

Hon. Kathleen H. Burgess Secretary, Public Service Commission

Please host your next State of New York Public Service Commission hearing on the Comcast-Time Warner merger down in New York City near a Subway, so the majority of your State's population has better access to it.

Please explore all legal measure to obstruct Comcast from taking over Time Warn Cable in New York State. Comcast is a low quality company that cannot compete in New York City, so instead of building cable systems, it would rather make deals with banks to over leverage and buy out the competition. This way to do business never benefits end use customers as it not only precludes Comcast from being a true competitor in our markets, but strengthens it enough to discourage smaller players from expanding here.

Comcast is also known for being the strongest proponent of data usage caps. This is why Comcast should never have been allowed to buy NBC/Universal. Now that Comcast owns both the content and distribution, it must find ways to recapture revenue lost to "cord cutters" who get content through their ISP only connections, not their CableTV subscriptions. Allowing Comcast to do this in New York State would hamper innovative options that content streaming makes possible, and such limits may retard growth in online productivity and creativity here in New York City, a major contributor to USA software and online media industry.

If you don't agree Comcast will do this, let me illustrate how Verizon did the same to me years back regarding telephone use. 10 years ago I cancelled my POTs line with Verizon, and used their aDSL alone for internet access. I could not afford a Cell phone, so I bought a MagicJack device, which allowed me to enjoy a VOP phone service for a fraction of what my old POTs line number from Verizon had cost. After a few years, Verizon got wise to this "cord cutting" practice, and added more and more fees and restrictions to my ISP only service, until finally I cancelled with them completely, and moved my ISP service over to Time Warner Cable.

I fear now with the Comcast merger, I will suffer all over again with my paid Netflix/Hulu+ usage, as I did with Verizon. Time Warner Cable alone benefits from having me as an ISP customer and treats me well as a result, it loses little for my getting phone and video services elsewhere because it only distributes those services, it does not own them. However Verizon (a phone company owner) lost a lot when I cancelled my POTs, and Comcast (now a content owner as well) also loses when they can't sell me their CableTV content directly. So both companies have a disproportionate interest in charging me more beyond the simple ISP distribution needs I get well satisfied by TWC alone.

Like most NYState residents, I have no other choice besides TWC for broadband. Verizon dug a cable in the street past my building years ago, but didn't put fiber in my building because they do not offer a competitive advantage over TWC and they know it. By allowing this merger to go through, you are allowing TWC to become Comcast, and inherit all the Data Cap and Fee Addon's Comcast imposes on it's customers in other States. Why would you allow a company everyone stuck with hates, to buy an essential service provider that everyone loves in our State?

I know as Commissioner, you have limited options - you may not be able to block the merger, but you can put certain restrictions on how Comcast and other ISP providers will be allowed to operate in NY State. My suggestion to discourage wired broadband providers from using Data Caps in NY State is to give them all a choice. If you want to continue business as usual without imposing any Caps, then the State has no objection. However, if you turn your ISP customers subscriptions into a Meter Based Data Cap System, then you will be compelled to operate in NY State as a Title-II communications provider, similar to how a "meter" usage based phone, electric, gas, water company in our State.

You have to tell Comcast they can't have it both ways. They can't have the freedom to charge whatever the market will bare, AND meter our ISP usage at the same time. One freedom may be the nature of capitalism, but the other revenue generating restrictions will have a direct negative impact with online content distribution innovation and consumption, and simply cannot be tolerated in a progressive State like New York.

When Comcast uses the data cap excuse to limit data consumption abuse - don't believe them for a second. The average Netflix/Hulu+ 1080p user already consumes triple the data total per Month that Comcast tries to cap in other States, so by capping, Comcast wants to compel you get cable TV with them instead of consuming more bandwidth (just like Verizon tried to get me to buy phone service along with their ISP aDSL). TWC current network has no problems handling the load, and because TWC does not own NBC/Universal, it feels less compelled to try to recapture content revenues lost to "cord cutting" some other way. Once Comcast is allowed to run TWC here in New York State, we will be forced back to circa 1990 when everyone watched whatever content the networks put on CableTV, and will not be able to afford the innovation and time efficiency that online streaming what we want when we want it allows.

I could go on with a dozen of other reasons to impede Comcast progress in NYState, but would rather maintain focus on this one critical issue; Comcast is not buying TWC to compete here, they are buying them so they do NOT have to compete here. Once the merger dust

settles, Comcase WILL proceed with its plan to data cap ISP only users in an effort to regain content ownership money they lose to online content streaming - this much is obvious because Comcast has an invested interest in doing so - its pure unadulterated greed. So if you can't block the merger, you MUST do everything in your power to keep Comcast or any WIRED broadband provider from metering and data capping ISP only consumers here in New York State.

Thank you for your time considering all this - Joe Berger in 11375