

**STATEMENT OF
COMMISSIONER DEBORAH TAYLOR TATE**

Re: *Applications for Consent to the Assignment and/or Transfer of Control of Licenses; Adelphia Communications Corporation (and subsidiaries, debtors-in-possession), Assignors, to Time Warner Cable Inc. (subsidiaries), Assignees; Adelphia Communications Corporation (and subsidiaries, debtors-in-possession), Assignors and Transferors, to Comcast Corporation (subsidiaries), Assignees and Transferees; Comcast Corporation, Transferor, to Time Warner Inc., Transferee; Time Warner Inc., Transferor to Comcast Corporation, Transferee, Memorandum Opinion and Order (MB Docket No. 05-192).*

The Communications Act requires the parties in these applications to demonstrate that allowing this transaction to go forward will serve the public interest, convenience, and necessity. I have carefully reviewed the thoughtful comments provided by numerous parties – from the America Channel to the Urban League of Greater Hartford and everyone in between. Based on this review, I have concluded that the applicants have met the standards dictated by the statute, and I therefore support this Order.

In proceedings such as this, the burden is on the Applicants to show by a preponderance of the evidence that the proposed transactions would benefit the public interest more than it would harm it. The Commission's review is limited to the transaction presented, and it should not attempt to use this Order to conduct an industry-wide rulemaking. Accordingly, the conditions that we impose today are limited to merger-specific issues that remedy identified harms that might otherwise occur. That said, many of the concerns raised in the comments implicate serious questions about the underlying cable ownership rules that I hope we can address on an industry-wide basis in other proceedings pending at the Commission in the near future.

With regard to this item, I have met with the Applicants and received numerous assurances about how they will behave following the completion of the proposed transaction. Let me respond to those assurances with one of my own: I intend to see that promises made are promises kept.

The FCC – following the lead of the President of the United States – has made deployment of broadband to all Americans a top priority. This deployment is critical to our nation's competitiveness in the global economy and to our national security. It implicates every aspect of our lives – from health to education to public safety. All consumers should expect to benefit from this technology. I have been repeatedly assured that broadband and other services will be deployed on a fair, equitable, and expedited basis to the areas served by these companies. Given the importance of this deployment, let me make it absolutely clear that so-called redlining – the distribution of services based solely on the ethnicity or income level of an area – will not be tolerated. Period.

I am also troubled by the continued reports of the difficulty that smaller, independent channels have in getting carriage on cable systems. The names Comcast and Time Warner frequently are invoked by these smaller programmers as – and I'll put it diplomatically here – being difficult to work with on this issue. It is in the public interest to have a diversity of voices on the air. When the America Channel is seen by more people outside the United States than in it, when Hispanic-focused channels have trouble getting carriage in Los Angeles and other large Hispanic markets – when I hear these and other similar reports I am far from convinced that cable providers are doing an adequate job in promoting a diversity of voices on television.

Nonetheless, I am not willing to combat allegations of unfairness with an unfair act of our own. Addressing industry-wide problems on a case-by-case basis only undermines the development of a truly competitive marketplace, and such onerous conditions have no place in an Order by a Commission committed to helping American businesses stay ahead in an increasingly competitive world. The Commission once again takes steps in line with my own philosophy of regulatory humility and resists the temptation to burden the market with rules and regulations that would stifle innovation and growth.

I do, however, think the time has come to reenergize the cable ownership discussion at the FCC. The Act requires us to develop meaningful protections through our rulemaking process to ensure that the incentives created by vertical integration of cable systems with affiliated programming do not unreasonably restrict the flow of independent programming to consumers. The comments that have come to my attention – comments including statements like “unlawful refusal,” “intimidation,” and “coercion” – are serious allegations. I call on the parties that have raised these allegations to refresh the record with updated filings and to join us in a renewed dialog about how the FCC can promote the public interest in a diversity of voices while still allowing cable operators the freedom to make sound business decisions.

I know that there are many people from across this country who are concerned about this transaction. Many have filed comments and been extremely helpful in shaping the discussions related to these transactions. I hope that they will continue to be helpful by assisting the FCC in monitoring the implementation of this Order. The Order notes many of the ways that parties can seek redress for the specific concerns that have been raised in this process:

- Victims of alleged anticompetitive pricing schemes can file complaints with the Commission or in court.
- Disputes between Local Franchising Authorities and cable operators can be resolved in court or in other forums as designated by state and local law.
- Sections 613 and 616 of the Telecommunications Act allow complaints to be raised in the event that cable operators attempt to use their market power to limit the amount of programming available to the public or to coerce networks into exclusive arrangements as a condition of carriage.
- Parties can (and should) file comments in relevant open proceedings addressing industry-wide solutions to particular issues.
- Parties and interested consumers should contact other officials to register concerns – whether they be Members of Congress or other agencies such as the FTC and the Department of Justice.

I encourage consumers and programmers and anyone else to avail themselves of those mechanisms if they feel they have been treated unfairly by these or any other service providers out there.

I am pleased to note that this proceeding has also led to some resolution of the issue concerning access to PBSKids Sprout. PBS creates publicly-funded, noncommercial programming, which makes it unique among programming providers in America. Its unique nature and inherent public interest value should not and can not be allowed to be used by *any* company as leverage in negotiations with another company that wants to provide this programming to its subscribers. By making PBS Sprout available to other Video-on-Demand platforms, Comcast has committed to making this important children’s programming as widely available as possible. The FCC should not be in the business of writing contracts between private companies, and the resolution of this issue through private rather than regulatory means recognizes the unique nature of PBS programming, but does not impose onerous burdens on Comcast’s ability to make business decisions.

Finally, I want to take a moment to recognize that while there are concerns and criticisms of the cable industry that have taken a center stage in this proceeding, the parties to this proceeding – and many others in the industry – have been good corporate citizens. These companies dedicate considerable amounts of time, money, and energy to the communities they serve. Their charitable endeavors have made a difference to thousands of lives. Moreover, they have, in some cases, worked to use the power of the media to make a positive difference in people’s lives. From educating the public on how to control the content that enters their homes to the enormously successful Cable in the Classroom program to support for public affairs programming like C-SPAN, these companies have worked to inform, educate, and inspire the American people through the power of media. Yes, I would like to see them do more, and I have and will continue to say so. But by expressing that desire, I do not in any way mean to suggest that

they do not deserve credit for all that they have already accomplished.

I thank the Chairman, my fellow Commissioners, and the dedicated FCC staff for their hard work on this item. I particularly want to thank all those who filed thoughtful comments and excellent legal analysis which contributed to this important debate. I look forward to a continuing dialog with all parties in the coming months.