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**Gale A. Brewer, Borough President**

Manhattan Borough President Gale A. Brewer Testimony before the New York State Public  
Service Commission on the Proposed Comcast and Time Warner Cable Merger

June 19, 2014

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Good evening and thank you for the opportunity to testify on the proposed merger between Comcast and Time Warner Cable. My name is Gale A. Brewer and I am the Borough President of Manhattan. Prior to my election as Borough President, I served for twelve years on the New York City Council, eight of them as Chair of the Council's Committee on Technology. I have long been an advocate for consumer rights, as well as an open internet, with universal access to broadband. It is within that context that I present my comments today in opposition to the proposed merger between Comcast and Time Warner Cable.

It is the role of the Public Service Commission to determine whether this proposed merger is in the interest of New Yorkers, specifically cable and telephone customers. I would submit that, although Comcast and Time Warner do not directly compete for service offerings at this time, the solution to this lack of direct competition is not less competition. Instead I would argue that it is in the state's interest to pursue ways of implementing *more* direct competition among cable and telephone providers to improve customer service and bring down prices. Signing off on this proposed merger would create a massive conglomerate that would control 17 of the 20 largest media markets in the country. The size and scope of this new company would discourage any new companies from attempting entry to the telecom space. Absent any real or perceived future competition, what incentive would Comcast have to bring down prices, pursue innovation, and serve its customers? I would argue very little, and this obviously does not serve the public interest of New Yorkers.

Not only would the creation of such a massive company dissuade new companies from attempting to compete in New York, it would also give Comcast unprecedented power to negotiate with networks and content providers. This could potentially threaten the availability

of certain types of content for New Yorkers, especially local content. I am especially concerned about the impact of this potential merger on Public Access channels, which provide vital hyper-local information to my constituents. Another important access point for local content here in New York is New York 1, which is owned by Time Warner Cable. Given the fact that Comcast also owns NBC, I am concerned about the loss or alteration of New York 1's local news coverage given Comcast's interest in promoting NBC.

On the internet side, I am concerned about several potential problems with this merger. The first relates to the current federal debate over the future of net neutrality. To protect the internet, we need the FCC to issue strong regulations governing broadband. Broadband carriers should be designated common carriers, and the internet correctly labeled a telecommunications service. This would help foster competition and access to infrastructure that would allow smaller providers to enter the competitive market. Again, this merger has the potential to discourage any such competition, which only adds to my skepticism.

I am also concerned about Comcast's recent activities related to one of the internet's largest content providers, Netflix. As has been widely reported, Netflix was recently experiencing congestion on Comcast networks in providing content to customers. Allegedly, Comcast has refused direct access to faster connections unless entities such as Netflix pay for access. Comcast has claimed that the deal it struck with Netflix was simply to "cut out the middleman." Netflix has refuted this claim, stating that absent a direct agreement with Comcast, it would have to deal with a third-party transit provider. That transit provider would still have to negotiate with Comcast, effectively guaranteeing that a company like Netflix would have to pay for access to Comcast's customers. This type of dispute is only going to become more common if Comcast becomes the only game in town for the majority of Americans.

I have yet to see an affirmative demonstration of the value that will be provided if this merger is allowed to proceed. Comcast has often cited its low-cost Internet Essentials program, offering \$9.99/month internet access and low-cost computers, as evidence of its commitment to closing the digital divide. Although I commend Comcast for attempting to provide low-cost internet service, I would caution that a similar program was also attempted here in New York City by Time Warner and Cablevision. The problem with that earlier program is that for the vast majority of families to whom it was targeted, delinquency on past bills rendered them ineligible for the new rate. I fear similar adoption-rate problems with the Comcast plan as well.

Comcast's current track record with the program is not encouraging. According to recent reports, only 11% of eligible families in the current Internet Essentials program area have taken advantage of it. I would consider that low subscriber rate both a failure of outreach and evidence that the program has serious problems that need to be addressed.

Prior to approval of any merger, this body should demand clear, meaningful deliverables from the companies in question as a public service to New Yorkers. This could mean requiring that benchmarks in price or speed be met, as well as customer service reviews. Absent these guarantees, I would argue that the Commission's requirements have not been met. In closing, I also want to note for the record that I am disappointed that this will be the only hearing in New York City on this topic. As the proposed merger is an all-stock transfer, it is exempt from review by the NYC Franchise and Concession Review Committee, or FCRC. Given the tremendous potential impact on New York City, I believe this matter warrants full review at the local level, and I am frustrated with the lack of local control on this matter. Thank you again for the opportunity to testify.