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Gale A. Brewer, Borough President

August 8, 2014

Hon. Audrey Zibelman  
Chair  
New York State Public Service Commission  
Empire State Plaza  
Albany, NY 12223

Dear Ms. Zibelman:

My name is Gale A. Brewer and I am the Borough President of Manhattan. I present the following comments regarding Case 14-M-0193, pertaining to the Joint Petition of Time Warner Cable Inc. and Comcast Corp. for Approval of a Holding-Company-Level Transfer of Control. Please note that these comments are a supplement to the testimony my office presented before the Public Service Commission at your New York City public hearing on June 19, 2014.

As the former Chair of the New York City Council Committee on Technology and a frequent advocate for consumer rights and universal broadband accessibility, I reiterate my strong concern about the impact of this proposed merger on broadband access for New York consumers. It is the role of the Public Service Commission to determine whether this proposed merger is in the public interest of New Yorkers, and it is within that context that I urge you to weigh the potential impacts of this deal. First and foremost, you must determine what constitutes the public interest. I would suggest that you focus on the undeniable fact that, in order for New York to remain an international economic and technological leader, we must have ubiquitous, affordable, high-speed internet access for all state residents. The unfortunate reality is that the United States continues to lag behind many countries in broadband adoption rates and, more significantly, in speed. New York, although ahead of some states, continues to have average speeds (11.5 mbps) that are less than half that of world leader South Korea (23.6 mbps).<sup>1</sup>

If the PSC sees fit to approve this merger, it must demand a commitment from Comcast that it will meet benchmarks bringing New York to the level of other international leaders in internet speed. Once a deal is approved, the sheer size of the newly created company would

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<sup>1</sup> Akamai's "State of the Internet" Q1 2014 Report, Vol. 7 Number 1, [http://www.akamai.com/dl/akamai/akamai-soti-q114.pdf?WT.mc\\_id=soti\\_Q114](http://www.akamai.com/dl/akamai/akamai-soti-q114.pdf?WT.mc_id=soti_Q114)

pose a strong disincentive for new players to enter New York's telecom space. This lack of market pressure would seem to lessen Comcast's financial interest in infrastructure investment, which is surely not in the public interest. Thus, I would argue that it is Comcast's responsibility to affirmatively commit to meeting speed benchmarks at regular intervals in the future. Of particular concern in New York City is Comcast's ability to complete necessary infrastructure work in a dense urban environment. Verizon, which is in the process of rolling out its FiOS network here in New York, has had well-publicized issues completing this work. The "last mile" connection, to the extent it is necessary to bring Comcast-level speeds to current Time Warner customers, will likely present Comcast with the same difficulties that Verizon faced. As this all-stock transfer is not subject to review by the New York City Franchise and Review Commission, the PSC's ruling may well be the only chance for local government to officially weigh in on this deal. As you well know, this responsibility cannot be taken lightly. The potential economic benefits to Comcast for access to the New York market are enormous, and we must demand a clear demonstration of concrete infrastructure investments, customer service benchmarks, and clear explanations of any future rate increases. While Comcast cannot be held to concrete rate regulation, it must at minimum commit to a clear and consistent plan for publishing information on the true cost of service and notifying customers prior to rate increases.

In a similar vein, it is also in the public interest of New York to connect the approximately 30% of New Yorkers who do not currently have broadband access to the internet. The economic, educational, and social benefits of broadband are well documented, and service providers have a role to play in ensuring better adoption rates. The cost of internet access and computer equipment is one of the most significant remaining barriers to adoption for many New Yorkers, and it is crucial that providers recognize this and offer lower rates for those who cannot afford the standard rates charged by Comcast and other providers. To that end, I do want to praise Comcast for developing the Internet Essentials program, which provides families with children who qualify for free or reduced-price school lunches internet access for \$10 per month, as well as a \$150 computer and free training. This program has the potential to bring affordable internet to millions of Americans. So far, however, Comcast's rollout of the program has been problematic. According to a recent Center for Public Integrity report, of the 7.2 million low-income families in Comcast's current service area, only 2.6 million are eligible for Internet Essentials. Of that 2.6 million, only 300,000 have signed up for the program since 2011.<sup>2</sup> A 12% adoption rate does not signify a successful program in my opinion. As I previously mentioned, part of the problem has been that Internet Essentials was only available for families who did not have delinquent accounts in the past. This disqualified a number of needy families who had fallen on hard times. Recognizing that this was a mistake, Comcast has recently announced that it will create an amnesty program for families with outstanding balances more than one year old to apply for the program, assuming they pay off their past-due balance.

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<sup>2</sup> Holmes, Allan, Center for Public Integrity, "Comcast-Time Warner Deal May Hinge on Anemic Low-Cost Internet Plan", <http://www.publicintegrity.org/2014/05/28/14808/comcast-time-warner-deal-may-hinge-anemic-low-cost-internet-plan>

This is a good first step, but more must be done to ensure that all low-income New Yorkers are eligible for this program. Options must be available for New Yorkers without children to qualify for the program, and extensive outreach must be done with local community organizations to ensure that all eligible New Yorkers are aware of the program and its benefits. As has also been noted previously, the current speed offerings of the Internet Essentials program of 5 mbps download and 1 mbps upload are well below industry standards for true broadband access. Adequate internet speeds are just as essential for low-income New Yorkers as they are for the rest of Comcast's customers, and a commitment must be made to increase speeds for the Internet Essentials program.

Outside of home and office, another vitally important source of internet access is public Wi-Fi. Focusing locally on New York City, Time Warner Cable and Cablevision have invested in public Wi-Fi hotspots, notably in City parks, as a condition of their recent franchise agreements. The problem with these supposedly "free" networks, however, is that they've been made available only to current cable subscribers, except for a short free window. The existing Time Warner free Wi-Fi networks should become truly free without time limits for all users, and Comcast should present a clear plan for expansion of these networks throughout the City. An important upcoming change to the City's telecom infrastructure is the requirement that new public payphone franchisees offer free public Wi-Fi at all payphone installations throughout the City. There is a tremendous opportunity for Comcast to work with the new franchisee to provide a comprehensive municipal Wi-Fi system using the payphone locations as a starting point. The PSC should encourage Comcast to seek out potential synergies like this in its efforts to expand public Wi-Fi for the benefit of all New Yorkers.

Another tremendously important aspect of this proposed merger is its impact on New York's community access channels. Organizations such as the Manhattan Neighborhood Network (MNN), Queens Public Television (QPTV), and BRIC in Brooklyn provide invaluable local content for New Yorkers, as well as a creative outlet for many local content producers. Recently, Time Warner Cable sold access to Channel 57, where community access had been broadcast for years, to a new operator. Community-access channels were moved to channel 1997, which is virtually invisible to the average viewer. If this merger is to be approved, Comcast must commit to grouping community-access channels together, and in a channel listing that the average viewer will actually find. To facilitate this, they must also publicize these important local resources and broadcast them in high definition, the industry standard. Of additional concern is the fact that community-access channels currently receive funding based on the number of cable subscribers in their respective borough. As more and more programming moves online, a shift to internet-only subscriptions is taking place. Comcast should work with community-access channels to ensure that adequate funding exists, and that community-access channels are available via online streaming applications such as Comcast's XFINITY app.

I also want to highlight what is perhaps the most important potential impact of this proposed merger: Its impact on the open internet. As the FCC considers potential changes to

net neutrality rules, it remains to be seen what rules Comcast and other access providers will have to abide by at the federal level. Given the potential size and scope of Comcast if this merger is approved, I have grave concerns about prioritization of certain types of content over others to boost Comcast's bottom line. Although Comcast has expressed support for net neutrality as a general principle, its recent negotiations with Netflix over paid peering arrangements have left many advocates concerned. If Comcast controls all meaningful access to broadband customers, it has tremendous leverage to charge content providers high fees. I join Mayor de Blasio and many others in calling on Comcast to drop its opposition to the reclassification of broadband as a Title II-regulated telecommunications service under the Communications Act. This classification would give the FCC the proper authority to enforce meaningful net neutrality rules, ensuring that the internet remains an open and vibrant marketplace for startups and small operators as well as larger, entrenched interests.

In closing, I also want to make a comment about the poor customer service records of both Time Warner Cable and Comcast. I'll use my own recent experience as an example. It is my understanding that federal regulations state that calls to a cable service must be answered within 30 seconds. This was not my experience on August 7, 2014, with my Time Warner Cable account. I called the number on my television screen because I had accessed a blacked-out channel that I felt should be part of my basic service, and it was not. The message on the screen informed me that, if I wanted access I had to call a number and pay an additional fee. I called the number on the screen, but it had nothing to do with my request. After attempting multiple menu options, I finally reached a call center representative. This took much longer than 30 seconds, and when I finally reached a person, she said that I *was* supposed to have the channel in question as part of my package. She tried to fix the problem remotely, but was not able to. I am still waiting for access to my channel, and I don't know how many other channels I am missing that I am paying for. The operator did not know either. Unfortunately, my experience is one that I have heard repeated in various formats from many of my constituents, and is why so many New Yorkers have expressed opposition to this proposed merger. I urge the PSC to require measurable upgrades in customer service if this merger is to be approved, as my experience should not be the norm for New York consumers. Thank you for your consideration of my comments.

Sincerely,

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, flowing style.

Gale A. Brewer  
Manhattan Borough President