in advertising "interconnects," requests to share advanced advertising technology that Comcast develops, requests for wholesale service arrangements, requests to make all of Comcast's programming agreements with every single programmer renewable on the same date, requests to renegotiate program carriage arrangements that are not due to expire, requests to expand carriage or increase fees, and many requests to agree to carry networks that do not even exist yet – or that exist, but that are carried by no one. If just the programming asks alone were considered – and even then, only those that are concrete enough to estimate – these demands and related proposed conditions would cost Comcast upwards of $5 billion above any reasonable estimate of what its programming costs might be over the next several years, which would translate into increased costs for Comcast customers of more than $4 per month by 2019 and in perpetuity.

REDACTED – PUBLIC INSPECTION

The significance of this extortion lies in not just the sheer audacity of some of the demands, but also the fact that each of the entities making the "ask" has all but conceded that if its individual business interests are met, then it has no concern whatsoever about the state of the industry, supposed market power going forward, or harm to consumers, competitors, or new entrants. The Commission should take heed of this, because, while the Transaction is perceived as an opportunity for so many to leverage their individual interests, none has been able to make a fact-based, compelling argument that the Transaction would actually harm the public interest.

Instead, many petitioners press nothing more than a host of individualized business interests and disputes – from the reasonableness of commercially negotiated agreements (e.g., Netflix, Cogent), to self-interested program carriage demands (e.g., Discovery, TheBlaze, Back9, RFD-TV, Veria Living, Herring Broadcasting, Weather Nation, etc.), to concerns over how enhanced competition might affect a particular firm (e.g., COMPTEL, Dish, RCN et al.), and to other issues that have no bearing on the license transfer applications (e.g., CenturyLink, Viamedia). Other petitioners raise industry-wide issues, such as open Internet policies, interconnection practices, and similar matters of general interest that are properly addressed (and largely being addressed) in other Commission proceedings (e.g., Netflix, Cogent, Dish).

REDACTED – PUBLIC INSPECTION

For example, in addition to the well-worn “doom and gloom” prophecies from consumer groups, such as Common Cause, Consumers Union, Consumer Federation of America, and their allies, other more egregious misuses of this license transfer review process include the following:

- Netflix recycles prior claims about its interconnection agreement with Comcast – something that is plainly not transaction-specific, since it predates this proceeding by months, features in Netflix's nearly identical advocacy in the Commission’s unrelated Open Internet proceeding, and mirrors Netflix’s incessant complaints about its agreements with other ISPs. What its comments and trumped-up economic theories here show is that Netflix will use any proceeding, in any context, to try to shift the costs for carrying its content onto the backs of others – a great business result for Netflix, but one that would increase prices to consumers and disserve the public interest. As the biggest edge provider and OVD in the country (with over 35 million U.S. subscribers – more than Comcast post-transaction), one would expect Netflix to act responsibly on the Internet, but instead, Netflix deliberately sent its traffic on routes that could not support it, and ignored other routes that could easily have handled it. The robust capacity on those routes is a complete answer to Netflix’s various arguments: Netflix was never forced to choose the routes it used, and Comcast certainly did not compel a direct relationship. Rather, as Netflix’s CEO acknowledged right after the agreement was reached: “We found middle ground on our issues that worked well for both of us for the long term, and works great for consumers.” The agreement is a “great” deal for consumers, and there could be no clearer evidence that Netflix’s expedient change of heart reflects nothing more than a base attempt to gain additional commercial advantages over Comcast through a regulatory condition that is unjustified and would be anything but “great” for consumers.

- Cogent peddles many of the same economic arguments about the Transaction as Netflix, but for a different self-interested agenda. Cogent makes its money by charging edge providers for transit costs and is desperate to prevent Comcast from competing with it in this space – including by helping to lower transit costs for edge providers through direct interconnection agreements, which, as Netflix has acknowledged, is “great for consumers.” Cogent’s alleged concerns are no more transaction-related than Netflix’s, and Cogent’s economic arguments are easily refuted. The bottom line is that the transit market is vibrantly competitive, and that fundamental reality refutes both Cogent’s and Netflix’s theoretical harms from the Transaction. Cogent has a long history of bare-knuckled disputes in the industry, with Comcast being only one in a long line of companies involved in such disputes; dressing it up as a transaction-related argument here is just a new tactic.

17

- Dish claims that the Transaction will create three potential "chokepoints" in the combined company's broadband services. Dish is wrong on each count.

  - Dish's first theory that Comcast might prioritize its own services on the "last mile" of its network before other competitors is easily disproved. Comcast's commitment to abide by the Commission's 2010 Open Internet Order, coupled with any new rules the Commission promulgates, eliminates any plausible concern that Comcast might block, degrade, or otherwise discriminate against any content that is delivered over the Internet to its customers post-transaction, whether from Dish or anyone else.

  - Dish's second theory that Comcast might "choke" interconnection points in the separate marketplace "where competitors' video services enter the Comcast broadband network" is also demonstrably wrong. For the nearly 20 years that Comcast has provided Internet access services, it has worked cooperatively with other companies to interconnect its networks in mutually beneficial ways. Comcast has over 40 settlement-free peering agreements and many more paid connection arrangements with ISPs, CDNs, and others. Any content provider can reach Comcast's network through multiple routes without having a direct business relationship (paid or otherwise) with Comcast, and those routes have significant available capacity today for any provider's traffic. In all events, these interconnection issues are not transaction-specific and are already being examined by the Commission's industry-wide inquiry into Internet traffic exchange.

  - Dish's third theory that Comcast might create "fast lanes" for its own "managed" or "specialized services" and slow other unaffiliated content is idle speculation. Comcast does not offer any such services or so-called "fast lanes." Questions about its ability or incentive to deploy them – let alone do so anticompetitively – are thus entirely theoretical and deserve no weight here. Plus, Comcast already is subject to two stringent conditions on the offering of specialized services from the NBCUniversal transaction.

- Discovery, like many other programmers, is improperly using this proceeding to promote its own financial interests. In fact, Discovery demanded unwarranted business concessions from Comcast as a condition of Discovery's non-opposition to the Transaction. Such extortionate demands are patently improper. As the self-proclaimed "#1 Pay-TV Programmer in the World," Discovery does not need additional regulatory help to succeed in the marketplace. Its claims are baseless and should be rejected.

- Viamedia is likewise seeking business advantages here that it cannot obtain in the marketplace. Viamedia competes with Comcast to sell and place local cable advertising, and theorizes various harms to advertising markets from the Transaction. Its claims boil down to requests for (a) mandatory access to Comcast's advertising interconnects, and (b) regulatory constraints on Comcast's ability to compete with Viamedia in the advertising representation business. While Viamedia tries to make this about the impact on advertisers, not a single advertiser shares those concerns. Rather, several of the largest media agencies in the industry – which, as noted, together place tens of billions of dollars in advertising each year in the U.S. alone – strongly support the Transaction, recognizing that it will benefit advertisers and consumers by accelerating the availability of advanced advertising capabilities across the combined company's expanded footprint. Viamedia's concerns are not transaction-specific and are only designed to protect and advance its own business interests.

Further, while a handful of petitioners submitted economic analyses purporting to show potential harms, these analyses lack empirical evidence, rest on assumptions that do not apply in this case, or, when properly applied, actually support the Transaction, as Drs. Israel, Rosston, Topper, and Carlton explain in their attached declarations.

For example, Netflix, Cogent, and Dish propose artificially defining a "national broadband market" that not only excludes DSL, wireless, and other technologies, but also increases the baseline broadband speed by several multiples of the current baseline. These changes would effectively exclude from the Commission's analysis services and speeds that are successfully used today by tens of millions of customers, including customers who use them to access Netflix's service. This proposed definition bears no resemblance to marketplace realities and ignores established principles of economic analysis – but would nicely advance the parochial interests of these three companies.

First, there is no such national market. As Dr. Israel's analysis makes clear, broadband is a local market in which Comcast and TWC do not compete. The AT&T-MediaOne case cited by these parties is inapposite. Neither the Commission nor DOJ identified a national broadband market in AT&T-MediaOne; rather, that case, unlike here, involved a horizontal merger of competitors in the portal market – a market segment quite distinct from the broadband Internet access market. In contrast, in cases where the Commission has actually analyzed the broadband market, it has consistently found that the relevant market is local, that the broadband market is competitive, and that where there is little or no geographic overlap among broadband providers that seek to combine, there is no cause for competitive concern.

Second, it makes no sense, when defining a "market" for competitive purposes, to exclude either technologies or speeds that tens of millions of broadband customers use today and will still use tomorrow. No one disputes the importance of encouraging more broadband providers to deploy speeds of and above 25 Mbps; to the contrary, Applicants applaud the Commission's (and the Chairman's) efforts to promote this goal. But that is a separate and fundamentally different proposition from whether consumers who use ISP services below that speed today should be excluded from the competitive analysis of this Transaction. The answer to that question is clear: they do count and it would be wrong to exclude them. There are many such competitive broadband options that consumers currently have and use in the local markets where the combined company will operate, including the DSL and wireless services that some petitioners would blithely have the Commission assume away. Consider the following:

- Twenty of the 60 providers on Netflix's August 2014 speed index are DSL providers, and the average speed of many of these DSL providers is greater than the average speed offered by some cable providers.
- A 4 Mbps connection has been found to be sufficient to handle streaming of HD video. The fastest ISP on Netflix's speed rankings averaged 3.11 Mbps down.
- The growth rate in DSL subscribership exceeded the growth rate in cable subscribership between June 2009 and June 2013 (30.7 percent for DSL versus 17.9 percent for cable). At 10 Mbps, the difference in annual growth rates is even more pronounced: 150.6 percent for DSL versus 52.8 percent for cable.

REDACTED – PUBLIC INSPECTION

- Sixty-one percent (61%) of households in the U.S. have only one or two occupants and, therefore, are well below the five simultaneous users per household that these commenters postulate in an attempt to justify 25 Mbps as the baseline speed.

- According to NTIA, the percentage of U.S. population with access to a mobile wireless provider offering broadband speeds of at least 10 Mbps downstream increased from 7.9 percent in December 2010 to 97.5 percent in June 2013.

- Video is the largest and fastest growing segment of mobile data traffic, and is forecasted to account for over 50 percent of all global mobile data traffic by 2019.

- Continuing recent trends of declining prices to consumers, wireless providers' costs are expected to fall precipitously over the next several years, which will further reduce consumer prices.

- In a recent survey of over 1,000 broadband users conducted by Global Strategy Group ("GSG"), 42 percent of respondents indicated that they use wireless broadband at least as much as wired broadband for high bandwidth activities, and 60 percent or more use wireless broadband at least as much as wired broadband for low bandwidth activities.

Indeed, even customers who have opted for higher speeds would see DSL and wireless as a serious alternative if their current broadband provider were to degrade their service by blocking or slowing an edge provider's service. The GSG Survey shows that over 70 percent of cable and phone companies' broadband subscribers would likely switch broadband providers – including to a DSL or wireless provider, or even to an ISP with slower speeds – if their ISP blocked or degraded access to Internet content. These findings are similar to a recent survey by Consumer Reports on the same issue.

Some commenters further try to dismiss existing competitive options based on the assumption that consumers cannot switch because of high switching costs and inconvenience. This may be true in some circumstances, and, if so, it is a valid consideration. But the empirical evidence shows that switching costs and inconvenience do not appear to constrain many broadband customers from switching. Consumers will – and regularly do – switch broadband providers when dissatisfied with their services:

REDACTED – PUBLIC INSPECTION

- The GSG survey also found that consumers frequently switch broadband providers – one-third of survey respondents switched providers in at least the past two years, and nearly one-half switched providers within the past four years.

- These results are consistent with the results of a survey commissioned by the Commission in 2010, finding that over the prior three years 36 percent of Internet users indicated that they had switched their ISP.

- And these results are further confirmed by Comcast’s churn data, which indicate that, over the course of a single year, a significant portion of Comcast’s broadband subscribers switch from its service.

The conclusions to be drawn from this data go beyond the fact that subscribers can and will switch providers, and also indicate that existing broadband choices in local markets provide important discipline to providers. Thus, as Dr. Israel concludes, this research:

implies that, to define today’s local broadband markets, one should use a speed no higher than 10 Mbps, and likely closer to the current 3 Mbps definition [for data collection purposes (4Mbps otherwise)]. This conclusion follows from the adequacy of slower speeds for many uses, including many video applications, and the fact that the marginal customers who would discipline a price increase would likely consider providers offering such lower speeds. Higher speeds (such as 25 Mbps) would miss important current competitive constraints.

In short, the record evidence demonstrates that the existing local broadband market is competitive and that the Transaction will accelerate even more broadband investment and competition, thereby helping to achieve the shared goal of faster Internet speeds for more Americans. But even if one were to ignore this record evidence, and disregard established economic principles that properly focus on consumer choices in local markets for competitive analysis, the Transaction still would present no issues because it would not lead to any meaningful increase in Comcast’s share of a presumed national “market” at 25 Mbps downstream or higher. TWC has very few customers at 25 Mbps or higher; thus, Dr. Israel shows that the combined company’s broadband share under this scenario would increase by less than one percent.

For these and other reasons, after having reviewed the petitions and associated economic declarations filed in this proceeding, Dr. Israel concludes:
[T]he large and mostly unchallenged consumer benefits from the transaction easily swamp any potential competitive harms from the transaction, particularly given that Commenters have made no attempt to quantify any harms and that, as shown throughout this report, such harms are unsupported by theoretical or economic evidence and are likely to be extremely small if they occur at all.

Drs. Rosston and Topper agree, concluding that the Transaction "will not cause competitive harm" (based on econometric analyses using the Commission's own methodologies and real-world data) and "will lead to transaction-specific efficiencies that will benefit residential consumers, businesses, and advertisers."

Similarly, Dr. Carlton concludes that:

[T]he evidence cited by the Commenters [for their concerns about the Transaction] in fact supports exactly the reverse of their conclusion – namely the evidence they cite in fact shows that the magnitude of any harm, even if real, is likely to be tiny. The overall conclusion that emerges is that the benefits of the proposed transaction are large relative to the key harms that the Commenters have identified. Thus, the proposed transaction is in the public interest.

Finally, no petitioner plausibly asserts that approval of the license transfers would effect a per se violation of the Act or any Commission rule – and it plainly would not. Nor does any petitioner credibly dispute that Comcast, as transferee, is fully qualified to hold the licenses at issue. Comcast both meets the requisite qualifications and has a strong compliance history – including, most recently, in connection with the more than 150 conditions that the Commission adopted in the Comcast-NBCUniversal transaction.

REDACTED – PUBLIC INSPECTION

*   *   *

As further discussed in our Opposition below, the facts and record evidence in this case are clear. In contrast to the idle speculation, non-transaction-specific demands, and well-worn predictions of doom and gloom offered by the Transaction's opponents, Applicants have provided relevant marketplace data, economic and econometric analyses, and specific commitments demonstrating substantial benefits for consumers and competition that are merger-specific, verifiable, and non-speculative. Moreover, these benefits are ones that the Commission has consistently recognized as satisfying its public interest standard under well-established precedent.

Section II of the Opposition sets out the applicable standard of review the Commission applies in license transfer proceedings and shows that Applicants have met their burden under this standard and opponents have not.

In Section III, buttressed by the accompanying economic declarations from Dr. Israel, Drs. Rosston and Topper, and Dr. Carlton, Applicants further confirm the substantial public interest benefits this Transaction will generate and rebut assertions to the contrary.

Section IV answers in detail the various allegations of competitive and consumer harm that have been raised, and both this section and the aforementioned economic and engineering declarations demonstrate the fallacies of the various horizontal, vertical, and other harms theorized by opponents and their economic experts.

Finally, Section V responds to various other non-transaction-specific issues, self-serving demands and proposed conditions, and miscellaneous matters raised by certain parties that should be given no weight in the Commission's review of the applications.

REDACTED – PUBLIC INSPECTION

For these reasons, Applicants have conclusively demonstrated that the Transaction will serve the public interest, convenience, and necessity. Accordingly, Applicants respectfully urge the Commission to approve the license transfer applications expeditiously.

II. STANDARD OF REVIEW

Under Sections 214(a) and 310(d) of the Communications Act, the Commission will approve a proposed transfer of control so long as (1) the transaction itself does not violate a statute or rule, and (2) "on balance," the transfer "serves the public interest, convenience and necessity."2 A petition to deny must meet two separate requirements: "(1) [it] must contain specific allegations of fact that, taken as true, make out a prima facie case that grant of the application would not serve the public interest; and (2) the allegations, taken together with any opposing evidence before the Commission, must still raise a substantial and material question of fact as to whether grant of the application would serve the public interest."3

---

2 47 U.S.C. §§ 214(a), 310(d); see also, e.g., Applications of AT&T Inc. and Atl. Tele-Network, Inc. for Consent to Transfer Control of and Assign Licenses and Authorizations, Memorandum Opinion and Order, 28 FCC Rcd. 13670 ¶ 12 (2013) ("AT&T-ATN Order"); Applications Filed for the Transfer of Control of Insight Commc'ns Co. and Time Warner Cable Inc., Memorandum Opinion and Order, 27 FCC Rcd. 497 ¶ 7 (WCB 2012) ("Insight-TWC Order"); Applications Filed by Qwest Commc'ns Int'l Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer of Control, Memorandum Opinion and Order, 26 FCC Rcd. 4194 ¶ 2 (2011) ("CenturyLink-Qwest Order"); AT&T Inc. and BellSouth Corp. Application for Transfer of Control, Memorandum Opinion and Order, 22 FCC Rcd. 5662 ¶ 2 (2007) ("AT&T-BellSouth Order"); Applications for Consent to the Assignment and/or Transfer of Control of Licenses of Adelphia Commc'ns Corp. (and Subsidiaries, Debtors-In-Possession), Assignors, to Time Warner Cable Inc. (Subsidiaries), Assignees, Adelphia Commc'ns Corp., (and Subsidiaries, Debtors-In-Possession), Assignors and Transferors, to Comcast Corp. (Subsidiaries), Assignees and Transferees, Memorandum Opinion and Order, 21 FCC Rcd. 8203 ¶ 23 (2006) ("Adelphia Order").

3 Serafyn v. FCC, 149 F.3d 1213, 1216 (D.C. Cir. 1998); see also Astroline Commc'ns Co. v. FCC, 857 F.2d 1556, 1561 (D.C. Cir. 1988). Moreover, only where opponents raise genuine "substantial and material questions of fact" – circumstances not present here – may the Commission designate the matter for an adjudicatory hearing. 47 U.S.C. §§ 308, 309(a), (d), (e) & 310(d). Given the extensive record presented by both Applicants and third parties and the extensive requests for information the Commission has issued to Comcast, TWC, and Charter, there can be no plausible claim that the Commission lacks sufficient information to make an informed judgment here. The Commission may not (as some appear to wish) conduct an adjudicative hearing solely for the purpose of delaying the Transaction, see, e.g., Dish Network Corp. ("Dish") Petition to Deny at 10-11, or delay its review altogether pending the outcome of a non-transaction-specific issue, see Sports Fans Coalition Petition to Deny at 35-36. Likewise, a hearing is not warranted where the disagreements among the parties are not genuinely factual, but "concern the appropriate public interest determination on the antitrust and communications issues." United States v. FCC, 652 F.2d 72, 89 n.82 (D.C. Cir. 1980). The Commission has never before set for hearing a transaction between parties with no overlapping territories.

REDACTED – PUBLIC INSPECTION

A. Applicants Have Met Their Burden of Proof.

The Commission's General Counsel recently explained that the applicants bear the ultimate burden of proof in a license transfer review proceeding.4 Specifically, they must demonstrate, by a preponderance of the evidence, that the Transaction will on balance serve the public interest, convenience and necessity,5 based on evidence of merger-specific, verifiable, and non-speculative benefits.6

Applicants have clearly and convincingly met their burden of proof here.7 The record in this proceeding establishes "demonstrable and verifiable public interest benefits that could not be achieved if there were no merger."8

4 See Jon Sallet, FCC Transaction Review: Competition and the Public Interest, Official FCC Blog (Aug. 12, 2014), http://www.fcc.gov/blog/fcc-transaction-review-competition-and-public-interest ("Sallet Blog") ("Fundamental is the fact that applicants have the burden of demonstrating on the public record that their proposed transaction is in the public interest.").

5 See generally AT&T-BellSouth Order ¶ 19; SBC Commc'ns Inc. and AT&T Corp. Applications for Approval of Transfer of Control, Memorandum Opinion and Order, 20 FCC Rcd. 18290 ¶ 16 (2005) ("SBC-AT&T Merger Order"); Application of EchoStar Commc'ns Corp., Gen. Motors Corp., and Hughes Elecs. Corp., Hearing Designation Order, 17 FCC Rcd. 20559 ¶ 25 (2002) ("EchoStar-DirecTV Merger Order").

6 EchoStar-DirecTV Merger Order ¶¶ 189-190; Applications of NYNEX Corp. and Bell Atl. Corp. for Consent to Transfer Control of NYNEX Corp. and Its Subsidiaries, Memorandum Opinion and Order, 12 FCC Rcd. 19985 ¶ 158 (1997) ("Bell Atlantic-NYNEX Merger Order"); Applications of Ameritech Corp. and SBC Commc'ns Inc. for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules, Memorandum Opinion and Order, 14 FCC Rcd. 14712 ¶ 255 (1999) ("SBC-Ameritech Merger Order").

7 Charter Communications, Inc. and GreatLand Connections, the doing business name of what was SpinCo and is now Midwest LLC, are submitting a separate Opposition and Response to address their acquisition of legacy TWC and Comcast systems following the "Divestiture Transactions" between Comcast and Charter. See Letter from Kathryn A. Zachem, Senior Vice President, Regulatory and State Legislative Affairs, Comcast Corp., et al., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 14-57, at 2-3 (June 5, 2014) (detailing the Divestiture Transactions). Applicants fully support this filing and Charter's and GreatLand Connection's acquisition of these legacy systems, which will lead to numerous public interest benefits.

8 See, e.g., Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from MediaOne Group, Inc., Transferor, to AT&T Corp., Transferee, Memorandum Opinion and Order, 15 FCC Rcd. 9816 ¶ 154 (2000) ("AT&T-MediaOne Order") (emphasis added); see also Applications of Nextel Commc'ns, Inc. and Sprint Corp. For Consent to Transfer Control of Licenses and Authorizations, 20 FCC Rcd. 13967 ¶ 129 (2005) ("Sprint-Nextel Order") ("We examine whether operation of the combined entity could yield consumer benefits unattainable absent a merger."). Notably, the Commission's review is confined to the transaction before it rather than the relative merit of any hypothetical alternative transactions. See, e.g., Application of Citadel Commc'ns Co., Ltd. and Act III Broad. of Buffalo, Inc. for Assignment of License of Television Station WUTV(TV) Buffalo, New York, 5 FCC Rcd. 3842 ¶ 16 (1990) ("Section 310(d) of the Act limits our consideration to the buyer proposed in an assignment application, and we cannot consider whether some other proposal might comparatively better serve the public interest.").

REDACTED – PUBLIC INSPECTION

The Commission has stated its "deeply rooted preference" for "accelerating private sector deployment of advanced services,"9 as well as a preference for transactions that will improve the quality of communications services or result in the provision of new or additional services.10 This Transaction will serve these Commission objectives by greatly expanding the quality of communications services available to American consumers and businesses.11 The record demonstrates –without meaningful rebuttal – that the Transaction will result in accelerated deployment of higher broadband speeds and enhanced broadband services (including Wi-Fi); greater availability of advanced video and voice services and technologies; greater scale and scope efficiencies leading to more investment and innovation; increased business service and wireless backhaul competition; and geographic rationalization-related efficiencies leading to enhanced service offerings, better performance, and more competition.

---

9 See Applications of SOFTBANK CORP., Starburst II, Inc., Sprint Nextel Corp., and Clearwire Corp. for Consent to Transfer Control of Licenses and Authorizations; Petitions for Reconsideration of Applications of Clearwire Corp. for Pro Forma Transfer of Control, Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, 28 FCC Rcd. 9642 ¶ 24 (2013) ("Softbank-Sprint Order"); AT&T-ATN Order ¶ 13; Applications of AT&T Inc. and Centennial Commc'ns Corp. for Consent to the Transfer Control of Licenses, Authorizations, and Spectrum Leasing Arrangements, 24 FCC Rcd. 13915 ¶ 28 (2009) ("AT&T-Centennial Order"); CenturyLink-Qwest Order ¶ 8.

10 Applications of Comcast Corp., Gen. Elec. Co. and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses, Memorandum Opinion and Order, 26 FCC Rcd. 4238 ¶ 23 (2011) ("Comcast-NBCUniversal Order"); see also Applications for Consent to the Transfer of Control of Licenses from Comcast Corp. & AT&T Corp., Transferors, to AT&T Comcast Corp., Transferee, Memorandum Opinion and Order, 17 FCC Rcd. 23246 ¶ 27 (2002) ("Comcast-AT&T Broadband Order"), aff'd sub nom. Consumer Fed'n of Am. v. FCC, 348 F.3d 1009 (D.C. Cir. 2003); Wavecom Solutions Corp., Transferor, & Hawaiian Telcom, Inc., Transferee, Applications for Consent to Transfer of Control, Memorandum Opinion and Order and Declaratory Ruling, 27 FCC Rcd. 16081 ¶ 8 (2012); Applications filed by Global Crossing Ltd. and Level 3 Commc'ns, Inc. for Consent to Transfer Control, Memorandum Opinion and Order and Declaratory Ruling, 26 FCC Rcd. 14056 ¶ 11 (2011) ("Global Crossing-Level 3 Order"); CenturyLink-Qwest Order ¶ 8; Remarks of Jonathan Sallet, Acting General Counsel, FCC, Conference on Competition and IP Policy in High-Technology Industries, Stanford, Cal. (Jan. 22, 2014), available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0124/DOC-325267A1.pdf.

11 For ease of reference, and as noted above, the term "Transaction" includes the Comcast-TWC transaction and the acquisition of legacy Charter systems as part of the exchange with Charter pursuant to the Divestiture Transactions. See Charter-to-Comcast Public Interest Statement, Charter-to-Comcast Exchange Transaction, MB Docket No. 14-57 (June 4, 2014) ("Charter-to-Comcast Exchange Transaction").

REDACTED – PUBLIC INSPECTION

The Commission has repeatedly found that these exact same benefits satisfy the public interest standard in prior license application review proceedings.

- Accelerated Deployment of Better Broadband and Wi-Fi Services. In every major cable TV transaction, the Commission has consistently found that the combined company's ability to deliver more advanced broadband and other services, especially if on an accelerated basis, constitutes a substantial public interest benefit. For example, in the Comcast-AT&T Order, the Commission found that "the merged entity is likely to accelerate the deployment of broadband services in AT&T service areas .. . . Comcast appears to have a greater 'ability to manage an accelerated program for upgrading its plant . . . .' We believe that applying this expertise to the AT&T cable systems is likely to have a positive impact on the deployment of broadband to AT&T subscribers that currently do not have access to those services."12 And in the Adelphia Order, the Commission likewise found that "accelerated deployment of high-speed Internet service . . . [is a] cognizable public interest benefit[]."13

- Advanced Video and Voice Services. Likewise, the Commission has consistently held that the deployment of advanced video and voice services is an important consumer benefit: "As the Commission has stated many times, the deployment of advanced video services is a recognized public interest benefit. In reviewing previous transactions, the Commission also has found that . . . the provision of competitive, facilities-based telephony service[s] are cognizable public interest benefits . . . . Although the Applicants have not given definitive time tables for initiating and completing the planned system upgrades and deployment of new and advanced services, we expect that Comcast and Time Warner have sufficient incentives to carry out the proposed improvements in a timely manner, because doing so serves the goal of maximizing revenues and competing effectively with LECs and DBS providers."14

- Greater Scale and Scope Efficiencies/Greater Investment and Innovation. Further, the Commission has consistently found that the greater scale and scope efficiencies described by the parties in prior mergers would lead to substantial public interest benefits, including increased investment, innovation, and competition. In the AT&T-BellSouth Order, for example, the Commission has noted "that the increase in scale and scope arising from the merger will help the merged entity to better spread the costs of, and internalize the benefits of, its R&D, thus increasing its incentives to invest."15 And in the AT&T Broadband Order, the Commission further explained, "We also agree with the Applicants that the greater scale and scope of the merged entity is likely to spur new investment. The development and deployment of new technologies often entails a significant up-front, fixed investment. The merged company should have a greater ability to spread those fixed costs across a larger customer base, which should in turn foster incentives for investment by the merged entity, as well as other businesses that seek to sell equipment, technology, and services to the merged entity."16

---

12 Comcast-AT&T Broadband Order ¶ 183.

13 Adelphia Order ¶ 256.

14 Id. ¶ 256.

15 AT&T-BellSouth Order ¶ 214 n.594.

16 Comcast-AT&T Broadband Order ¶ 184; see also Applications Filed by Frontier Commc'ns Corp. and AT&T Inc. for the Assignment or Transfer of Control of the S. New Eng. Tel. Co. and SNET Am., Inc., Memorandum Opinion and Order, 29 FCC Rcd. 9203 ¶ 26 (WCB 2014).

- Greater Business Service Competition. In addition, the Commission has previously recognized that cable entry "foster[s] facilities-based competition in the enterprise market," and that this promotes "a long-standing goal."17 In the 2010 Order approving the acquisition of certain assets of CIMCO by Comcast Phone, et al, the Commission concluded that "Comcast's acquisition of CIMCO's assets and expertise will result in significant public interest benefits, in part because the transaction will foster facilities-based competition in the enterprise market, a long-standing goal of the Commission."18 And in a 2011 decision approving the transfer of Insight to TWC, the Commission reiterated that "the proposed transaction likely will provide benefits to residential and business customers through the combined companies' increased ability to compete with the incumbent LEC in the provision of voice service and service bundles."19

- Enhanced Geographic Rationalization. As stated in the Adelphia Order, "[t]he Commission also has found that the potential benefits from clustering, including marketing efficiencies and the deployment of facilities-based telephony and Internet access services, outweigh any potential anticompetitive effects of clustering on competition in product markets such as local programming or advertising. In addition, the Commission has noted that clustering can increase economies of scale and size, and thus enable cable operators to offer an increased variety of broadband services at reduced prices to customers in geographic areas that are larger than single cable franchise areas. Therefore, the Commission concluded that clustering can make cable operators more effective competitors to LECs whose local service areas are usually much larger than a single cable franchise area. The Commission also has stated that clustering can provide a means of improving efficiency, reducing costs, and attracting increased advertising."20

---

17 Applications Filed for the Acquisition of Certain Assets of CIMCO Commc'ns, Inc. by Comcast Phone LLC, Comcast Phone of Mich., LLC and Comcast Bus. Commc'ns, LLC, Memorandum Opinion and Order and Order on Reconsideration, 25 FCC Rcd. 3401 ¶ 4 (2010) ("CIMCO Order").

18 Id.

19 Insight-TWC Order ¶ 23.

20 Adelphia Order ¶ 271; see also Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Thirteenth Annual Report, 24 FCC Rcd. 542 ¶ 180 (2009) (recognizing that contiguous regional service areas, among other benefits, can enable cable operators to offer an increased variety of broadband services at reduced prices).

Comcast has delivered – and often over-delivered – on its promises to provide these and other public interest benefits in past transactions. It will do the same here.

The Transaction also "complies with the specific provisions of the Communications Act, other applicable statutes, and the Commission's rules."21 In fact, not a single petition or commenter alleges that the Transaction will result in a violation of the Communications Act or other applicable statutes or the Commission's rules. In addition, Applicants possess the requisite "character" qualifications to hold Commission licenses.22

B. Petitioners Have Not Met Their Burden.

In contrast to the strong record established by Applicants in support of the Transaction, petitioners have failed to demonstrate that granting the license transfer applications will disserve the public interest in any material respect.

As explained by the Commission's General Counsel, the relevant "public interest" analysis is akin to the analysis undertaken by the Department of Justice or the Federal Trade Commission under Section 7 of the Clayton Act, but differs from the traditional antitrust analysis insofar as the Commission examines both potential anticompetitive effects and whether the transaction will serve the public interest more generally.23 To that end, the Commission limits its consideration to whether the proposed transaction "could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the [Communications] Act or related statutes."24 The Commission's public interest review is not unbounded, and does not entail the all-encompassing reach advocated by several commenters.25

---

21 AT&T-BellSouth Order ¶ 19.

22 See Comcast-NBCUniversal Order ¶ 276; AT&T-BellSouth Order ¶ 194; SBC-AT&T Merger Order ¶¶ 175-176. Greenlining's challenge to Comcast's character and fitness to hold Commission licenses due to the inadvertent disclosure of certain unlisted telephone numbers assigned to subscribers to Comcast Xfinity Voice Service is patently absurd as explained in Section V.F. infra.

23 See Sallet Blog; see also AT&T-MediaOne Order ¶ 9; Gen. Motors Corp. & Hughes Elec. Corp., Transferors, and The News Corp. Ltd., Transferee, for Authority to Transfer Control, Memorandum Opinion and Order, 19 FCC Rcd. 473 ¶ 16 (2004); United States v. FCC, 652 F.2d at 88 (quoting N. Natural Gas Co. v. FPC, 399 F.2d 953, 959 (D.C. Cir. 1968)).

24 Comcast-NBCUniversal Order ¶ 22; see also AT&T-BellSouth Order ¶ 19; SBC-AT&T Merger Order ¶ 16.

25 See, e.g., Dish Petition to Deny at 6-9; Netflix, Inc. ("Netflix") Petition to Deny at 3; Free Press Petition to Deny at 10-12, 21; Sinclair Broadcast Group, Inc. ("Sinclair") Petition to Deny at 1; American Antitrust Institute ("AAI") Comments at 34. Unless otherwise noted, all citations to comments, petitions, or letters herein are those filed in MB Docket No. 14-57 on or around August 25, 2014.

Moreover, as the D.C. Circuit has held, petitions to deny that set forth only generalized and unsupported criticisms of the proposed transaction "manifestly do not contain 'specific allegations of fact sufficient to show that . . . a grant of the application would be prima facie inconsistent' with the public interest standard" and thus cannot form the basis for adverse action on an application.26 The Commission will not engage in or condone idle and unsupported speculation regarding hypothetical harms that may follow from a particular transaction. In the Commission's words, "[m]ere possibilities are not of decisive significance in competitive analysis."27

Further, because the Commission's public interest analysis is informed by relevant antitrust principles,28 its duty is "to protect . . . competition, not competitors."29 Proposed transactions raise concern only if "they reduce the availability of substitute choices (i.e., increase market concentration) to the point that the acquiring firm has a significant incentive and ability to engage in anticompetitive actions such as raising prices or reducing output."30 The mere fact that a transaction may have a negative impact on certain participants in a market is insufficient (especially when those parochial negative impacts may increase consumer welfare); the competitive impact must be on the market as a whole.31 Thus, as the Commission's General Counsel has made clear, the "FCC's actions should be informed by competition principles. These principles look to the impact of practices on consumers and the public interest, not just on competitors. They are designed to be fact-based and data-driven."32

---

26 United States v. FCC, 652 F.2d at 90 (emphasis added).

27 Bell Atl. Mobile Sys., Inc. & NYNEX Mobile Commc'ns Co., 12 FCC Rcd. 22280 ¶ 9 (1997) ("Bell Atlantic-NYNEX Order"); see also SBC Commc'ns Inc. v. FCC, 56 F.3d 1484, 1494 (D.C. Cir. 1995) (quoting United States v. FCC, 652 F.2d at 92).

28 AT&T-BellSouth Order ¶ 24 nn.85-86; SBC-AT&T Merger Order ¶ 21 nn.83-84; Sprint-Nextel Order ¶¶ 39, 51.

29 AT&T-BellSouth Order ¶ 195 (emphasis added); Bell Atlantic-NYNEX Order ¶ 16 (emphasis added).

30 Adelphia Order ¶ 59.

31 SBC-AT&T Merger Order ¶ 151. In this regard, the Commission has never failed to approve a transaction between parties that do not directly compete – as is the case here – including AT&T-Comcast and AT&T-TWC-Adelphia when the video and broadband markets were less competitive than they are today.

32 See Sallet Blog.

Nor can the Commission prohibit a strong firm from entering promising new markets merely out of concern that they might succeed in competing in those markets.33 As the D.C. Circuit has instructed, such a proposition "turns the purpose of the antitrust laws on its head."34 But even aside from this limiting principle, the rapid changes in technology and the Commission's own plans to spur even more investment and innovation in the relevant communications segments make it impossible to predict market outcomes. Under these circumstances, any assumptions about potential market dominance would be conjectural at best. And previous such assumptions in this dynamic industry have proven to be manifestly wrong.35

33 United States v. FCC, 652 F.2d at 103.

34 Id.

35 See, e.g., Section IV.A.1.a infra discussing DOJ's ordered divestiture of an interest in an Internet content portal business – Excite@Home – in connection with the AT&T-MediaOne merger. This business model did not prove particularly compelling after all. By October 2001, Excite@Home filed for Chapter 11 bankruptcy protection. Similarly, it is instructive that the merger of AOL and Time Warner was delayed while the Commission considered consumer advocates' insistent pleas that a condition be adopted to prevent some wholly imaginary and anticipated harm with regard to "advanced [instant-messaging]-based applications." Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations by Time Warner Inc. and America Online, Inc., Transferors, to AOL Time Warner Inc., Transferee, Memorandum Opinion and Order, 16 FCC Rcd. 6547 ¶ 18 (2001) ("AOL-Time Warner Order"). Less than two years later, the condition was quietly abandoned, with nary a word from any of the consumer advocates who deemed it so essential. See Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations by Time Warner Inc. and America Online, Inc., Transferors, to AOL Time Warner Inc., Transferee; Petition of AOL Time Warner Inc. for Relief From the Condition Restricting Streaming Video AIHS, Memorandum Opinion and Order, 18 FCC Rcd. 16835 ¶ 1 (2003).

The Commission has also made clear that its public interest analysis is limited to transaction-specific harms. There is a "temptation and tendency for parties to use the license transfer review proceeding as a forum to address or influence various disputes with one or the other of the applicants that have little if any relationship to the transaction or to the policies and objectives of the Communications Act."36 Parties also commonly misuse these proceedings to raise matters affecting industry-wide policies.37 Such efforts are inappropriate and irrelevant to the license transfer review process. The Commission will not entertain arguments that "are better addressed in other Commission proceedings, or other legal fora, including the [courts] and the Congress."38 Nor will the Commission consider extraneous disputes regarding an applicant's compliance with particular Commission rules.39

---

36 See, e.g., AOL-Time Warner Order ¶ 6.

37 See, e.g., AT&T-Centennial Order ¶ 141 ("We find that the proposed conditions prohibiting exclusive handset arrangements are not narrowly tailored to prevent a transaction-specific harm, but apply broadly across the industry and are more appropriate for a Commission proceeding where all interested industry parties have an opportunity to file comments. RCA filed a petition asking the Commission to review exclusive handset agreements on an industry-wide basis, and the Commission will be able to develop a comprehensive approach on handset exclusivity based on a full record in that proceeding.") (internal citations omitted); Applications of Cellco P'ship d/b/a Verizon Wireless and Spectrum Co LLC and Cox TMI, LLC For Consent To Assign AWS-1 Licenses; Applications of Verizon Wireless and Leap for Consent to Exchange Lower 700 MHz, AWS-A, and PCS Licenses; Applications of T-Mobile License LLC and Cellco P'ship d/b/a Verizon Wireless for Consent to Assign Licenses, Memorandum Opinion and Order and Declaratory Ruling, 27 FCC Rcd. 10698 ¶ 89 (2012) ("We also find that any issues of interoperability in the Lower 700 MHz band raised by commenters are not transaction-related. The interoperability issues in the Lower 700 MHz band long predate these transactions. Further, the Commission has already initiated a rulemaking proceeding earlier this year to address these issues on an industry-wide basis."); AT&T-BellSouth Order ¶ 56 n.154 ("To the extent commenters allege that . . . contracts of the type used by AT&T and BellSouth are anticompetitive in general, this is not a merger-specific harm, but rather is an issue that has been raised, and is better addressed, in the Commission's pending special access rulemaking."); AOL-Time Warner Order ¶ 6 ("It is important to emphasize that the Commission's review focuses on the potential for harms and benefits to the policies of the Communications Act that flow from the proposed transaction – i.e., harms and benefits that are 'merger-specific.' The Commission recognizes and discourages the temptation and tendency for parties to use the license transfer review proceeding as a forum to address or influence various disputes with one or the other of the applicants that have little if any relationship to the transaction or to the policies and objectives of the Communications Act."); see also Softbank-Sprint Order ¶¶ 54, 56; Global Crossing-Level 3 Order ¶ 13.

38 Applications of Craig O. McCaw, Transferor, & Am. Tel. & Tel. Co., Transferee, for the Consent to the Transfer of Control of McCaw Cellular Commc'ns, Inc. and its Subsidiaries, Memorandum Opinion and Order, 9 FCC Rcd. 5836 ¶ 123 (1994); see, e.g., Bell Atlantic-NYNEX Order ¶ 15; Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from S. New Eng. Telecomm. Corp., Transferor, to SBC Commc'ns, Inc., Transferee, Memorandum Opinion and Order, 13 FCC Rcd. 21292 ¶ 29 (1998).

39 See Application of WorldCom, Inc. and MCI Commc'ns Corp. for Transfer of Control of MCI Commc'ns Corp. to WorldCom, Inc., Memorandum Opinion and Order, 13 FCC Rcd. 18025 ¶ 215 (1998) ("these unadjudicated matters [regarding payphone providers' choice of long distance carrier] are not a sufficient basis to conclude that the merger is not in the public interest, and we decline to condition approval of the transfer of control applications on resolution of this dispute"); id. ¶ 215 n.628 (noting that commenters could seek recourse against alleged anticompetitive restrictions on payphone providers' choice of long distance carrier from the Commission under Section 208 of the Act); AT&T-MediaOne Order ¶ 81 n.255 (commenters could file a program access complaint under 47 C.F.R. § 76.1003); Applications of Pac. Telesis Grp., Transferor, & SBC Commc'ns, Inc., Transferee for Consent to Transfer Control of Pac. Telesis Grp. and its Subsidiaries, Memorandum Opinion and Order, 12 FCC Rcd. 2624 ¶ 38

(1997) (refusing to consider extraneous allegations of market power-preserving conduct in the license transfer proceeding, and instead relying on "the specific enforcement tools that Congress" had given the Commission and the tools available to state commissions); News Corp. and The DirecTV Grp., Inc., Transferors, and Liberty Media Corp., Transferee, for Authority to Transfer Control, Memorandum Opinion and Order, 23 FCC Rcd. 3265 ¶ 161 (2008) (dismissing argument concerning license transfer applicant's alleged violation of FCC rules governing over-the-air reception devices because it was not transaction-specific); see also Qwest Commc'ns Int'l, Inc. and US WEST, Inc. Applications for Transfer of Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing Lease, Memorandum Opinion and Order, 15 FCC Rcd. 5376 ¶ 28 (2000); Bell Atl. Mobile Sys., Inc. and NYNEX Mobile Commc'ns Co. Application for Transfer of Control of Eighty-two Cellular Radio Licenses to Cellco P'ship, Order, 10 FCC Rcd. 13368 ¶ 37 (1995).

REDACTED – PUBLIC INSPECTION

Even if the Commission identifies potential public interest harms, it must weigh those potential harms "against the potential public interest benefits" to determine whether the proposed transaction as a whole will serve the public interest.40 When warranted, the Commission may impose "narrowly-tailored, transaction-specific conditions to ensure the public interest is served," rather than deny the application.41

In this proceeding, the petitions to deny and other opposing commenters fall far short of demonstrating any specific, factually supported grounds that approving the license-transfer applications will disserve the public interest. The majority of arguments and allegations raised by petitioners are not transaction-specific and/or are being addressed in other industry-wide or state-specific proceedings and, therefore, are irrelevant to the Commission's analysis here. Nevertheless, in the interest of facilitating the Commission's review process, Applicants briefly respond to these issues in Section V below. Moreover, as further detailed in Section IV below, petitioners do not establish any viable horizontal, vertical, or other harm to competition or consumers resulting from the Transaction. Nor do they credibly dispute the substantial efficiencies and related consumer and business services benefits that will flow from the Transaction, as described in Sections III.A-E below. And there is likewise no serious question that the Transaction will extend other important public interest benefits to millions of additional consumers, such as Comcast's broadband adoption, diversity, and accessibility efforts, as well as its wide-ranging support for local communities and organizations, as described in Section III.F below.

40 Comcast-NBCUniversal Order ¶ 22; AT&T-BellSouth Order ¶ 19; SBC-AT&T Merger Order ¶ 16.
41 Insight-TWC Order ¶ 10; see also AT&T-ATN Order ¶ 14; Softbank-Sprint Order ¶ 25; Global Crossing-Level 3 Order ¶ 13.

REDACTED – PUBLIC INSPECTION

As Dr. Carlton concludes, “[t]he evidence presented in this proceeding supports the conclusion that the large benefits from the proposed transaction outweigh whatever potential harms may exist.”42 Accordingly, based on the Commission’s established standards and extensive, well-settled precedent, the petitions to deny and all other comments opposing the Transaction should be rejected, and the license transfer applications should be granted.

---

42 Declaration of Dr. Dennis W. Carlton (“Carlton Decl.”) ¶ 16, attached as Exhibit 3.

REDACTED – PUBLIC INSPECTION

III. THE TRANSACTION WILL PROVIDE SUBSTANTIAL PUBLIC INTEREST BENEFITS, AND CHALLENGES TO THESE BENEFITS ARE WITHOUT MERIT.

A. The Transaction Will Accelerate the Deployment of Advanced Broadband Services, Increase Broadband Competition and Innovation, and Expand Broadband Adoption.

Applicants showed in the Public Interest Statement, and hundreds of supporting letters and comments now confirm, that the Transaction will bring substantial broadband-related benefits throughout the combined company's footprint, especially in the areas acquired from TWC and Charter. Specifically, these benefits include: (1) the accelerated deployment of an upgraded broadband network, faster broadband speeds, innovative broadband technologies, and a more robust Wi-Fi network; (2) increased competition and innovation throughout the broadband ecosystem; and (3) the expansion of Comcast's acclaimed Internet Essentials broadband adoption program. As the mayors of 52 cities emphasize, the "[c]ities joining the Comcast service area will benefit from increased network investment, faster Internet speeds, . . . and [a] leading community development program to help us tackle important community challenges like the digital divide."[43] In addition, the newly acquired TWC and Charter customers will benefit from Comcast's singular, legally-binding commitment to an open Internet. There are no credible rebuttals of these principal benefits from any commenters.

---

43 Letter from 52 Mayors to Chairman Wheeler and Commissioners, FCC, at 1 (Aug. 21, 2014).

1. The Transaction Will Accelerate the Deployment of Advanced Broadband Services to the Acquired Systems.

A Fully Upgraded Network That Delivers Faster Broadband Speeds. Comcast has invested billions of dollars to upgrade its network to deploy DOCSIS 3.0 and transition its systems to all-digital. This hard work and substantial investment has paid off.44 Today, Comcast delivers some of the industry's fastest broadband speeds and has increased broadband speeds 13 times in 12 years, offering speeds of up to 505 Mbps in most markets.45 The average broadband speed enjoyed by Comcast subscribers is about [[ ]] Mbps versus about [[ ]] Mbps for TWC subscribers.46 And Comcast recently increased several tiers of broadband speeds in a number of its regions, effectively doubling the download speed for its flagship tier of service from 25 Mbps to 50 Mbps, increasing the download speed for its Blast tier of service from 50 Mbps to 105 Mbps, and increasing the download speed for its Extreme tier of service from 105 Mbps to 150 Mbps.47 Following the Transaction, customers in the acquired TWC and Charter systems will benefit from faster broadband speeds and a fully upgraded, more reliable, and more secure network.48 As Dr. Israel observes, "each one Mbps increase in average speed spread across all TWC customers would be worth approximately $95 million per year to consumers. Given the gap between the Comcast and TWC networks and Comcast's commitment to bring TWC up to Comcast levels, speed increases of several Mbps for TWC customers seem likely, meaning that this source of consumer benefits alone is worth hundreds of millions of dollars."49 The Commission has recognized that Comcast consistently delivers more than its advertised speed, even during peak hours.50

---

44 Consumer Federation of America ("CFA") wrongly accuses Comcast of being a "laggard" in capital expenditures, asserting that Comcast "invests the lowest percentage of its free cash flow in capital expenditures (CapEx) than any of the large video and Internet access providers [and] takes more capital out through depreciation and amortization than it puts in with CapEx." CFA et al. Petition to Deny at 2; see id. at 46-48. CFA is simply wrong. Comcast has been – and remains – one of the leaders in capital spending within the cable, telecommunications, and Internet sectors, with total capital expenditures over the past three years of $19.9 billion, ahead of all companies other than the much larger Apple, Verizon, and AT&T (based on a review of SEC filings for Amazon, Apple, AT&T, Comcast, Facebook, Google, Netflix, Microsoft, TWC, and Verizon). Comcast's substantial commitment to and history of capital investment and innovation is further illustrated by the fact that Comcast is in the absolute top tier of firms (i.e., third in 2013 behind Facebook and AT&T from among the above-mentioned companies) with respect to "capital intensity" – i.e., the ratio of a company's capital expenditures to its revenues – the industry standard method for calculating this metric. CFA's methodology and calculations are flawed at a very basic level. First, CFA's use of ratios measuring capital expenditures to free cash flow and net income is not analytically sound. Free cash flow and net income are subject to a number of variables that are not related to the size of the company (e.g., taxes, interest expense, and the like). As such, these measures do not provide any reliable basis for measuring capital expenditures relative to the size of any particular company. For this reason, neither of these ratios is a generally accepted metric used by companies or financial analysts. CFA's comparison of capital expenditures to depreciation is similarly flawed. Perversely, this measure penalizes companies such as Comcast that have made substantial capital expenditures over a long period of time (and thus have high depreciation expense) and rewards companies that do not have a history of substantial capital expenditures (and thus have low depreciation expense). Beyond this, CFA cites data that is either incorrect or misleading. For example, its assertion that Comcast's 2013 capital expenditures were approximately 25% of 2013 free cash flow is false. CFA et al. Petition to Deny at 47. Comcast's 2013 capital expenditures were approximately $7.4 billion, or approximately 88% of total 2013 free cash flow of approximately $8.5 billion. Furthermore, CFA appears to have added research and development expense to the capital expenditure totals for the Internet companies it cites, even though, consistent with recognized practice, those companies themselves do not treat R&D expense as a capital expenditure. In sum, CFA's argument is based on flawed and distorted data and analysis and misrepresents Comcast's proven record of investment and innovation.

45 Press Release, Comcast Corp., Comcast Increases Internet Speeds for 13th Time in 12 Years (Apr. 9, 2014), http://corporate.comcast.com/news-information/news-feed/comcast-xfinity-internet-speed-increase.

46 See Reply Declaration of Dr. Mark A. Israel ("Israel Reply Decl.") ¶ 220, attached as Exhibit 1 ("Today, the average broadband speed enjoyed by Comcast subscribers is at least [[ ]] Mbps versus at least [[ ]] Mbps for TWC subscribers.").

47 Press Release, Comcast Corp., Comcast Revs Up Internet Speeds Across Four States (July 31, 2014), http://corporate.comcast.com/news-information/news-feed/comcast-increases-internet-speeds-in-california-kansas-missouri-and-texas. And as broadband speeds have increased again and again, Comcast has consistently reduced the average price Comcast's customers pay on a per-Megabit basis.

48 See Letter from Kathryn A. Zachem, Senior Vice President, Regulatory and State Legislative Affairs, Comcast Corp., to Marlene H. Dortch, Secretary, FCC, Response to Request No. 88 (Sept. 11, 2014) (attaching Comcast's Response to the Commission's Information and Data request) ("Comcast Information Request Response"). Based on the information Comcast has obtained so far about the systems, Comcast projects that the acquired customers in all of the markets will have access to all of Comcast's products within 36 months of the closing date of the Transaction and Divestiture Transactions, although some market will be fully transitioned within a period as short as 12 months or even sooner. See id.

49 Israel Reply Decl. ¶ 221.

50 See Measuring Broadband America Fixed Broadband Report: A Report on Consumer Fixed Broadband Performance in the U.S., Office of Eng'g & Tech. & Consumer & Governmental Affairs Bureau, FCC (June 2014), http://data.fcc.gov/download/measuring-broadband-america/2014/2014-Fixed-Measuring-Broadband-America-Report.pdf ("Measuring Broadband 2014 Report").

37

Some commenters attempt to discredit these clear benefits by arguing that TWC has already announced plans to upgrade a portion of its systems to all-digital and increase broadband speeds.51 However, as Applicants have said (and multiple commenters recognize),52 the Transaction will enable the combined company to surpass and accelerate existing TWC deployment plans and to upgrade the entire TWC service footprint, and Comcast has the experience and expertise to deliver these upgrades faster and more efficiently.53 The record shows that Comcast migrated its systems to all-digital ahead of schedule and with minimal customer disruption. This has allowed Comcast to reclaim additional bandwidth and provide faster broadband speeds. Comcast is well-positioned to deliver these same benefits to the acquired systems in this Transaction. As Drs. Rosston and Topper explain:

---

51 See Consumers Union and Common Cause ("Consumers Union et al.") Petition to Deny at 39; Writers Guild of America West, Inc. and Future of Music Coalition ("WGAW et al.") Petition to Deny at 63-65; AAI Comments at 27-28; Senator Franken Comments at 15.

52 See, e.g., ARRIS Group, Inc. ("ARRIS") Comments at 2; Free State Foundation Comments at 14; Institute for Policy Innovation Comments at 5; see also Letter from David Williams, President, Taxpayers Protection Alliance, to Chairman Wheeler and Commissioners, FCC, at 1 (Aug. 25, 2014) ("[T]he deal means a faster upgrade of broadband communications facilities for consumers.").

53 As such, the requirements to compete in specific areas that have been proposed by some commenters are unnecessary. See Central Coast Broadband Consortium Comments at 3. Comcast intends to compete vigorously in all markets and invest in network upgrades.

REDACTED – PUBLIC INSPECTION

Comcast will be able to apply its specialized knowledge about these and other best practices to make the transition faster and more efficiently than TWC could on its own. Consumers in turn will benefit from having access to all-digital systems sooner and with less disruption to their service.54

Ironically, other petitioners criticize the Transaction on the theory that Comcast will upgrade the acquired systems too quickly and thoroughly for competitors to match.55 These concerns, of course, fatally undermine the concerns above, and are likewise baseless. The Commission should – as it has done in the past – see through these thinly veiled attempts to protect competitors rather than competition.

54 See Reply Declaration of Dr. Gregory L. Rosston and Dr. Michael D. Topper (“Rosston/Topper Reply Decl.”) ¶ 37, attached as Exhibit 2; see also id. ¶¶ 35-36.

55 See Letter from Pantelis Michalopoulos and Stephanie A. Roy, Steptoe & Johnson, Counsel for Dish, to Marlene H. Dortch, Secretary, FCC (Aug. 25, 2014) (attaching supplemental market share calculations prepared by Professor Sappington (“Sappington Decl.”) that assume Comcast’s planned upgrades of the TWC systems had already occurred).

REDACTED – PUBLIC INSPECTION

Beyond accelerating the benefits of an all-digital network for customers in the acquired systems, the Transaction will also enable Comcast to deploy other network enhancements that support future broadband needs for all of the combined company's customers.56 The Commission has previously recognized that cost savings from a transaction can better enable a company to invest in broadband infrastructure, which ultimately benefits consumers.57 Hance Haney of the Discovery Institute underscores this benefit here, observing that "[b]roadband services involve 'very substantial fixed' costs and are subject to 'large economies of scale' . . . . [A] larger firm can place itself in a better position to promote innovation and competition that will yield more choices and ultimately lower prices for consumers."58 For example, Comcast has already upgraded its entire network to be compliant with IPv6, a critical new standard that is essential to the future growth and enhanced functionality of the Internet.59 These same upgrades will be made to the acquired systems. In addition, Comcast intends to deploy broadband technologies like Converged Cable Access Platform and DOCSIS 3.1 throughout its service area, including the acquired systems, to deliver even faster broadband speeds and improved service.60

56 See Comcast-TWC Public Interest Statement at 34-36; see also id., Exhibit 4, Declaration of Michael J. Angelakis ("Angelakis Decl.") ¶¶ 23-24; id., Exhibit 6, Declaration of Mark A. Israel ("Israel Decl.") ¶¶ 187-188; id., Exhibit 5, Declaration of Dr. Gregory L. Rosston and Michael D. Topper ("Rosston/Topper Decl.") ¶ 60.

57 See Applications Filed by Frontier Commc'ns Corp. and AT&T Inc., Memorandum Opinion and Order, 29 FCC Rcd. 9203 ¶ 28 (WCB, WTB, IB 2014) (finding it likely that Frontier would achieve cost savings over $200 million following a transaction, and that these savings would enable it to increase its infrastructure investment, including infrastructure supporting broadband services); see also Comcast-AT&T Broadband Order ¶ 183 (finding that the transaction would accelerate the deployment of broadband services); Adelphia Order ¶ 256 (same).

58 Hance Haney Comments at 4; see also Competitive Enterprise Institute ("CEI") Comments at 24 ("The deal will thus create a company that enjoys greater scale in the residential broadband market than any existing wireline provider. This scale will likely translate into an advantageous cost structure for the merged company and, in turn, more competitive service offerings in terms of price and throughput.").

59 See Press Release, Comcast Corp. Comcast Reaches Key Milestone in Launch of IPv6 Broadband Network (July 22, 2014), http://corporate.comcast.com/comcast-voices/comcast-reaches-key-milestone-in-launch-of-ipv6-broadband-network. By contrast, TWC has implemented IPv6 to a much lower percentage of its network.

60 Thus, Los Angeles County's suggestion that network upgrades and enhanced broadband technologies will benefit only a few select service areas is baseless. See Los Angeles County, Cal.; Montgomery County, Md.; City of Portland, Or.; and Ramsey-Washington Counties (MN) Suburban Cable Communications Commission ("Los Angeles County et al.") Petition to Deny at 15-16. As noted, Comcast has upgraded and deployed these technologies throughout its entire footprint and will bring this same approach to the acquired systems.

REDACTED – PUBLIC INSPECTION

Better and More Convenient Wi-Fi Inside and Outside the Home. The Transaction will also support further deployment of advanced in-home Wi-Fi equipment and more robust, ubiquitous Wi-Fi networks across the combined company's footprint.61 Customers in the acquired TWC and Charter systems will gain access to the fastest in-home Wi-Fi gateways (capable of speeds of up to 270 Mbps – over three times as fast as the prior-generation technology), which millions of Comcast customers already enjoy. And, just a few weeks ago, Comcast announced the launch of the latest Xfinity Wireless Gateway that is capable of delivering in-home Wi-Fi speeds of more than 700 Mbps (more than two times faster than the current model and seven times faster than similar devices available from Verizon and AT&T).62 TWC and Charter customers in the acquired systems will benefit from this latest innovation, as well.

They will also benefit from greater access to public Wi-Fi hotspots. Comcast has made Wi-Fi deployment a priority and is building the most expansive and robust Wi-Fi network in the country, providing convenient, on-the-go Internet access to qualified Xfinity customers at no additional charge. To date, Comcast has deployed over three million hotspots nationwide,63 and plans to reach eight million hotspots by early next year. Comcast also recently announced an arrangement with Liberty Global that will give qualified Xfinity Internet customers access to millions of new Wi-Fi access points across Europe by next year.64

---

61 See Comcast-TWC Public Interest Statement at 38-39.

62 Allion USA, Internet Service Provider Wireless Gateway Competitive Analysis 4 (2014); see also Eric Schaefer, Introducing the Industry's Fastest Wireless Gateway, Comcast Voices (Sept. 8, 2014), http://corporate.comcast.com/comcast-voices/introducing-the-industrys-fastest-wireless-gateway.

63 This includes Neighborhood Hotspots, which are residential Wi-Fi gateways that offer a supplemental public pathway for other Xfinity users. See Comcast-TWC Public Interest Statement at 40.

64 Press Release, Comcast Corp., Comcast and Liberty Global Announce Agreement to Connect U.S. and European Wi-Fi Networks (Sept. 11, 2014), http://corporate.comcast.com/news-information/news-feed/comcast-and-liberty-global-announce-agreement-to-connect-u-s-anc

41

REDACTED – PUBLIC INSPECTION

Consumers and businesses alike will benefit from greater Wi-Fi connectivity.65 As Dana Connors, President of the Maine Chamber of Commerce, observes, "Comcast has invested in wi-fi technology which enables businesses to offer encrypted secure networks as well as publicly available wi-fi . . . . Wi-fi is becoming an ancillary service which customers expect and Comcast's investments in wi-fi is offering businesses a simple turn-key service which greatly improves our [customers'] experience."66 Wayne Niederhauser, President of Utah's Senate, similarly notes, "Comcast's 280,000 subscribers in our state have seen [Comcast's] investment pay off every day. The Xfinity Hotspots Program enables customers and businesses to connect on the go, without worrying about long-term or fixed-location subscriptions. Comcast has ensured that Utah's continued demand for services is supported by continued technological capacity and growth."67 Cisco likewise praises these efforts: "Comcast's dedication to innovation . . . is evident in its efforts to expand Wi-Fi connectivity."68 And as Cisco adds, "Led by post-transaction Comcast, accelerated deployment of Wi-Fi will drive the introduction of new services in the new unlicensed spectrum made available at 5 GHz, leading to more efficient use of that spectrum and significant consumer welfare gains."69

---

65 As President Obama recognized, "[e]xpanded wireless broadband access will trigger the creation of innovative new businesses, provide cost-effective connections in rural areas, increase productivity, improve public safety, and allow for the development of mobile telemedicine, telework, distance learning, and other new applications that will transform Americans' lives." Barack Obama, Presidential Memorandum: Unleashing the Wireless Broadband Revolution (June 28, 2010), available at http://www.whitehouse.gov/the-press-office/presidential-memorandum-unleashing-wireless-broadband-revolution.

66 Letter from Dana Connors, President, Maine State Chamber of Commerce, to Chairman Wheeler, FCC, at 1 (Aug. 21, 2014).

67 Letter from Wayne Niederhauser, President, Utah State Senate, to Chairman Wheeler and Commissioners, FCC, at 1-2 (Aug. 22, 2014).

68 Cisco Systems, Inc. ("Cisco") Comments at 5.

69 Id.

Some commenters question whether the Wi-Fi benefits are transaction-specific since Comcast and TWC participate in the Cable WiFi consortium.70 But, in contrast to Comcast, TWC has deployed only 29,000 Wi-Fi access points in its footprint to date.71 And there is no equivalent public Wi-Fi deployment in the Charter systems today, so these customers stand to enjoy entirely new benefits from the Transaction. Moreover, as Drs. Rosston and Topper explain, "[w]ith additional service areas, Comcast will internalize the benefits to additional customers in those areas and, therefore, will have an even stronger incentive to add Wi-Fi access points."72 This increased incentive is directly tied to the expanded geographic reach the Transaction will provide (and increased geographic rationalization from the Divestiture Transactions between Comcast and Charter).

2. The Transaction Will Foster Greater Broadband Competition and the Virtuous Cycle of Innovation.

The Transaction will in turn spur other broadband providers to invest in and improve their networks and broadband offerings.73 Indeed, the pendency of the Transaction has already triggered such responses from other providers. These competitive forces will benefit consumers and edge providers alike and foster the virtuous cycle of innovation.

Broadband Competition. As Applicants have shown, today's broadband market is highly competitive and dynamic, with both wireline and wireless providers offering consumers a variety of broadband choices.74 Most consumers can choose from – and are using – a host of existing DSL, wireless, and other broadband services to meet their Internet requirements today. Key characteristics of this competitive marketplace include the following:

70 See Consumers Union et al. Petition to Deny at 37; Office of the Mayor of the City of Los Angeles ("City of Los Angeles") Comments at 3; Los Angeles County et al. Petition to Deny at 16. The Cable WiFi initiative allows Comcast and TWC customers to use certain hotpots in each other's respective markets.

71 See Comcast-TWC Public Interest Statement at 40-41.

72 See Rosston/Topper Decl. ¶¶ 96-99; Israel Decl. ¶¶ 191-192.

73 Comcast-TWC Public Interest Statement at 56-59.

74 See Comcast-TWC Public Interest Statement at 42-56; Israel Decl. ¶¶ 40-68.

REDACTED – PUBLIC INSPECTION

- According to the Commission's most recent Internet Access Services report, approximately 78 percent of households are located in census tracts where at least three or more fixed broadband providers reported offering at least 3 Mbps downstream and 768 kbps upstream.

- Even at a higher speed threshold, approximately 92 percent of households are located in census tracts where two or more fixed providers reported offering at least 10 Mbps downstream and at least 1.5 Mbps upstream.75

- Mobile broadband provides even more options for consumers. Approximately 99 percent of households are located in census tracts where three or more fixed or mobile broadband providers reported offering at least 3 Mbps downstream and 768 kbps upstream, and approximately 98 percent are located in census tracts where two or more fixed or mobile providers reported offering at least 10 Mbps downstream and at least 1.5 Mbps upstream.76

- Following the Transaction, customers will have a choice between Comcast and one or more top 10 ILEC competitors in 98.5 percent of the combined company's footprint.77 Based on today's estimates, the combined company would be overlapped by telco fiber-based broadband services in [[ ]] percent of its territory.78

- When 4G LTE wireless broadband providers are included with the top 10 ILECs, there are virtually no areas of the combined company's footprint where customers will not have at least one of these options.79

---

75 Internet Access Services: Status as of June 30, 2013, Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, at 9, fig.5(a) (June 2014) ("Internet Access Services Report as of June 2013") , https://apps.fcc.gov/edocs_public/attachmatch/DOC-327829A1.pdf. NTIA data indicate that the extent of broadband availability is not uniform within each census tract. See National Broadband Map, http://www.broadbandmap.gov/speed (last visited Sept. 22, 2014). Nonetheless, because Applicants' broadband networks serve different local markets and do not overlap each other, the Transaction will not affect the current state of broadband competition in any location, whether one uses census tracts or other geographic metrics in the analysis. For the same reason, applying different Internet speed metrics (e.g., 10 Mbps or 25 Mbps), as some commenters have proposed, will not affect the competitive analysis either. See Israel Reply Decl. ¶¶ 27-28, 34-35.

76 Israel Reply Decl. ¶ 65.

77 Letter from Kathryn A. Zachem, Comcast, and Steven Teplitz, TWC, to Marlene H. Dortch, FCC, at 4 (June 4, 2014) ("Comcast-TWC Supplement Letter").

78 Letter from Kathryn A. Zachem, Senior Vice President, Regulatory and State Legislative Affairs, Comcast Corp., to Marlene H. Dortch, Secretary, FCC, at 4-5 (June 24, 2014).

79 Id.

Netflix's theory that the Transaction may inhibit broadband investment and deployment80 is based on unsupported conjecture and is squarely at odds with the 20-year history of the Internet and the realities of today's marketplace. The broadband industry has grown through competitors leapfrogging each other and inciting competitive responses.81 Chairman Wheeler recently recounted this history:

The path from narrowband, to broadband, to high-speed broadband, was forged by competition. In order to meet the competitive threat of satellite services, cable TV companies upgraded their facilities. When the Internet went mainstream, they found themselves in the enviable position of having greater network capacity than telephone companies. Confronted by such competition, the telcos upgraded to DSL, and in some places deployed all-fiber, or fiber-and-copper networks. Cable companies further responded to this competition by improving their own broadband performance. All this investment was a very good thing. The simple lesson of history is that competition drives deployment and network innovation.82

The announcement of this Transaction has already spurred these and other broadband providers to accelerate their investment plans. For example, AT&T revealed plans to expand the rollout of its high-speed fiber network, capable of 1 Gbps speeds, to as many as 100 cities, many of which will overlap with the combined Comcast-TWC service areas.83 Following AT&T's announcement, Chairman Wheeler praised this initiative, and stated that he sees this development "as a challenge to the cable industry similar to the advent of DBS" and is "hopeful [that the cable industry] will respond competitively once again."84 The Transaction will better position the combined company to respond to that challenge – and the dynamic cycle will continue.

---

80 See Netflix Petition to Deny at 93-94.

81 Comcast-TWC Public Interest Statement at 45-46; Israel Decl. ¶ 166.

82 Remarks of Tom Wheeler, Chairman, FCC, The Facts and Future of Broadband Competition, 1776 Headquarters, at 3 (Sept. 4, 2014), available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0904/DOC-329161A1.pdf. Commissioner O'Rielly similarly stated that "[t]he growth in Internet usage has been remarkable. . . . These gains are made possible by the billions of dollars invested in broadband infrastructure. Since 1996, broadband providers have invested more than $1.2 trillion in wireless and wireline broadband, spending $73 billion annually. Wireline providers account for more than half of this total investment . . . . The result of this investment has been increased access and competition." Remarks of Michael O'Rielly, Commissioner, FCC, LinkIDAHO 2014 Broadband Summit, at 2 (Aug. 19, 2014), available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0902/DOC-329118A1.pdf.

83 Press Release, AT&T Corp., AT&T Eyes 100 U.S. Cities and Municipalities for Its Ultra-Fast Fiber Network (Apr. 21, 2014), http://about.att.com/story/att_eyes_100_u_s_cities_and_municipalities_for_its_ultra_fast_fiber_network.html. CenturyLink also announced that it would expand its gigabit fiber network and more than double the number of eligible homes by the end of this year. Mike Robuck, Cox Heads to Starting Blocks for 1-Gig Service; CenturyLink Expands 1-Gig in Vegas, CED Magazine (May 23, 2014), http://www.cedmagazine.com/news/2014/05/cox-heads-to-starting-blocks-for-1-gig-service-centurylink-expands-1-gig-in-vega

84 Remarks of Tom Wheeler, Chairman, FCC, at the National Cable & Telecommunications Association, at 5 (Apr. 30, 2014), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-326852A1.pdf.

REDACTED – PUBLIC INSPECTION

These recent competitive developments demonstrate once again what the history of the Internet itself has taught; namely, that broadband is not a static market. Certainly the critics who predicted the end of Internet investment and competition during the Adelphia transaction could never have predicted nine years later a recommitment to broadband deployment by AT&T, network entry by Google, and speeds of 1 Gbps and even more becoming commercially viable. It is no less certain that today's marketplace will likely bear little resemblance to the market ten, five, or even two years from now.

In all events, as the record here makes clear, Applicants do not compete with one other for broadband customers anywhere. Every consumer will have the same number of choices among broadband providers after the Transaction as before. Thus, whether one is satisfied with the robust state of broadband competition today or concerned about an absence of broadband competition in certain areas, this Transaction will simply not have a negative effect on the current state of broadband competition in America. To the contrary, the Transaction will accelerate and encourage even more investments in R&D, innovation, and infrastructure – all of which will be good for broadband investment, good for broadband competition, and good for consumers.

REDACTED – PUBLIC INSPECTION

Benefits to Internet Edge Providers. The Transaction will also benefit Internet edge providers. As the combined company continues to enhance its broadband services, edge providers will be able to innovate and improve their services as well, increasing the value of broadband for all end-users. This, in turn, will create additional incentives for other ISPs to improve their own broadband services.[85]

Thus, far from harming edge providers, as Netflix and others contend,[86] the Transaction will help facilitate the further growth of the Internet and be a boon for OVDs and others. As Matthew Burnett and Tanya Menendez, Co-Founders of Maker's Row, observe, "this transaction will produce benefits for us and other innovative web-based companies. Combined with TWC, Comcast will have added scale to innovate further in the broadband services market and all the other related technologies, making the company a key platform for online start-ups like us for years to come."[87] Nick Allen, Co-Founder of Shuddle, Inc., similarly observes that "[as] an app-based company, our business plan relies on ubiquitous, fast, and reliable broadband service . . . . The continued growth and pervasiveness of broadband will boost the operating environment for web-based businesses like Shuddle."[88]

---

85 Comcast-TWC Public Interest Statement at 56-59; Israel Decl. ¶¶ 163-166.

86 See, e.g., Netflix Petition to Deny at 75-89; Cogent Communications Group, Inc. ("Cogent") Petition to Deny at 13, 37-38.

87 Letter from Matthew Burnett et al., Co-Founder, Maker's Row, to Chairman Wheeler, FCC, at 1 (Aug. 25, 2014).

88 Letter from Nick Allen, Co-Founder, Shuddle, Inc., to Chairman Wheeler, FCC, at 1 (Aug. 25, 2014).

REDACTED – PUBLIC INSPECTION

Ironically, while Netflix and Dish acknowledge that higher-speed broadband is a key driver of their businesses,89 they simply ignore that this Transaction is already spurring greater availability of these higher-speed services. They likewise ignore that the Transaction will extend Comcast's Open Internet commitment, including application of the now-vacated no-blocking and non-discrimination rules in the Commission's 2010 Open Internet Order, to millions of additional customers in the acquired systems. This will further benefit edge providers, promote continued growth of the broadband ecosystem, and allay any reasonable concern that Comcast might use the Transaction to thwart future online offerings.90

Finally, while Netflix, Dish, and certain other commenters91 insist that allowing ISPs to charge edge providers or their transit partners for arrangements that offer dedicated direct connection to their networks will somehow trigger the demise of the Internet as we know it, economic and marketplace realities refute that claim. Such arrangements have been in place for years, and, if anything, have helped the Internet's expansion.

In particular, Netflix's self-serving proposal that the government should mandate free direct interconnection for Netflix or others is squarely inconsistent with the well-established economic principle of two-sided markets that has prevailed on the Internet since day one: Network and edge providers all contributed through various paid transport arrangements and other mutual exchanges of value, and customers contributed through broadband service charges. As Dr. Israel explains, eliminating the former would, through what is known as the "seesaw" principle, either increase prices for broadband consumers or, as noted by Dr. Dovrolis – an expert in Internet network architecture and interconnection – leave the Internet without the critical funding it needs to continue developing.92 As Dr. Dovrolis further explains, "interfering with the efficient operation of the Internet interconnection marketplace and shifting the bulk of the costs to end-users is likely to disrupt the massive flow of new investment necessary to ensure a robust backbone and ever-expanding Internet facilities. This raises serious concerns about the Internet's evolution."93

---

89 See Netflix Petition to Deny at 10-12 (stating that "content-rich edge services increasingly require a consistently robust high-speed broadband connection"); Dish Petition to Deny at 13-14 (noting that their OTT services and other broadband-enables services like Hopper, Dish Anywhere require a high-speed, high-quality broadband connection").

90 See discussion infra Section III.F.2.

91 See, e.g., Netflix Petition to Deny at 46-49; Cogent Petition to Deny at 31-33; Dish Petition to Deny at 54-61.

92 See Israel Reply Decl. ¶ 183; Declaration Dr. Constantine Dovrolis ("Dovrolis Decl.") at 23, attached as Exhibit 5.

93 Dovrolis Decl. at 23.

Dr. Israel and Dr. Dovrolis both note, as well, that charges to edge providers that choose to enter into dedicated interconnection arrangements would actually be beneficial, because requiring edge providers to pay a greater share of the incremental cost of the traffic their services consume would cause them to make efficient decisions about how to provide the service.94 Dr. Dovrolis further explains:

[P]aid-peering (and transit) arrangements create incentives for efficiency – these arrangements provide senders of Internet traffic reasons to invest in compression technologies and other ways to reduce their traffic loads. When everything is "free" to the sender, those incentives disappear, so bandwidth demands will increase rapidly – with the access networks presumably tasked with the endless job of maintaining sufficient bandwidth for all possible needs. This will simply increase the strain on the Internet and on the consumers who use it.95

In fact, as Dr. Israel notes, the theoretical model of two-sided pricing presented by Cogent's expert, Dr. Joseph Farrell, supports many of these conclusions, as do the many prior writings of Netflix's expert, Dr. David Evans, on two-sided markets.96

3. Expansion of Internet Essentials to Many New Communities Will Increase Broadband Adoption and Reduce the Digital Divide.

The Transaction will enable Comcast to do even more to help close the digital divide and encourage broadband adoption. What began as a voluntary three-year commitment in 2011 has grown beyond what Comcast initially envisioned, far beyond what the NBCUniversal Order required,97 and has surpassed all expectations at the launch of the program in August 2011. Since Comcast launched Internet Essentials during the 2011 back-to-school season, it has connected more than 1.4 million Americans, from 350,000 families, to the power of the Internet. Comcast has not only extended Internet Essentials indefinitely, but also has consistently improved it, as described in subpart b, below. By expanding Internet Essentials to the acquired territories and fine-tuning its approach, Comcast will connect many more low-income households to today's high-speed Internet.

---

94 Israel Reply Decl. ¶¶ 186-188. See infra Section IV.C.1.c.v.
95 Dovrolis Decl. at 6.
96 Israel Reply Decl. ¶¶ 193-201; see infra Section IV.C.1.c.i.
97 See Comcast-NBCUniversal Order, App. A, § XVI.2.

a. Commenters Overwhelmingly Endorse Internet Essentials as a Leading Program for Bridging the Digital Divide.

Internet Essentials already is having a profound impact in Comcast communities across the country. Nearly 300 stakeholders, including national and local civic organizations, state and local government officials, and school organizations, wrote letters to the Commission supporting the Transaction and highlighting the important benefits that expanding Internet Essentials to new communities will provide. Many of these stakeholders describe the significant impact the program is already having for their constituents. By way of example only:

- Boys & Girls Clubs of America: "[We] encourage our Club members to participate in Internet Essentials to ensure that the knowledge they develop in the Clubs transfers to the home. Data on Internet Essentials suggests that 59 percent of participating families believe Internet access helped at least one person in their household to find a job – a reminder that Comcast's program is stimulating economic growth in its communities."[98]

- League of United Latin American Citizens ("LULAC"): "LULAC can attest to the great impact of the Internet Essentials broadband adoption program and the benefit this program would bring to communities in the [TWC] footprint."[99]

---

98 Letter from James L. Clark, President & CEO, Boys & Girls Clubs of America, to Chairman Wheeler, FCC, at 1 (Aug. 25, 2014).

99 Letter from Brent Wilkes, Executive Director, League of United Latin American Citizens, to Chairman Wheeler and Commissioners, FCC, at 2 (Aug. 25, 2014).

- National Council of Negro Women: "The company's Internet Essentials program is the gold standard for broadband adoption . . . . Educational opportunities simply cannot be equal in this country if poor children do not have ready access to the Internet . . . . And Internet Essentials is critical to leveling the playing field for disadvantaged kids."100

- The National Urban League: "The National Urban League and many of our 93 affiliates in more than 300 communities across the country have worked hand-in-hand with Comcast to promote broadband adoption and advance policies that will deliver jobs, economic empowerment and social justice to African Americans and other communities of color nationwide."101

- OCA – Asian Pacific American Advocates: "Comcast's Internet Essentials program has been one of the primary vehicles for low-income families with children who receive free or reduced-price school lunches to access affordable broadband Internet, particularly in the [Asian Pacific American] communities."102

As these and scores of other comments make clear, there is "no denying that the program has helped many families with school-aged children obtain badly needed broadband service."103

Towns, cities, and states within Comcast's footprint also affirm the importance of Internet Essentials. For instance, in Fulton County, Georgia, policymakers "can see a brighter future across the County for many . . . low-income families."104 In Boston, "many of the children . . . wouldn't have Internet access or a computer in their homes without help from Comcast."105 Chicago is "making progress toward closing the digital divide with over 33,000 households enrolled in Internet Essentials."106 In California, there are "over 35,000 newly empowered families"107 that have "gain[ed] access to the 21st Century broadband technology" because of Internet Essentials.108 In southern New Jersey, stakeholders predict that "increased Internet adoption [due to Internet Essentials] will lead to better educational performance from [their] students and a stronger economic base in the future."109

---

100 Letter from Ingrid Saunders Jones, Chairwoman, National Council of Negro Women, at 1 (Aug. 25, 2014).

101 Letter from Marc Morial, President & CEO, National Urban League, to Chairman Wheeler and Commissioners, FCC, at 2 (Aug. 25, 2014).

102 Letter from Sharon Wong, National President, OCA Asian Pacific American Advocates, to Chairman Wheeler, FCC, at 1 (Aug. 25, 2014).

103 National Association of Telecommunications Officers and Advisors ("NATOA") Comments at 6.

104 Letter from John H. Eaves, Chairman, Fulton County Commission, to Chairman Wheeler, FCC, at 1 (Aug. 22, 2014).

105 Letter from Karrie Ann Jean, Executive Director, Mattapan/Greater Boston Technology Learning Center, Inc., to Chairman Wheeler and Commissioners, FCC, at 1 (Aug. 16, 2014).

106 Letter from Howard B. Brookins, Jr., Alderman, Chicago City Council, to Chairman Wheeler, FCC, at 1 (Aug. 25, 2014).

107 Letter from Adam C. Gray, Assemblymember, California, to Chairman Wheeler, FCC, at 2 (Aug. 25, 2014).

108 Letter from Cecilia Zamora, President, Hispanic Chamber of Commerce of Marin, to Chairman Wheeler and Commissioners, FCC, at 2 (Aug. 25, 2014).

109 Letter from Raymond L. Lamboy, President & CEO, Latin American Economic Development Association, to Chairman Wheeler, FCC, at 1 (Aug. 20, 2014). Additional examples of local success abound. In Colorado, the program "connects more than 14,000 low-income Colorado families to the broadband Internet and provides these families with the digital literacy training that is critical to their education and professional advancement in the 21st

century economy." Letter from Governor John W. Hickenlooper, Colorado, to Chairman Wheeler, FCC, at 2 (Aug. 25, 2014). In Virginia, "Comcast helped many of [Virginia's] school families get Internet service at home" with "more than 17,000 people [that] were able to have a home broadband connection and buy a computer at drastically reduced prices." Letter from Michel Zajur, President & CEO, Virginia Hispanic Chamber of Commerce, to Marlene H. Dortch, Secretary, FCC, at 1 (Aug. 25, 2014). And in Arkansas, Comcast has "double[d] down on [its] commitment" to improve the community, "connect[ing] over 1,000 families" in the state. Letter from Terry Hartwick, President & CEO, Chamber of Commerce of North Little Rock, at 1 (Aug. 20, 2014).

Given these significant proven benefits, it is no surprise that policymakers and local organizations in other areas are very enthusiastic about the expansion of Internet Essentials to their communities.110 There is no equivalent program in any of the acquired systems, and thus no question that this would be a significant advancement of the public interest. For example, commenters emphasize that the Transaction will "bring more families in Missouri and beyond into the communications age";111 offer a "huge step in the right direction towards giving families [in Southern California] the support and resources they need to become strong, resilient, and self-reliant members of society";112 and "bring . . . needed service from the mainland to [the] shores" of Hawaii.113 Comcast looks forward to working with local community partners and elected officials to extend Internet Essentials to help low-income Americans in these communities overcome the obstacles to broadband adoption.

---

110 See, e.g., Letter from State Senator Jason R. Holsman, Missouri, to Chairman Wheeler, FCC, at 1 (Aug. 21, 2014) ("One specific benefit that I would like to see available throughout my district is "Internet Essentials."); Letter from State Representative Johnny W. Shaw, Tennessee, to Chairman Wheeler, FCC, at 2 (Aug. 25, 2014) ("[D]isadvantaged children in Tennessee and across the country deserve to have the same educational resources as children whose families are better off. Comcast has committed to expand the Internet Essentials program to areas now served by [TWC]. That is just one of many reasons I urge you to approve the Comcast and [TWC] transaction."); Letter from Richard L. Zaldivar, Executive Director/Founder, The Wall Las Memorias Project, to Chairman Wheeler, FCC, at 2 (Aug. 25, 2014) ("Citizens here in Los Angeles, as well as in New York and Dallas, are yet to receive [the] same opportunities" afforded by Internet Essentials. Commission "approval will open doors for eligible low-income families in our area.").

111 Letter from Lewis Walker, Executive Director, Black Family Technology Awareness Association, to Chairman Wheeler and Commissioners, FCC, at 1 (Aug. 22, 2014).

112 Letter from Deborah Villar, Senior Vice President, Bienvenidos Children's Center, to Chairman Wheeler, FCC, at 1 (Aug. 25, 2014).

113 Letter from Governor Neil Abercrombie, Hawaii, to Chairman Wheeler and Commissioners, FCC, at 1-2 (Aug. 22, 2014).

REDACTED – PUBLIC INSPECTION

b. Petitioners' Complaints About Internet Essentials Are Over-stated, Unfounded, and Often Self-Serving.

CETF and a few other petitioners criticize certain aspects of Internet Essentials and seek a laundry list of unnecessary and counterproductive conditions.114 Their claims are, first and foremost, irrelevant. Comcast has never claimed that Internet Essentials is the only choice for a broadband adoption program, or that there are no aspects of it that could be improved, as Comcast has consistently done. But these criticisms in no way detract from the substantial benefits that Internet Essentials provides to low-income families and students. Moreover, Comcast has been improving and expanding Internet Essentials from day one, and it is unquestionably the most successful broadband adoption program that has ever been offered in this country by any entity. Even if the litany of its alleged defects were taken as true, the essential fact would remain: Internet Essentials is a "worthy and ambitious project unmatched by any other major broadband provider," as CETF itself acknowledges.115 Indeed, the number of families that are benefitting from Comcast's Internet Essentials program eclipses by several orders of magnitude the results with similar public or private broadband adoption efforts which collectively have not been able to reach even a quarter of the households that have subscribed to Internet Essentials.116 The question at hand is whether the Transaction serves the public interest, and the answer as it relates to Internet Essentials is, quite simply, yes. CETF's arguments are thus a sideshow, at best.

---

114 See California Emerging Technology Fund ("CETF") Comments at 11-17; CFA et al. Petition to Deny at 38 n.31; Greenlining Institute ("Greenlining") Petition to Deny at 11-12; Common Cause Comments at 5-6; NATOA Comments at 7; Open Media and Information Companies Initiative ("Open Media et al.") Comments at 4. Stop the Cap! Comments at 20-23; The Stride Center Comments at 2. Several critics appear to rely almost exclusively on CETF's and other entities' false and unfounded claims to suggest that the program is flawed. See, e.g., Los Angeles County et al. Petition to Deny at 21-23; City of Los Angeles Comments at 5-7; New Jersey Division of Rate Counsel and National Association of State Utility Consumer Advocates ("NJDRC et al.") Comments at 24 n.59; Chicana Latina Foundation at 1-2; Comments of Delaine Eastin at 1-2. Other critics that suggest the program has been unsuccessful provide neither evidence nor reasoning to back up such an assertion. See, e.g., Public Knowledge and Open Technology Institute ("Public Knowledge et al.") Petition to Deny at 57.

115 CETF Comments at 8 (emphasis added).

116 See, e.g., Press Release, Cox, Cox Communications Closes Digital Divide with Connect2Compete Broadband Adoption Program (Aug. 19, 2014), http://cox.mediaroom.com/index.php?s=43&item=778 (reporting that 15,000 low-income families have signed after approximately two years); CenturyLink Broadband Adoption Program Semi-Annual Report, WC Docket No. 10-110 (Apr. 15, 2014), http://apps.fcc.gov/ecfs/document/view?id=7521098352 (reporting 51,353 qualifying customers have purchased broadband under discount from Oct. 1, 2011 through Mar. 31, 2014). The Connect to Compete program, sponsored by the FCC itself, did not leave the trial phase in the few TWC areas where it was launched. In fact, Connect to Compete has never reported any signup data.

Although Comcast is always interested in ways to improve Internet Essentials, many of the criticisms of the program in the docket are unfounded or patently unreasonable (many of these comments are based on inaccurate press reports):

- Claims that Comcast makes the sign-up process long and cumbersome are untrue.117 The sign-up process for Internet Essentials reflects the fact that the program was designed to be based on the National School Lunch Program ("NSLP") eligibility, which was chosen because it was the easiest eligibility test to administer. Even then, from the start, Comcast has sought to simplify the process by, for example, creating an instant approval process for families whose children attend schools with 70 percent or more NSLP participation. This enhancement serves a majority of current applicants.118 Comcast also goes to great lengths to ensure eligible customers can easily enroll in the program by working with local partners to facilitate the process, distributing program materials in a wide variety of languages, staffing a call center that is dedicated to the program, and conducting on-site registrations. Contrary to some claims,119 Comcast does not perform credit checks as part of the application process.120 And Comcast continues to review and improve the functionality of the online application to ensure the best user-experience. Today, the sign up process – from application to shipment of self-install kits – takes only [[ ]] days under the instant approval process and only [[ ]] days under the traditional process.

---

117 See CETF Comments at 11-12; Common Cause Comments at 5; CFA et al. Petition to Deny at 38; Greenlining Petition to Deny at 10; Public Knowledge et al. Petition to Deny at 57.

118 In addition, in July 2014, Comcast instituted a new feature whereby an online registrant who is not able to provide the required eligibility information receives a message explaining the nature of the information needed (rather than a simple error message) and requesting that the applicant call the toll-free Internet Essentials number.

119 See CETF Comments at 13.

120 See id. at 12-13. Recently, technical changes to the Comcast West Division's billing system caused an automated process to incorrectly trigger credit checks for a small number of Internet Essentials applicants. Comcast corrected this error as soon as it was discovered, apologized to affected customers, and worked with credit reporting bureaus to reverse the credit checks.

REDACTED – PUBLIC INSPECTION

- Claims regarding the asserted "low" adoption rate are unfounded.121 Critics complain that only 13 percent of the eligible low-income population in the United States has been connected through Internet Essentials. But experts agree that the program's success has exceeded all reasonable expectations.122 Surveys about the program's progress further confirm its success and effectiveness.123 As Dr. Horrigan noted in his comments, "[a]pproximately one-quarter of the overall broadband adoption growth rate for low-income families with children since 2009 can be credited to Internet Essentials."124 The unconnected population is difficult to reach, and closing the digital divide is a long-term project. To put the program's achievement in proper perspective, after almost twenty years of offering and intensely marketing all tiers of its Internet access service, Comcast has achieved less than 40 percent penetration of the service across its footprint.125 An average success rate of 13 percent of the eligible low income population – with rates of over 20 percent in at least one city – is simply remarkable.

- Claims that eligibility requirements are too restrictive ignore the program's intent and significantly underestimate the tremendous amount of collaboration and partnership required to work.126 Comcast designed Internet Essentials to serve families with children eligible for the NSLP. Comcast's main goal, for now, is to serve Internet Essential's target population better and more broadly. To that end, Comcast has expanded the original eligibility criteria for Internet Essentials twice, first by extending it to families with children eligible to receive reduced price school lunches, and then by offering it to parochial, private, cyberschool, and homeschooled students. As a result, nearly 2.6 million families are now eligible for Internet Essentials, an increase of approximately 30 percent from the original eligible base. And Comcast recently (1) included up to six months of complimentary service for any new family approved prior to September 20 – an offer that was recently extended until September 30 – that had not yet applied for Internet Essentials; and (2) created an amnesty program for certain low-income families who otherwise qualify for Internet Essentials but have a past due balance.127 More generally, a program of this size and importance cannot be executed well and expanded successfully without a tremendous amount of cooperation among the large web of nonprofit and government partnerships that Comcast has created and integrated in order to increase awareness of the program and to attack the digital literacy barrier to broadband adoption. Extending the program to other populations would be a large and complex undertaking, because an entirely new web of nonprofit and governmental partnerships would have to be created and integrated in order to ensure the same levels of success and effectiveness of Internet Essentials for these new populations.128

---

121 See, e.g., CETF Comments at 2-3; Common Cause Comments at 5; Greenlining Petition to Deny at 11; Public Knowledge et al. Petition to Deny at 57; Stop the Cap! Comments at 21; National Hispanic Media Coalition ("NHMC") Comments at 11-12; Radio Bilingue Comments at 1-2.

122 See, e.g., Marguerite Reardon, Comcast Extends 'Internet Essentials' Program Indefinitely, CNET (Mar. 3, 2014), http://www.cnet.com/news/comcast-extends-internet-essentials-program-indefinitely/ ("Comcast is not the only company that is working toward more Internet adoption . . . . But so far, Comcast's program is the largest such effort. According to new research, it's also been among the most successful.") (citing Dr. John B. Horrigan, The Essentials of Creativity (Mar. 2014)).

123 See Comcast-TWC Public Interest Statement at 64-65 (citing surveys finding, among other things, that "[o]verall, 90 percent of Internet Essentials customers in the survey were "highly satisfied" with the service, and 98 percent said that they would recommend Internet Essentials to others.").

124 Letter from John B. Horrigan to Chairman Wheeler, FCC, at 3 (Sept. 18, 2014).

125 Certain petitioners falsely claim that the modems Comcast provides to Internet Essentials customers restrict the number of users at one time and are incompatible with some devices, such as certain tablets or laptops. See CETF Comments at 17; Office of the Mayor of the City of Boston ("City of Boston") Comments at 5; California Public Utility

Commission ("CPUC") Comments at 9-10. These modems, however, are compatible with a variety of computing devices, including Wi-Fi routers that enable the use of tablets and other wireless devices, and Comcast does not restrict Internet Essentials customers from attaching such devices.

126 See, e.g., Minnesota Association of Community Telecommunications Administrators ("MACTA") Comments at 4 (arguing that the program should be expanded to senior citizens and individuals with disabilities, among others); Seattle City Council Member Nick Licata Comments at 2 (same); Office of the Mayor of the City of New York ("City of New York") Comments at 3-4 (same); see also Los Angeles County et al. Petition to Deny at 28 (arguing that the program should be expanded to all low-income homes and low-income seniors, people with disabilities, and veterans); City of Boston Comments at 2; City of Los Angeles Comments at 5; Families in Schools Comments at 2.

127 See Press Release, Comcast Corp., Comcast Offers Complimentary Internet Service and an Amnesty Program for Low-Income Families (Aug. 4, 2014), http://corporate.comcast.com/news-information/news-feed/comcast-offers-up-to-six-months-of-complimentary-internet-service-and-an-amnesty-program-for-low-income-families; David L. Cohen, Comcast Extends Internet Essentials Six Months Free Service Promotion Through Sept. 30, Comcast Voices (Sept. 18, 2014), http://corporate.comcast.com/comcast-voices/comcast-extends-internet-essentials-six-months-free-service-promotion-through-september-30th. Despite Comcast's clear commitment to expanding and improving Internet Essentials, a few petitioners request certain oversight and performance standards. See CETF Comments at 17-18; Los Angeles County et al. Petition to Deny at 28-30; City of Boston Comments at 6. These requested conditions, however, would not do any more to advance the goal of broadband adoption than what Comcast already is doing through Internet Essentials.

128 For example, Comcast has conducted pilot adoption initiatives through the AARP Foundation and the Project to Get Older Adults Online (Project GOAL) to promote the adoption of broadband services by older adults.

55

REDACTED – PUBLIC INSPECTION

- Claims that broadband speed under the program should be increased are unsupported.129 Comcast has increased the broadband speeds for Internet Essentials customers twice in less than two years. Internet Essentials now offers download speeds up to 5 Mbps, which is more than triple the speed offered at the beginning of the program and more than the Commission's current definition of broadband.130 And this is more than sufficient to access educational videos, such as those available through Khan Academy, the "gold standard" of educational software sites.131 Families with Internet Essentials can use their service for all their core needs, which is the key objective of the program.

- Claims that Comcast seeks to limit eligible families' access to the program are false.132 Families with NSLP-eligible children of any age may participate in the Internet Essentials program. The assertion that Comcast seeks to "enroll" the oldest eligible child in a family is just false – and makes no sense: families, not individual children, are enrolled in the program. Comcast does not even ask for the ages of children, and families may continue to participate so long as there is one child living in the household who is eligible to participate in the NSLP.133

- Claims that Comcast's customer representatives do not know about the Internet Essentials program are overstated.134 Comcast has a dedicated group of specially trained Customer Account Executives ("CAEs") to staff its dedicated Internet Essentials toll-free numbers – one in English and one in Spanish – and also trains and educates all of its CAEs on Internet Essentials basics. It is certainly possible that, as with any company, on occasion certain customer representatives may not be as knowledgeable as others about Internet Essentials or other of the many services and programs that Comcast offers. Comcast continues to work hard and to invest in improving the training of its CAEs, and the technological tools at their disposal, so that they can provide the best quality service to all customers and potential customers.

---

129 See, e.g., City of New York Comments at 3; Maui County Community Television Comments at 2; City of Los Angeles Comments at 6.

130 As the FCC reports, 5 Mbps is sufficient for high-demand applications like streaming video, video conferencing, or online gaming. See Household Broadband Guide, FCC, http://www.fcc.gov/guides/broadband-speed-guide (last visited Sept. 20, 2014).

131 See Khan Academy Help Center, https://khanacademy.zendesk.com/hc/en-us/articles/202487500-Why-can-t-I-play-the-videos- (last visited Sept. 22, 2014).

132 See CETF Comments at 12.

133 Moreover, while Comcast reserves the right to audit Internet Essentials subscribers for eligibility, it has not done so to date. CETF also criticizes Comcast because Internet Essentials applicants at addresses with delinquent accounts have to prove they are a new resident, not the delinquent account holder. This is not unique to Internet Essentials applicants, but to all Comcast services, and thus irrelevant. See CETF Comments at 13.

134 See CETF Comments at 12.

- Claims that Comcast has not sufficiently promoted Internet Essentials are inaccurate.135 Comcast has distributed nearly 37 million Internet Essentials brochures to tens of thousands of partners for free, has mailed 1.7 million pieces of direct mail, has broadcast nearly 4 million PSAs about Internet Essentials in English and Spanish (valued at over $51 million), has spent millions of dollars on paid advertising for the program (including for tens of thousands of radio and print ads in local media), has held dozens of launch events across the country at the beginning of each school year and at other times that have generated over 3 billion earned media impressions for Internet Essentials, and produced and aired 49 "Comcast Newsmakers" public affairs segments in support of Internet Essentials. Comcast also continues to undertake significant efforts to spur enrollment by working closely with more than 8,000 partners to help educate eligible families about Internet Essentials, distribute promotional materials, and spread the word about the benefits of broadband adoption.136

Comcast will continue to explore new broadband adoption measures and programs, and remains open to discussing them. But there is no question that expansion of Internet Essentials to the acquired TWC and Charter areas will be a substantial benefit of the Transaction – and there is no reasonable basis to condition the Transaction's approval on altering Internet Essentials or adopting a different – and unproven – broadband adoption program.137

---

135 See CETF Comments at 11-12, 18.

136 Third Annual Compliance Report on Internet Essentials, the Comcast Broadband Opportunity Program, MB Docket No. 10-56, at 7, 16 (July 31, 2014), available at http://corporate.comcast.com/images/MB-10-56-Comcast-Internet-Essentials-Annual-Report-2014-07-31.pdf. Contrary to CETF's claim that Comcast does not direct sufficient resources to promoting this program, see CETF Comments at 19, Comcast utilizes a team of nearly 1,300 employees who act as Internet Essentials Ambassadors and work with Comcast's Government Affairs representatives to connect with schools, community organizations, and religious institutions. Comcast's educational, nonprofit, and government partners, working side-by-side with Comcast employees, have given countless hours to bringing Internet Essentials to life in our communities. Moreover, Comcast sends letters to the principals of auto-approved schools to make sure that they are aware of their schools' status.

137 Indeed, several requested conditions ultimately would risk the viability of Internet Essentials altogether. For example, CETF asks the Commission to require Comcast to capitalize an independently-managed fund within states that have adopted plans to close the digital divide and establish a national oversight committee. See CETF Comments at 20-21 (recommending a fund of $298 million for California alone). These suggestions should be rejected by the Commission. There is no basis to justify such funding obligations on Comcast. Moreover, by seeking to create an entirely new program independent from Internet Essentials, such funding obligations would divert attention and resources away from, and thereby diminish the effectiveness of, Internet Essentials.

REDACTED – PUBLIC INSPECTION

B. The Transaction Will Acclerate the Deployment of Advanced Video Products and Services.

Following the Transaction, millions of additional consumers will enjoy more advanced video services, including a fully upgraded all-digital network, more programming choices, and Comcast's award-winning video technologies. Certain petitioners, like Dish and Netflix, attempt to cast this as a competitive harm, perhaps because it presents competitive challenges to them; but, in fact, there is no doubt that these are pro-consumer benefits that will be an improvement over the current offerings and technologies in the acquired TWC and Charter areas.[138] And, with the added scale necessary to further invest in and innovate the next generation of video services, the combined company will be better positioned to retain and win back customers in the face of robust – and increasing – competition for video subscribers throughout its expanded service area.[139] It is understandable why Comcast competitors would prefer for Comcast to be less competitive with their businesses, but the public interest strongly supports this Transaction precisely because of this enhanced ability for Comcast to compete and offer better products and services to its customers.

---

138 See Dish Petition to Deny at 22-24, 76-80; Netflix Petition to Deny at 32-33. As a related comment, Senator Franken contends that Comcast cannot claim the Transaction benefits of deployment of advanced products and services, because it should "prove" its services are superior by entering TWC markets and competing for subscribers, and the fact that it is not cost-prohibitive for competitors like Google, AT&T, and Verizon to expand into areas with existing cable providers means that Comcast must follow through with a similar expansion. See Senator Franken Comments at 14. This invented requirement that Comcast must somehow validate a benefit by first building out systems and competing head-to-head with TWC is entirely outside of the scope of what is required as a part of the Transaction review – and, in any event, Comcast has shown, and explains again in this section, that access to Comcast products and services will benefit TWC subscribers.

139 See Rosston/Topper Decl. ¶¶ 80-83.

REDACTED – PUBLIC INSPECTION

Accelerated Transition to All-Digital. TWC and Charter customers in the acquired systems will enjoy numerous significant benefits from the migration of their current systems to all-digital.140 Comcast has already converted its entire network to all-digital, while TWC has completed the transition in only 17 percent of its footprint and is currently planning to reach only 75 percent by 2016. The results of Comcast's digital transition, along with other technological improvements including the faster deployment of DOCSIS 3.0-capable modems and CCAP technology, are reflected in the fact that [[ ]] as many Comcast customers are in downstream speed tiers of 25 Mbps or greater as TWC customers.141 As noted above, and as many commenters acknowledge,142 Comcast is well poised to do the same for the acquired systems. In fact, Comcast upgraded its network to all-digital two years ahead of schedule, and 90 percent of those upgrades were implemented through highly efficient self-installations.143 Comcast will use its proven expertise and the synergies resulting from the Transaction to accelerate the transition of the acquired systems to all-digital, and do so more smoothly and with less customer disruption.144

---

140 Although Charter is in the process of migrating its systems to all-digital, a number of the systems Comcast will acquire from Charter will not be all-digital. As Applicants previously explained, Comcast undertook a five-year effort to reclaim bandwidth devoted to analog delivery and completed its transition to an all-digital transition ahead of schedule in 2012. See id. Comcast provided Digital Transport Adapter ("DTA") service at no additional charge (for a year or more) to non-basic-only customers to ease the transition to all-digital for its customers, and now provides the service for a low monthly charge. Likewise, Comcast has provided, and continues to provide, up to three DTAs at no additional charge to basic-only customers. Comcast's DBS and telco competitors do not provide a similar device alternative, and, contrary to the claims of Stop the Cap!, see Stop the Cap! Comments at 4-5, Comcast's DTA pricing policies are more generous than any other cable operator using these devices. Thus, this policy in no way undermines the benefits of all-digital, as Stop the Cap! contends.

141 See Israel Reply Decl. ¶ 214.

142 ARRIS Comments at 2 ("The transactions will also help accelerate the migration of acquired systems to all-digital service, thereby enabling the reclamation of analog bandwidth for more video offerings, faster Internet and other services."); National Taxpayers Union Comments at 2 ("Comcast's strong emphasis on providing digital services to its customer base will likely accrue first to its new subscribers following the merger.").

143 See Israel Reply Decl. ¶ 218.

144 See Rosston-Topper Reply Decl. ¶ 35 (The Transaction "will allow those upgrades to occur faster and more efficiently because the combined company will be able to leverage Comcast's experience."); see also Comcast-TWC Public Interest Statement at 71-72. More specifically, Comcast will be able to apply the experience it has in integrating acquired systems following the Adelphia and AT&T Broadband transactions, including the various planning and implementation tools and procedures it has developed to ensure that this set of acquisitions goes smoothly and entails minimal customer disruption to existing customers. And as discussed further in Section III.F, there is no merit to the claim that the network upgrades, including the transition to all-digital, is not a transaction-specific benefit. See WGAW et al. Petition to Deny at 62-64.

REDACTED – PUBLIC INSPECTION

More Programming Choices. Conversion of the acquired systems to all-digital will reclaim bandwidth necessary to support more programming and VOD choices, improved picture quality, and rollout advanced video features. In addition, Comcast has been able to secure more extensive programming rights and a significantly broader VOD and online catalog than other operators, including TWC. Once Comcast upgrades and integrates the acquired systems, customers will have access to significantly more programming choices and options for when, where, and how they want to watch content.145 These options include Comcast's approximately 55,000 VOD programming choices (compared to TWC's 15,000-20,000 and Charter's 10,000-12,000 in the systems to be acquired), including all of Nielsen's top 100 cable and broadcast shows and the most sought-after movies, and over 80 percent of these are available free of charge.146 Customers will also have access to over 350,000 streaming choices over the Internet, including over 50 live TV channels, on XfinityTV.com. These live channels and over 25,000 on-demand choices are available on the Xfinity TV Go app, as well, enabling customers to download certain shows and movies to watch offline later.147 And Comcast has recently expanded access to the Xfinity TV Go app to include access via any U.S. cellular network.148

---

145 See Rosston/Topper Decl. ¶¶ 105-106.

146 Id.; Andy Hunter, American Families Love Their TV, Comcast Voices (June 20, 2014), http://corporate.comcast.com/comcast-voices/american-families-love-their-tv; see also Press Release, Comcast Corp., Xfinity on Demand Now Home to Top 100 Nielson Rated Shows (June 12, 2014), http://corporate.comcast.com/news-information/news-feed/xfinity-on-demand-now-home-to-top-100-nielsen-rated-tv-shows. Comcast also launched the Xfinity Digital Store in November 2013 – a service not currently offered by TWC – giving customers the ability to purchase films and TV shows for download or streaming anywhere, anytime, on any device. Press Release, Comcast Corp., Everything is Awesome: The Lego Movie Breaks Records on the Xfinity Digital Store (May 30, 2014), http://corporate.comcast.com/comcast-voices/everything-is-awesome-the-lego-movie-breaks-records-on-the-xfinity-digital-store; see Joe Flint, Comcast's Digital Movie Sales Off to Solid Start, L.A. Times, Dec. 5, 2013, available at http://www.latimes.com/entertainment/envelope/cotown/la-et-ct-comcast-digital-sell-through-20131205-story.html#axzz2wSjkjzYS (noting that the Xfinity platform had been the number one seller of several movies within weeks of its launch).

147 See Press Release, Comcast Corp., Xfinity TV Go Network Roster Tops 50 with Latest Update (Mar. 19, 2014), http://corporate.comcast.com/news-information/news-feed/comcast-customers-can-now-stream-more-than-50-live-channels-an

148 Jeff Baumgartner, Comcast Opens TV Everywhere App To All Cellular Networks, Multichannel News (Sept. 2, 2014), http://www.multichannel.com/news/tv-everywhere/comcast-opens-tv-everywhere-app-cellular-networks/383484.

REDACTED – PUBLIC INSPECTION

One commenter wrongly contends that the expansion of VOD and programming choices is not a transaction-related benefit because TWC already offers these kinds of options.149 In fact, the combined company will be able to deliver significantly more of the programming options that consumers want and demand than TWC and Charter offer to their customers today.150 The Commission recognized the benefits of expanded VOD and programming in the NBCUniversal transaction, and adopted a condition to ensure Comcast would increase these offerings post-transaction – and Comcast has delivered on that commitment.151 For example, Comcast recently used the expanded capabilities of its VOD platform to support "Watchathon Week," during which customers could "catch up" on their favorite shows at no additional charge. During this seven-day period, Comcast customers watched over 61 million pieces of Xfinity On Demand content.152 And Comcast recently announced the return of Xfinity Freeview Latino, a two week all-access pass to more than 3,500 programs and 2,500 hours of Latino On Demand programming for Xfinity TV digital customers.153 Neither TWC nor Charter has any comparable offerings.

---

149 See Los Angeles County et al. Petition to Deny at 17-18.

150 For example, TWC's TV Everywhere offering is more limited; it provides less content and less flexibility for accessing this content outside the home, with up to just 29 live TV channels and 6,500 hours of video content.

151 See Comcast-NBCUniversal Order, App. B, §§ X.3, XI.6, XIII.1.

152 Press Release, Comcast Corp., Watchathon Week: Shattering Viewing Records & Driving Live TV Ratings (Apr. 17, 2014), http://corporate.comcast.com/comcast-voices/watchathon-week-shattering-viewing-records-driving-live-tv-ratings.

153 Press Release, Comcast Corp., Xfinity Freeview Latino: The Biggest Hispanic On Demand Event Returns (Sept. 16, 2014), http://corporate.comcast.com/news-information/news-feed/freeview-latino-2014.

REDACTED – PUBLIC INSPECTION

Further, increasing VOD assets is not just a function of obtaining expanded content rights. Many TWC systems do not have the capacity to handle a vastly increased VOD library, which could strain the company's VOD servers and the channel capacity dedicated to VOD. And it is not clear that TWC's user interface could readily handle a substantially larger asset library, either. The post-transaction integration will remove these network impediments and provide the same expanded programming options for TWC and Charter customers that Comcast customers already enjoy. Similarly, Comcast's offering is based not only on a broad catalogue of rights, but also on sophisticated, easy-to-use technology that leads the industry. This year, the Sochi Winter Olympics and World Cup saw record-breaking numbers of subscribers viewing live streams of sports on digital platforms.154 During the recent World Cup series, Comcast subscribers watched 13 million live streams of soccer matches – or about 90,000 streams for every hour of match coverage – exceeding by 55 percent the number of streams that Comcast served during the Sochi Olympics.155

---

154 Vito Forlenza, World Cup Raises the Bar for the Future of Live Streaming, Comcast Voices (July 2, 2014), http://corporate.comcast.com/comcast-voices/world-cup-raises-the-bar-for-the-future-of-live-streaming (noting that the Sochi Olympics saw 7.8 million streams from Xfinity TV customers, and 683,000 live streams of the USA v. Germany match during the world cup); Press Release, Comcast Corp., SEC Network on Xfinity Gives Fans College Football Anywhere They Want (Aug. 28, 2014), http://corporate.comcast.com/comcast-voices/sec-network-on-xfinity-gives-fans-college-football-anywhere-they-want (highlighting record-breaking numbers of fans live streaming the Sochi Olympics, March Madness, and the World Cup).

155 Jeff Bercovici, World Cup Streaming Boosts Comcast's TV Everywhere Push, Forbes, July 16, 2014, available at http://www.forbes.com/sites/jeffbercovici/2014/07/16/world-cup-streaming-boosts-comcasts-tv-everywhere-push/.

REDACTED – PUBLIC INSPECTION

Enhanced Video Technologies. The Transaction will likewise bring Comcast's best-in-class X1 platform and IP cable technology to the acquired systems – benefitting customers and programmers alike. The X1 platform provides a state-of-the-art cloud-based user interface that includes integrated search (across TV, Xfinity On Demand, and DVR) with instant play; access to the Internet and apps like Facebook and Pandora; cross-product integration, including access to voicemail from the TV; enhanced personalization and recommendations; and a "Last 9" feature that enables customers to easily access the last nine channels, VOD programs, and apps that they viewed or used.156 Praise for the value and innovation of the X1 platform has been widespread.157 And the Television Academy recently honored Comcast with an Emmy Award for the X1's user experience and visual design.158

156 Comcast-TWC Public Interest Statement at 79-82. Though there is a one-time "platform activation fee" for the X1, the cost of X1-capable equipment is comparable to what a consumer would pay for DVR service on a conventional set-top box, contrary to suggestion made by Stop the Cap!. See Stop the Cap! Comments at 5-6. And customers receive tremendous value from the X1 over conventional devices.

157 See, e.g., Todd Bishop, Xfinity X1: How Comcast Roped Me Back in to Cable, GeekWire, Aug. 22, 2013, http://www.geekwire.com/2013/xfinity-x1/ ("I have been testing this sleek black cable box for the past three weeks, but to call it a cable box really doesn't do it justice. It is a nice blend of Internet content, live television, apps, a multi-tuner DVR and on-demand programming, in one of the cleanest user interfaces that you'll find from a cable company."); Tim Carmody, Comcast's New X1 UI Integrates Real-time and Streaming TV with News and Social Apps, The Verge, May 21, 2012, http://www.theverge.com/2012/5/21/3033972/comcast-ui-platforms-video-news-social-apps ("[X1] feels like a genuinely 21st-century way to use a widescreen television set – like a smart TV inside your cable box."); John McDuling, The American Cable Industry's Cunning Plan to Save Itself: Make TV Work Like It Should, Quartz, Feb. 4, 2014, http://qz.com/172533/the-american-cable-industrys-cunning-plan-to-save-itself-make-tv-work-like-it-should/ (quoting Netflix CEO Reed Hastings describing the X1 as a "great product.").

158 J.T. Ramsay, Comcast Wins Emmy for X1's User Experience and Visual Design, Comcast Voices (Aug.14, 2014), http://corporate.comcast.com/comcast-voices/comcast-wins-emmy-for-x1-entertainment-operating-system.

Dozens of commenters have cited these clear video benefits in supporting the Transaction.159 For example, as Ovation observes, "Comcast's merger with TWC means a robust video experience for more Americans. TWC customers will benefit from Comcast's industry-leading X1 platform, which provides unprecedented choice, control, and access to content on a wide array of IP-connected devices."160 And, as Starz notes, "Starz Networks will directly gain from these advancements in Comcast services because they will allow millions of additional subscribers to have access to better, more reliable platforms on which to access our programs."161 Even Discovery Communications, while raising various self-serving concerns about the Transaction with the Commission,162 just last week acknowledged to its investors that the Transaction benefits programmers: "[T]o the degree that [Comcast and AT&T are] bigger, have more access to investing in TV Everywhere and VOD offerings, a stronger ecosystem and a strong affiliate offering is good for us . . . . I do like [distributors] being stronger and I do like their being able to preserve the ecosystem more successfully . . . ."163

---

159 See, e.g., Letter from State Representative Ron Ryckman, Jr., Kansas, to Chairman Wheeler, FCC, at 1 (Aug, 25, 2014) ("Comcast is really changing the game for innovative TV and Internet services. They have set a high industry standard, yet continue to push the envelope on new technologies. The X-1 platform allows me to stream video content anywhere, on various devices, showing that Comcast cares about making their services available to their customers when and how they want them."); Letter from Mark Kleinschmidt, President, New Castle County Chamber of Commerce, to Chairman Wheeler, FCC, at 1 (Aug. 22, 2014) ("Comcast is one of the most dynamic technology companies currently operating in Delaware. Some of its latest developments are incredible advancements in the world of home entertainment and broadband. The new X1 operating system is just one example . . . ."); American Commitment Comments at 3 ("[The transaction will give consumers] accelerated deployment of advanced technology and development of new and innovative products and services such as Comcast['s] newly launched x1DVR and its X1 Entertainment Operating System, and Comcast's video-on-demand platform.").

160 Letter from Brad Samuels, Executive Vice President, Ovation, to Chairman Wheeler and Commissioners, at 1 (Aug. 25, 2014).

161 Letter from David Weil, Executive Vice President & General Counsel, Starz Networks, to Chairman Wheeler, FCC, at 1 (Aug. 25, 2014).

162 See discussion infra Section IV.B.2.a.

163 Remarks of Andy Warren, CFO & Senior EVP, Discovery, Bank of America Merrill Lynch Media, Communications and Entertainment Conference, Beverly Hill, CA, Tr. at 3 (Sept. 16, 2014).

REDACTED – PUBLIC INSPECTION

TWC and Charter customers will similarly benefit from Comcast's investments in IP streaming technology, which allows customers with the X1 platform to access essentially their full cable linear line-up, including national networks, public, educational, and government access ("PEG"), and must-carry channels, on personal computers and mobile devices throughout the home and without the need to lease or purchase additional set-top boxes.164 With the launch of Comcast's new X1 DVR with cloud technology, the combined company's customers will also be able to record more shows; access them in their homes on multiple TVs, computers, and other devices; and download their recordings to mobile devices for later viewing away from home.165 Critically, the Transaction will allow Comcast to spread the costs of developing and deploying the X1 platform and future-related technology among more Comcast-owned systems, helping to support future innovation.166

---

164 TWC has also invested in the transition to IP cable and has created IP "simulcast" feeds of most national linear networks, which enables customers to access this programming on a variety of retail devices. Comcast will build on TWC's strengths and experiences to further accelerate the IP cable transition for the benefit of the combined company's customers.

165 Comcast-TWC Public Interest Statement at 79-80. The Transaction presents the opportunity for Comcast to spread the costs of developing and deploying the X1 platform among more Comcast-owned systems, which will help facilitate future innovation. See Rosston/Topper Decl. ¶ 93.

166 See Rosston/Topper Decl. ¶¶ 85-86.

C. The Transaction Will Promote Greater Voice Competition and Services.

The Transaction will allow Comcast to offer more advanced voice services to customers in the acquired areas, making the combined company a more effective competitor to ILECs and others.167 No commenter questions the transaction-specific benefits for the voice services marketplace in any meaningful way. Some commenters express concern that the Transaction will adversely affect Lifeline services, but that is simply not true.168 Following the Transaction, the TWC operating entities that currently provide Lifeline service today will remain in place and will retain their status as regulated telephone utilities and designations as eligible telecommunications carriers (“ETCs”). Moreover, any changes in this regard would be addressed by the state agencies with direct responsibility for this issue, which has no relevance here.

---

167 For example, Comcast’s Xfinity Voice includes an array of enhanced features, including newer features like “Voice 2go” – which allows users to place calls over a Wi-Fi or data connection using an app installed on a mobile device – and Readable Voicemail. The Transaction will enable the Applicants to combine the best features of their respective services to create best-in-class voice service offerings, building on the strong foundation that already exists. See Comcast-TWC Public Interest Statement at 83-85 & n.205 (citations omitted).

168 Greenlining Petition to Deny at 7-9; CPUC Comments at 7; NJDRC et al. Comments at 25.

REDACTED – PUBLIC INSPECTION

Nor is there any basis for concern that the Transaction may harm consumers by disrupting voice interconnection arrangements or derailing the transition of the public switched telephone network ("PSTN") to IP delivery.169 Contrary to Public Knowledge's speculative assertions, Comcast will not be able to leverage any market power to obtain favorable interconnection terms. Comcast does not have market power in voice today, and this Transaction will not eliminate a voice competitor in any market.170 As Public Knowledge well knows, Comcast is an insurgent competitor in the voice market and a leader in the transition to IP technology, with over 20 privately negotiated VoIP interconnection agreements with all types of providers. In fact, over half of Comcast voice traffic relies upon IP interconnection today. While Comcast firmly believes the marketplace is evolving on its own without the need for government intervention, Comcast shares Public Knowledge's support for the PSTN's IP transition, and clearly has no interest in "derailing" it.

In short, the benefits to voice competition and innovation from the Transaction are substantial, well supported in the record, and should be given significant weight in the Commission's public interest analysis.

D. The Transaction Will Enhance Competition and Choice for Businesses of All Sizes.

Applicants have further demonstrated that the Transaction will inject much-needed competition into the business services market and will bring about new, competitive choices for businesses of all sizes – small- and medium-sized business, regional and super-regional businesses, and enterprise businesses. There is substantial support in the record for these important competition-enhancing benefits, and no meaningful opposition.

---

169 Public Knowledge et al. Petition to Deny at 50-53.

170 See infra at IV.B.5. Indeed, as of the Q2 2014, Comcast had approximately 11 million voice subscribers, whereas both AT&T and Verizon had over approximately 20 million voice subscribers. AT&T Inc., Quarterly Report (Form 10-Q), at 29 (Aug. 1, 2014); Verizon Commc'ns Inc., Quarterly Report (Form 10-Q), at 33 (July 29, 2014).

REDACTED – PUBLIC INSPECTION

Comcast and Time Warner Cable have each made some inroads in serving business customers within their existing footprints, focusing primarily on serving small- and medium-sized businesses. Comcast, for its part, continues to improve its offerings and has expanded its fiber network to make high-speed Ethernet services capable of speeds up to 10 Gbps available to more businesses, including recent expansions in Connecticut, Texas, Vermont, and Washington.171 Comcast has won several awards for its achievements in serving small businesses,172 and a number of Comcast Business customers and business organizations strongly support the Transaction.173 Brent Wilkes, Executive Director of the League of United Latin American Citizens, notes that when his organization became a Comcast Business customer, "our Internet speeds increased 10 fold and our bill dropped in half."174 These offerings have evoked a competitive response from incumbent providers. Comcast and TWC have introduced aggressive price competition in the small and medium-sized business segments, with a 2013 research report noting that new entry decreased Ethernet pricing for business by 10 percent or more per year.175 Legacy providers are also responding by expanding fiber to businesses and have improved their offerings to bundle new data and voice features with basic network features, thereby adding value for customers.176

---

171 Press Release, Comcast Business, Comcast Business Extends Fiber Network to Bring Ethernet Services to Rutland, County, Vermont (May 15, 2014), [illegible]; Press Release, Comcast Business, Comcast Business Extends Fiber Network to Bring Multi-Gigabit Ethernet Services to Four New Haven County Communities (Aug. 13, 2014), [illegible]; Press Release, Comcast Business Brings Multi-Gigabit Ethernet to Underserved Commercial Areas in Kent, Washington (Aug.13, 2013), http://www.businesswire.com/news/seattlepi/20140813006202/en; Erin Mulvaney, Comcast Expands Fiber-Optic Network to Baytown Industrial Park, Houston Chron., June 16, 2014, http://www.houstonchronicle.com/business/technology/article/Comcast-expands-fiber-optic-network-to-sprawling-5556850.ph

172 In addition to the many awards Comcast received for its small business services previously noted, see Comcast-TWC Public Interest Statement at 87, Comcast Business jumped to sixth position in Vertical Systems Group U.S. Ethernet LEADERBOARD in the first half of 2014, see Mike Tighe, Comcast Business Jumps Up Ethernet Market Leaderboard, Comcast Voices (Aug. 20, 2014), http://corporate.comcast.com/comcast-voices/comcast-business-jumps-up-ethernet-market-leaderboard.

173 See, e.g., Letter from Michael Paris, President and CEO, Council for Quality Growth, to Chairman Wheeler and Commissioners, FCC, at 1 (Aug. 25, 2014). ("Thanks to Comcast's state-of-the-art network, Comcast Business offers advanced communications solutions for small to mid-sized companies that increase productivity, offering speeds of up to 10 Gbps."); Letter from Howard Tullman, CEO, 1871, to Marlene H. Dortch, Secretary, FCC, at 1 (Aug. 22, 2014) ("Comcast was one of the first corporate companies we sought to work with in order to provide business class service to drive technology innovation at our start-up hub. We currently serve over 250 companies in our 75,000 square foot workspace, with additional plans underway to expand our center to encourage more growth in the Chicago business community. Fortunately, Comcast business services has provided critical services to keep work and innovation flowing."); Letter from Justin Massa, Founder and CEO, Food Genius, at 1 (Aug. 22, 2014) ("High speed Internet, reliable connections, and 24/7 support are just a few of the benefits my company has received as a Comcast Business Class customer. . . . In fact, Comcast's support is an important component in our ability to expand. Its technology – especially the opportunity to scale the services we support and need – is critical to growing our business.").

174 Letter from Brent Wilkes, Executive Director, League of United Latin American Citizens, to Chairman Wheeler and Commissioners, FCC, at 2 (Aug. 25, 2014).

175 Insight Research Corp., US Carriers and Ethernet Services, 2013-2018, at 5 (Aug. 2013); see also TeleGeography, Global Enterprise Networks: Enterprise Service Pricing, at 16 (Jan. 2013) ("Median Ethernet market

prices remain volatile, fluctuating considerably year to year. . . . With this said however, the long-term price trend is clearly down."); id. at 20 ("As a growing number of carriers offer the service, [Virtual Private LAN Service] prices continue to decline."); Craig Galbraith, CableCos Gain Ground in Ethernet, But AT&T, Verizon Still Lead, Channel Partners, Feb. 12, 2014, http://www.channelpartnersonline.com/news/2014/02/cablecos-gain-ground-in-ethernet-but-at-tverizon.aspx ("Cable companies have developed a winning formula for the U.S. business Ethernet market. They are successfully leveraging their on-net fiber footprints to offer aggressive pricing and rapid service provisioning."); see also Comcast-TWC Public Interest Statement at 87-88; Rosston/Topper Decl. ¶¶ 119-120; Israel Decl. ¶¶ 159-160.

176 See Comcast-TWC Public Interest Statement at 87-88; Rosston/Topper Decl. ¶¶ 119-120; Israel Decl. ¶¶ 159-160.

REDACTED – PUBLIC INSPECTION

Despite these inroads, Comcast and TWC are currently constrained by geographic limitations and lack of scale from competing more effectively against incumbent providers. In 2013, Comcast and TWC had a combined share of only approximately 10-15 percent of the market segment for small- and medium-sized businesses in their footprints, and a de minimis share of regional and enterprise businesses.177 Because larger businesses and enterprise customers have locations spanning multiple areas and cable footprints, Comcast, TWC, and other cable companies have been unable to offer seamless business service options – or meaningful competition against incumbent providers – across these different locations.178 As a result, as Allen Gutierrez of The Latino Coalition observes, "[c]ompetition in the market for technology and communications services for businesses is sorely needed in many markets today."179

177 See Comcast-TWC Public Interest Statement at 87.

178 For such customers to date, the only alternative to an ILEC is to rely on an "aggregator" that cobbles together multiple providers' offerings across many regions. However, this approach can create coordination problems given technical differences among different providers' networks, as well as other issues associated with multiple points of contact for customer service and technical assistance. See Comcast-TWC Public Interest Statement at 90-92.

179 Letter from Allen Gutierrez, Executive Director, The Latino Coalition, to Chairman Wheeler, FCC, at 1 (Aug. 25, 2014) (emphasis added).

REDACTED – PUBLIC INSPECTION

The Transaction will help create this "sorely needed" competition by providing Comcast with the greater geographic scope necessary to offer seamless service options to more large and regional businesses and enterprise customers across its expanded network.180 Greater scale will also allow the combined company to drive fiber and other high-capacity technology deeper into its network, further enhancing the services it can offer to these business customers. Drs. Rosston and Topper explain that the Transaction will enable the combined company to undertake network infrastructure investments that would not occur absent the Transaction.181

In short, because it changes both the economic rationale and the company's capabilities to build out the network to serve these businesses, the Transaction will transform the competitive landscape of the business services market by creating a new competitor that can stand toe-to-toe with the incumbent telcos that dominate the market, and can offer business customers uniform, high-quality communications solutions at lower prices. As one Comcast executive explains, "[f]ootprint . . . is the key to bringing Ethernet to more businesses."182 Drs. Rosston and Topper have concluded that, by significantly expanding Comcast's geographic scope and by rationalizing Comcast's service areas through the Divestiture Transactions, the Transaction will likely reduce service prices for businesses within the combined company's new footprint by reducing costs, eliminating double marginalization, and creating a viable new service provider in this space.183 And they affirm that "the benefits of geographic reach are transaction specific, and joint sales are not a viable means of realizing the same benefits."184

---

180 Following the Divestiture Transactions, as Drs. Rosston and Topper previously explained, the combined company's expanded regional presence in California and New England, for example, will allow the company to serve more businesses with locations concentrated in these regions "on net." Rosston/Topper Supplemental Decl. ¶¶ 15-17; see also id. ¶¶ 24-26.

181 See Rosston/Topper Reply Decl. ¶ 26; see also Israel Reply Decl. ¶ 217.

182 Mike Tighe, Comcast Business Discusses the Future of Ethernet, Comcast Voices (Jan. 7, 2014), http://corporate.comcast.com/comcast-voices/comcast-business-discusses-the-future-of-ethernet.

183 Rosston/Topper Decl. ¶ 129; see also Israel Decl. ¶ 153; Rosston/Topper Reply Decl. ¶ 25.

184 Rosston/Topper Reply Decl. ¶ 27. While Comcast and TWC have pursued some joint opportunities, these efforts have borne only modest fruit and have encountered friction. See id.

REDACTED – PUBLIC INSPECTION

In addition, the Transaction will bring together the best of Comcast's and TWC's innovations in businesses services, including, for example, Comcast's Business Voice Edge and the cloud-based business solutions TWC offers through its NaviSite subsidiary.185 Further, products developed for the national, regional, and enterprise business customers often can be offered to or repackaged for small businesses, and even to consumers. And, of course, network investments and upgrades undertaken to serve larger businesses will ultimately redound to the benefit of small businesses and residential customers as well.

Besides benefiting businesses of all sizes, the Transaction will also spur greater competition for wireless backhaul services. The additional network investments, fiber buildout, and greater reach resulting from the Transaction will better position the combined company to offer wireless backhaul services to wireless carriers – adding much-needed capacity and competition in this space.186

185 See Comcast-TWC Public Interest Statement at 96-97; see also Rosston/Topper Decl. ¶ 139; Rosston/Topper Reply Decl. ¶¶ 25-26.
186 Comcast-TWC Public Interest Statement at 97-98.

REDACTED – PUBLIC INSPECTION

Notably, no party seriously challenges these substantial benefits – ones that the Commission has squarely recognized in the past as key benefits justifying transactions before the agency.187 As Dr. Carlton concludes:

Dr. Israel also shows how these significant efficiency gains will bring more competition and more reliable services to business customers, especially those with multiple offices throughout the combined company's region. The Commission should welcome the strengthening of competition in this sector.188

The few opponents that address these business benefits at all either casually dismiss them with no analysis189 or seek wholesale access conditions that make no sense to impose on a new, emerging entrant.190

In contrast, over 100 chambers of commerce and other business organizations have voiced their strong support for the Transaction, highlighting in particular the benefits to competition that it will bring to business customers:191 The Coachella Valley Economic Partnership states that "Comcast's entry will increase competition for communications services for all businesses in our region no matter what their specific needs, which has great potential for lowering costs and increasing quality. The enhanced services, like hosted voice and cloud collaboration applications, that Comcast provides in other markets will enable businesses to be more efficient and will free smaller outfits from the burdens of large capital outlays for their own phone systems and large file storage facilities."192 R.J. Lehman of The R Street Institute observes that "[o]ne under-appreciated consumer benefit of a combined Comcast-TWC is the role the larger company could play in the business services sector." He further explains:

---

187 See CIMCO Order ¶ 4; TWC-Insight Order ¶ 23; Applications Granted for the Transfer of Control of PAETEC Holding Corp. to Windstream Corp., Public Notice, 26 FCC Rcd. 16078, 16079 (2011) ("[W]e find that the transaction poses no significant competitive harms and should provide benefits to residential and business customers resulting from Windstream offering a broader range of competitive services[.]").

188 Carlton Decl. ¶ 7.

189 See City of Los Angeles Comments at 3 (making merely cursory claims that the benefit to businesses is "not obvious" because TWC already states that it offers world class voice and data services for businesses).

190 See COMPTEL Petition to Deny at 10-13; TEXALTEL Comments at 1-2.

191 See, e.g., Letter from Harry C. Alford, President & CEO, National Black Chamber of Commerce, to Chairman Wheeler, FCC, at 1 (Aug. 22, 2014) ("Comcast consistently makes and upholds commitments made to improve the quality of life in the communities it serves by enhancing opportunities for minority-owned businesses and employees of color . . . I can say with full confidence that this proposed deal offers several real public interest benefits for minority-owned businesses and for the communities that Comcast intends to serve post approval."); Letter from Justin Vélez-Hagan, Executive Director, National Puerto Rican Chamber of Commerce, to Chairman Wheeler and Commissioners, FCC, at 1-2 (Aug. 25, 2014) ("It is our sincere opinion that Comcast's entrance into Los Angeles and New York City would be a boon to Hispanic and minority-owned enterprises in those markets. Between 2010 through 2013, Comcast increased spending on Hispanic-owned suppliers by 24%. This growth has the potential to support both increased financial stability and employment among Hispanics in these new cities, who suffer from disproportionately high levels of unemployment. In addition, by expanding its investments into more advanced broadband services, small businesses and entrepreneurs will have greater access to the technologies needed to compete in today's increasingly global marketplace."); Letter from Richard Armstrong, Director of Corporate and Institutional Relations, Boston Ballet, to Marlene H. Dortch, Secretary, FCC, at 1 (Aug. 25, 2014) ("The success my organization has had using Comcast Business makes me confident that small businesses and non-profit organizations in Comcast's new markets will benefit from a successful transaction."); Letter from Peter DelGreco, President & CEO, Maine & Company, to Chairman Wheeler, FCC, at 1 (Aug. 21, 2014) ("Combining these networks will allow businesses and consumers to have access to all the benefits of the larger network. Such benefits as login authentication and consistent

access provide a tremendous benefit and reduce personal and professional hassles."); Letter from Peter S. Ho, Chairman, President & CEO, Bank of Hawaii, to Chairman Wheeler, FCC, at 1 (Aug. 21, 2014); Letter from Earl "Skip" Cooper, II, President & CEO, Black Business Association, to Chairman Wheeler and Commissioners, FCC, at 1 (Aug. 25, 2014) ("Comcast's business model, which values supplier diversity, would be a great addition to our community, especially to the growth and success of minority-owned service companies, suppliers and programmers.").

192 Letter from Thomas Flavin, President & CEO, Coachella Valley Economic Partnership, to Chairman Wheeler, at 1 (Aug. 22, 2014). Similarly, the Redwood City-San Mateo County Chamber of Commerce wrote that "[t]he entry of Comcast's business offerings into more markets where our members operate will create new competition for telecom services. As a result, our members will have more choices of providers for high-end services, and our larger business members with locations in both the northern and southern parts of the state will be able to better integrate their operations, thus increasing efficiency and lowering operating costs." Letter from Amy Buckmaster, President & CEO, Redwood City-San Mateo County Chamber of Commerce, to Chairman Wheeler, FCC, at 1 (Aug. 22, 2014).

72

REDACTED – PUBLIC INSPECTION

While both Comcast and TWC have a modest presence in the market to provide broadband and voice service to small businesses, the firms are only marginal players in the market to serve large commercial enterprises. Because of the need for a large national service footprint, the business services market traditionally has been dominated by telecoms like Verizon and AT&T. A combined Comcast-TWC . . . could for the first time become competitive, with benefits redounding to business services customers.193

193 Letter from Eli Lehrer, President, and R.J. Lehmann, Senior Fellow, The R Street Institute, to FCC Commissioners, at 2 (Aug. 21, 2014).

REDACTED – PUBLIC INSPECTION

In sum, the evidence in the record is clear and demonstrates the significant benefits that the Transaction will foster in the business services market.

E. The Transaction Will Accelerate the Deployment and Adoption of Next-Generation Cable Advertising Technologies.

Comcast and TWC have each experimented with new cable advertising technologies that respond to the needs of advertisers in today's changing media landscape.194 The Transaction will provide the combined company with the expanded customer base and greater geographic reach necessary to further invest in and accelerate the deployment of next-generation advertising technologies, such as DAI and addressable advertising, and interest advertisers in using them. As shown below, this will benefit advertisers, promote the adoption of new technologies,195 and create added benefits for content providers and consumers alike. These advertising benefits, which are not credibly challenged by any commenter, further support the public interest analysis here. It is, therefore, not surprising that the only advertisers who have submitted comments in the docket for this Transaction all enthusiastically support the Transaction and its advertising benefits.

Dynamic Ad Insertion. DAI technology can transform advertising on VOD and other platforms by inserting ads in real time separate from the programming stream. DAI enables the replacement of what traditionally have been stale, static ads with timely, tailored messages on these platforms, allowing advertisers to connect more effectively with the increasingly large segment of consumers who engage in time-shifted viewing of shows or view content using IP-enabled devices.196 As MediaVest – a division of one the world's largest media agencies – notes, advertisers "face increasing challenges in efficiently reaching consumers as they move across devices and consume content in a myriad of ways."197 DAI helps to address those challenges.

---

194 See Comcast-TWC Public Interest Statement at 100-101; Rosston/Topper Decl. ¶¶ 145, 155.
195 See Comcast-TWC Public Interest Statement at 100-101; Rosston/Topper Decl. ¶¶ 142-143.
196 See Comcast-TWC Public Interest Statement at 100-01.
197 Letter from Brian Terkelsen, CEO, MediaVest, to Chairman Wheeler and Commissioners, FCC, at 1 (Aug. 9, 2014).

REDACTED – PUBLIC INSPECTION

The Transaction will enable the combined company to spread the costs of DAI over an expanded customer base, and further deploy and enhance this technology across multiple platforms,198 and across the combined company's expanded footprint, including major markets like New York and Los Angeles.199 This will increase the incentives for advertisers and ratings agencies to invest in the development of common audience measurements and effectiveness tools for these new advertising platforms. To date, the lack of viewer measurement tools has created significant barriers for widespread adoption and deployment of new advertising technologies.200 As Drs. Rosston and Topper have explained, "[t]he increased scale from the transaction may help the industry overcome one of the biggest hurdles to realizing the significant potential of dynamic VOD advertising: measurement of viewing[.]"201 A common measurement metric is key to the development of DAI. According to Drs. Rosston and Topper:

If DAI on VOD can be measured so that advertisers pursue it more enthusiastically, content providers and consumers would also benefit. One of the biggest issues faced by content providers is the growing use of DVR viewing, which leads to ad skipping and reduced revenues. DAI in VOD offers an opportunity for content providers to enable the time-shifted viewing that consumers increasingly demand along with better monetization than DVR. [Improved measurement] could create significant incremental revenue for content providers and, as a result, potentially increase free content for consumers.202

198 Comcast-TWC Public Interest Statement at 101; Rosston/Topper Decl. ¶¶ 145, 149.

199 Comcast-TWC Public Interest Statement at 102; Rosston/Topper Decl. ¶¶ 145, 153. As Drs. Rosston and Topper further explain in their Response, Comcast's efforts to date to develop its own audience measurement tools for VOD programming have fallen short, and the company "has encountered difficulties gaining industry acceptance of this technology with its current scale and reach." Rosston/Topper Reply Decl. ¶ 19; see also id. ¶¶ 20-22.

200 Comcast-TWC Public Interest Statement at 101-02; Rosston/Topper Decl. ¶¶ 144-145.

201 Rosston/Topper Decl. ¶ 144.

202 Rosston/Topper Reply Decl. ¶¶ 18, 22.

Addressable Advertising. The Transaction will likewise accelerate the deployment and adoption of addressable advertising, which allows marketers to replace geographic zone targeting (i.e., advertising targeted at specific zip codes or neighborhoods) with advertising based on demographics and other characteristics.203 This technology enables advertisers to improve the efficiency and cost-effectiveness of their marketing efforts, and will provide a new option for advertisers who might not have previously considered cable advertising to reach very targeted markets.204 As one commenter observes, this will enable the combined company to "offer businesses the ability to market to customers with the highest levels of precision, whether the business is a taqueria on 26th Street or a Fortune 500 company."205

The Transaction will extend Comcast's addressable advertising technology and development plans to the acquired systems.206 The combined company's increased geographic reach and scale, in turn, will enhance the value of addressability to advertisers by significantly expanding the potential pool of desired viewers – i.e., with a bigger starting audience, a larger number of desired households can be targeted using Comcast's addressable advertising services.207 Bill Koenigsberg, founder of Horizon Media, the largest privately held media agency in the world, notes that "[a]ddressable advertising has largely been difficult to achieve because of lack of reach," which is one of the reasons he strongly supports the Transaction.208 "Through the merger, the combined company would deliver the kind of scale required to make such hyper-targeting a viable advertising option."209

---

203 Comcast-TWC Public Interest Statement at 103-04; Rosston/Topper Decl. ¶¶ 150-152, 154-156.

204 Comcast-TWC Public Interest Statement at 103; Rosston/Topper Decl. ¶ 156.

205 Letter from Jaime di Paulo, Executive Director, Little Village Chamber of Commerce, to Chairman Wheeler, FCC, at 1 (Aug. 22, 2014).

206 Comcast-TWC Public Interest Statement at 104-05; Rosston/Topper Decl. ¶¶ 154-156 (noting that TWC has not deployed addressable advertising on its cable platform).

207 Comcast-TWC Public Interest Statement at 105; Rosston/ Topper Decl. ¶¶ 149, 150-152. Drs. Rosston and Topper also point out that, given Comcast's scale, the Transaction may also lead to other MVPDs adopting next-generation advertising technologies, thereby allowing these capabilities to be offered more broadly on a uniform basis. Rosston/Topper Decl. ¶¶ 149-152.

208 Letter from Bill Koenigsberg, President & CEO, Horizon Media, to Chairman Wheeler and Commissioners, FCC, at 2 (Aug. 12, 2014).

209 Id.

REDACTED – PUBLIC INSPECTION

Several other leading media agencies representing many of the nation's top advertisers have voiced their support for the Transaction and the benefits that it will bring to the advertising industry. GroupM, the world's largest public media investment company with over $104 billion in ad billings last year,210 believes that these next-generation advertising technologies, along with the necessary scale and geographic reach resulting from the Transaction, will "reinstat[e] advertiser confidence that their ads are being viewed" and make cable television "a much more attractive platform for advertisers currently shifting dollars to alternatives that are perceived to be more accountable than linear TV."211 Given that local cable television advertising today accounts for only approximately 7 percent of all local advertising spending,212 attracting even a small percentage more advertising to cable could introduce some new competition to this already diverse marketplace. MediaVest agrees that the "advertising industry as a whole will benefit" from the next-generation advertising technologies that the transaction will promote.213

210 See GroupM, www.groupm.com (last visited Sept. 22, 2014) (citing RECMA 2013 data).

211 Letter from Irwin Gotlieb, Chairman, GroupM, to Chairman Wheeler and Commissioners, FCC, at 2 (Aug, 22, 2014).

212 See Rosston/Topper Reply Decl. ¶ 218.

213 Letter from Brian Terkelsen, CEO, MediaVest, to Chairman Wheeler and Commissioners, FCC, at 1-2 (Aug. 9, 2014).

Although these next-generation advertising technologies may be of most interest to advertisers, Applicants have shown that the increased deployment and adoption of innovative advertising options like DAI and addressable ads will likely benefit content providers and consumers as well. Specifically, DAI will allow content providers to better monetize programming on VOD and other platforms, thereby providing a new revenue source to support high-quality programming and possibly even reducing pressure on affiliate licensing fees.214 As Drs. Rosston and Topper explain:

Content providers are willing to provide more VOD content, e.g., entire seasons of popular shows, to Comcast (and other MVPDs) if they are able to monetize it — and consumers are then often able to enjoy this additional content with no additional charges. The availability of more, free VOD has also proven to be self-reinforcing for content providers' business, as it allows viewers to catch up on previous episodes, and increases the live and total audience size for current shows by helping build momentum as a season progresses.215

In fact, Drs. Rosston and Topper concluded that advanced advertising services and the added scale from the Transaction could lead to consumers receiving discounted or free access to some of the same content they currently purchase elsewhere for $8-12 per month.216 And addressable advertising can reduce the number of entirely irrelevant ads that now encumber the consumer's video watching experience.

While certain commenters, such as Viamedia, RCN, CenturyLink, and ACA claim that the Transaction will create harms for cable spot advertising or for cable advertising representation services, as explained in Section IV.D below, these claims amount to little more than attempts by disgruntled competitors and their customers to advance their own parochial business interests – with no real nexus to the deal – by limiting competition and benefits to the advertising market as a whole. They should, therefore, be rejected by the Commission, particularly in light of the overwhelming support of advertisers for the Transaction.

---

214 See Comcast-TWC Public Interest Statement at 103; Rosston/Topper Decl. ¶ 147; Rosston/Topper Reply Decl. ¶ 22.

215 Rosston/Topper Repl. Decl. ¶ 22.

216 See Comcast-TWC Public Interest Statement at 103; Rosston/Topper Decl. ¶ 147.

REDACTED – PUBLIC INSPECTION

F. Other Transaction Benefits

1. The Transaction Will Generate Key Efficiencies That Will Drive the Public Interest Benefits.

As Applicants previously detailed, the Transaction will create economies of scale at the national and regional levels, an expanded geographic reach, and a greater ability to share technologies and services. As numerous commenters recognize, these efficiencies will drive the many public interest benefits of the Transaction for residential customers, businesses, and advertisers. For example, as Cisco observes, "[w]ith the proposed transactions, Comcast would of course gain greater scale, enabling it to increase its investments in cutting-edge technologies and services and spread the costs across a larger customer base. In addition, the transactions would allow Comcast and Charter to better rationalize their geographic footprints, producing efficiencies that will provide more room for investment and innovation."[217] Broadcom similarly states that it "believe[s] the proposed Comcast/TWC transaction will give Comcast the scale required to build on its industry leading technology initiatives and to invest in further innovation in video and broadband services."[218]

Some commenters wrongly suggest that these efficiencies are not transaction-specific, will not be realized, or will not lead to the claimed public interest benefits. These claims either misunderstand or mischaracterize the demonstrated efficiencies (or both), and provide no facts or viable economic theory refuting the procompetitive benefits that these efficiencies will create.

---

217 Cisco Comments at 7.
218 Broadcom Corp. ("Broadcom") Comments at 3.

REDACTED – PUBLIC INSPECTION

In particular, some commenters allege that Comcast and TWC could realize the same economies of scale or geographic reach by expanding within their current footprints or into each other's territories.219 But as Drs. Rosston and Topper explain, this is not the case:

While it is true that Comcast could gain scale by winning more customers within its current footprint (and it continues to aggressively compete for these customers), the transactions allow for additional scale through an expanded footprint and the ability to compete for a larger universe of otherwise unavailable potential customers; such growth cannot be obtained organically within Comcast's existing footprint.

* * *

As we described in our April Report, Comcast and TWC have not found it profitable to build new cable systems outside their existing geographic footprints or make the major investment necessary to successfully enter as an out-of-footprint OVD. It would be cost prohibitive for Comcast or TWC to build new cable systems throughout each other's geographic footprint, and we have seen no evidence that either firm has considered doing so.220

Dr. Israel agrees, concluding that "[g]iven that the parties have decided that footprint expansion is cost-prohibitive, and given the unchallenged fact from the original Israel Declaration that cross-operator partnerships have proven quite unsuccessful in this industry, unlocking the profitability of these investments by scaling them to more territories is a transaction-specific benefit."221

Other parties claim that Comcast and TWC already have sufficient scale, such that any added economies of scale will be negligible,222 or contend that the value of economies of scale must reach a certain threshold in order to yield benefits for consumers.223 The analysis of Drs. Rosston and Topper again shows otherwise. In their April declaration, they provide concrete examples of investments and projects that Comcast failed to undertake, or undertake as quickly, due to lack of sufficient scale, notwithstanding its size relative to other cable companies.224

---

219 See, e.g., Free Press Petition to Deny at 78; WGAW et al. Petition to Deny at 62-64; Cogent Petition to Deny, Declaration of Joseph Farrell ("Farrell Decl.") ¶ 102.

220 Rosston/Topper Reply Decl. ¶¶ 11, 33 (emphasis added).

221 Israel Reply Decl. ¶ 211.

222 Consumers Union et al. Petition to Deny at 38-39; AAI Comments at 23-36; Los Angeles County et al. Petition to Deny at 6-8; Senator Franken Comments at 10-11.

223 Netflix Petition to Deny, Declaration of David Evans ("Evans Decl.") ¶ 37 n.12; WGAW et al. Petition to Deny, Testimony of William Comanor ("Comanor Test.") at 22. Nor is there any merit to the claim that the synergies and efficiencies must directly translate into a reduction in cable prices in order to be a benefit. See Senator Franken Comments at 22. As discussed in Section III.B, these synergies and efficiencies will lead to tangible benefits to customers in acquired systems, like accelerated upgrades to all-digital, more reliable services, and customer service innovations, among others.

224 See Rosston/Topper Decl. ¶¶ 87, 90, 93, 136; see also Rosston/Topper Reply Decl. ¶ 9. This evidence also rebuts the claim made by Stop the Cap! that the benefits and efficiencies of the transaction are vague. See Stop the Cap! Comments at 1-2.

REDACTED – PUBLIC INSPECTION

In addition, Drs. Rosston and Topper set out specific examples of how economies of scale in prior transactions (e.g., Adelphia and AT&T Broadband) enabled Comcast to undertake larger fixed cost investment in infrastructure and in providing advanced services, showing that such efficiencies are not merely theoretical.225 And, as Comcast increasingly competes in various segments of its business against national or even global competitors like Apple, Google, Netflix, and others, its size relative to other cable companies becomes an even less relevant measure. Drs. Rosston and Topper also make clear that the benefits of increased investment due to economies of scale will accrue to customers, regardless of the proportion of increased investment to total costs or the proportion of increased investment to the size of the company.226 This evidence refutes the contrary – and factually unsupported – claims advanced by Professors Comanor and Evans, respectively.227

---

225 See Rosston/Topper Reply Decl. ¶¶ 12, 14, 16. As Vermont Governor Peter Shumlin recounts, since Comcast acquired the Adelphia systems in Vermont in 2006, it has invested nearly $128 million on broadband infrastructure in the state and extended broadband connectivity across the state. See Letter from Governor Peter Shumlin, Vermont, to Marlene H. Dortch, Secretary, FCC, at 1 (Aug. 20, 2014).

226 See Rosston/Topper Reply Decl. ¶¶ 13-14.

227 See Netflix Petition to Deny, Evans Decl. ¶ 37 n.12; WGAW et al. Petition to Deny, Comanor Test. at 22.

Finally, Consumers Union and Common Cause contend that deploying common technologies and services across the combined the Comcast and TWC systems would involve integration difficulties to the detriment of customers. But, as Drs. Rosston and Topper explain, this is idle speculation:

[W]hile there are certain to be some costs related to integrating Comcast and TWC systems, if the costs were so high that they would lead to increased prices or lower quality service, Comcast would not choose to make those service changes. After all, Comcast has the option of leaving current TWC technologies in place if they are a more efficient way of meeting customer demand than an alternative Comcast technology.228

Comcast has proven in past transactions (e.g., Adelphia and AT&T Broadband) that it can integrate newly acquired systems in ways that benefit consumers through better, more reliable networks and enhanced, industry-leading video, broadband, and voice services.229 It will do the same following this Transaction.

2. The Extension of Commitments and Conditions from the Comcast-NBCUniversal Order Will Further Enhance the Public Interest.

Numerous commenters support the Transaction because they have experienced firsthand Comcast's fulfillment of – and, in many cases, over-delivery on – commitments and conditions from the NBCUniversal transaction. Specifically, these supporters recognize and strongly embrace the extension of the following benefits to the acquired TWC and Charter systems (among others): (1) various pre-existing obligations and other commitments developed in connection with the NBCUniversal transaction, and (2) Comcast's best-in-class diversity and community investment programs.

---

228 Rosston/Topper Reply Decl. ¶ 39.
229 See Comcast-TWC Public Interest Statement at 36-38, Exhibit 9 (Promises Made, Promises Kept).

As explained in the Public Interest Statement, the Comcast-NBCUniversal Order contained more than 150 conditions, many with multiple subparts. Comcast consistently has met, and often exceeded, all of its commitments and obligations.230 Indeed, even when no longer mandated or required, many of these conditions and commitments have become part of Comcast's core business ethic and operations. Commenters who suggest Comcast has failed to live up to its obligations, or overstated its voluntary commitments,231 simply mischaracterize the facts. Comcast submits comprehensive and publicly available annual transaction compliance reports,232 as well as annual compliance reports on Internet Essentials,233 with the Commission.234 Neither the Commission nor any other party has seriously questioned Comcast's documented compliance efforts. And those that claim that the expansion of these commitments to the acquired systems is merely a legal obligation, not a public interest benefit,235 overlook the fact that millions of additional customers in the acquired systems will now benefit from protections, offerings, and opportunities that they did not enjoy before and would not have received otherwise. The Transaction is unquestionably the "but-for" source of these benefits. Further, it bears stressing that Comcast has voluntarily extended certain commitments even after they expired under the NBCUniversal Order, and has overdelivered broadly on its requirements, making the question whether "legal obligations" can constitute a cognizable benefit not only silly, but irrelevant.

---

230 In one instance (addressed through a voluntary consent decree), the Commission took issue with certain elements of how Comcast marketed and advertised its standalone broadband Internet service. See id. at 106-07 & n.273 (discussing the two Commission proceedings related to the conditions that involved interpretative issues – neither of which resulted in the Commission finding or even suggesting noncompliance).

231 It is not accurate or constructive to make broad, general statements that the NBCUniversal conditions have been unsuccessful or that parties intended to be protected by them have prevailed only after long delays and large expenses. See Dish Petition to Deny at 88-93; ITTA Petition to Deny at 13-15. As explained in the Public Interest Statement, see Comcast-TWC Public Interest Statement at 149, 170, and further below, Comcast and NBCUniversal have broadly licensed content and significantly expanded carriage of independent programs, all on reasonable and market-based terms. So it is hard to take seriously claims that the conditions or the marketplace have not worked when all the evidence in the record demonstrates the exact opposite. Nor should Comcast's compliance be called into question based on hyperbole and anecdotal evidence, at best. For example, the New Jersey Division of Rate Counsel and NASUCA argue that "Comcast has a poor track record when it comes to fulfilling the commitments it negotiated to gain approval of its takeover of NBC." NJ Division of Rate Counsel and NASUCA Comments at 24. Yet for this sweeping proposition, they cite only a May 2014 Greenlining Institute filing before the California Public Utilities Commission that raises unsupported and false allegations regarding the efficacy of the Internet Essentials program.

232 See, e.g., David L. Cohen, Comcast and NBCUniversal File Third Annual Compliance Report on NBCUniversal Deal, Comcast Voices (Mar. 3, 2014), http://corporate.comcast.com/comcast-voices/comcast-and-nbcuniversal-file-third-annual-compliance-report-on-nbcuniversal-c

233 See Annual Compliance Report on Internet Essentials, the Comcast Broadband Opportunity Program (July 31, 2012), available at http://corporate.comcast.com/images/Internet-Essentials-Annual-Report_07312012_v3.pdf; Second Annual Compliance Report on Internet Essentials, the Comcast Broadband Opportunity Program (July 31, 2013), available at http://corporate.comcast.com/images/MB-10-56-Internet-Essentials-Annual-Compliance-Report-2013-07-31.pdf; Third Annual Compliance Report on Internet Essentials, the Comcast Broadband Opportunity Program (July 31, 2014), available at http://corporate.comcast.com/images/MB-10-56-Comcast-Internet-Essentials-Annual-Report-2014-07-31.pdf. Comcast has also voluntarily published Internet Essentials progress reports not required by the FCC. See Internet Essentials Launch Report (Jan. 31, 2012), available at http://corporate.comcast.com/images/InternetEssentialsfromComcast.pdf; Internet Essentials 2nd Annual Progress Report and New Enhancements (Mar. 5, 2013), available at http://corporate.comcast.com/images/IE-FCC_Trifold-2013-FNL_HRnoCrops.pdf; Internet Essentials Program

Highlights at a Glance, Fall 2013 (Sept. 2013), available at https://www.internetessentials.com/sites/internetessentials.com/files/reports/ie-fcc_trifold-2013_fall_fnl.pdf; Year Three Internet Essentials Progress Report (Mar. 4, 2014), available at https://www.internetessentials.com/sites/internetessentials.com/files/reports/fcc_hi_res_no_crops_final_022814.pdf.

234 In May 2011, Free Press claimed that Comcast failed to describe each local program and included commercials in its calculation of local programming time in its localism compliance reports to the Commission. Free Press got its facts wrong. Nearly three years later, it is no surprise that the Commission has not acted on the claim. Not only has Comcast met the Commission's condition, but is has far surpassed it. During 2013, the 10 NBC Owned Television Stations produced and aired approximately 2,500 hours of regularly scheduled local news programming over and above the amount required. This surpasses the Commission's requirement to add 1,000 hours of new, local news programming by approximately 1,500 hours. Comcast's Telemundo Station Group beat the Commission's requirement to air 1,000 hours of regularly scheduled local news programming by approximately 1,300 hours.

235 See WGAW et al. Petition to Deny at 65-66; Netflix Petition to Deny at 97.

83

Given this strong record, the Commission should give substantial weight in its public interest review to the following key benefits that will be extended to the acquired systems.236

Open Internet Commitment. As noted above, the Transaction will extend "Comcast's ongoing commitment to a free and open Internet . . . to millions more cable customers,"237 so that "[a]ll post-merger broadband customers will enjoy the protections of the no-blocking and non-discrimination rules."238 This will provide greater certainty for both consumers and edge providers as the Commission develops new, industry-wide rules.239

---

236 See Response to Request No. 51. It is Comcast's intention to comply with the conditions and the commitments with respect to the acquired assets. However, because these conditions were in many cases tailored specifically to Comcast's cable systems and technologies, compliance may in many instances require some transition time or clarifications relating to the integration of TWC or Charter systems and services. See id.

237 Letter from State Representative Brandon Phelps, Illinois, to Chairman Wheeler and Commissioners, FCC, at 1; see also Letter from James Santa Maria, President, Asian American Education Institute, to Chairman Wheeler, FCC, at 1 (Aug. 20, 2014).

238 Joint Academics and Experts Comments at 3.

239 Comcast-TWC Public Interest Statement at 107. Stop the Cap! asserts that Comcast should be required to abide by the Commission's original Open Internet rules "in perpetuity." Stop the Cap! Comments at 24. This proposal is unnecessary and short-sighted. To be sure, Comcast is committed to an open Internet. But the purpose of Comcast's Open Internet commitment in the NBCUniversal transaction was to give the Commission sufficient time, if necessary, to adopt new, legally enforceable rules applicable to the entire industry, not to saddle Comcast forever with burdens that do not apply to its competitors. The Commission is already engaged in a rulemaking to adopt new industry-wide rules that will ensure open Internet protections to all broadband users, not just Comcast customers.

REDACTED – PUBLIC INSPECTION

As one commenter notes, Comcast always has "been a strong supporter of a free and open Internet – which is critical to [] democracy and especially to online service organizations . . . . Expanding this commitment to Time Warner communities is another valuable public good that will make the Internet stronger and more open for all users if the two companies are permitted to combine."240 The record contains no serious challenge to this commitment as a public interest benefit.241

Standalone Broadband Commitment.