



Consumer Federation of America

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STATEMENT OF MARK COOPER, DIRECTOR OF RESEARCH, CONSUMER FEDERATION OF AMERICA

ON REPORTS THAT THE STAFF AT THE DEPARTMENT OF JUSTICE AND THE FEDERAL COMMUNICATIONS COMMISSION ARE LEANING STRONGLY AGAINST THE COMCAST-TIME WARNER MERGER

Washington D.C. -- Shortly after the Comcast-Time Warner merger was proposed, an analysis by the Consumer Federation of America concluded the merger represented such a dramatic increase in concentration at key choke points in the digital communications ecology that it was “unapprovable.”¹ Application of the recently revised *Merger Guidelines* published by the Department of Justice and the Federal Trade Commission showed that the merger caused increases in concentration that are at least three times higher than the threshold at which the merger is “presumed to be likely to enhance market power.”

The “public interest” merger review standard of the Communications Act goes beyond the antitrust standard of protecting competition to a broader charge to promote the public interest. In comments to the Federal Communications Commission, CFA and 23 of its member groups concluded that the merger failed to pass that standard by an even wider margin² and “no regulatory tools exist to control the market power over customers, set top boxes and middle mile transport that Comcast will have if it is allowed to acquire Time Warner. Competition, consumers and the public interest can only be served by blocking this merger.”

On the merits of the case, rejecting this deal was a slam dunk. Unfortunately, politics frequently gets in the way of good policy in Washington.

Comcast has put on a full court press, with an army of lobbyists and a huge advertising budget, to dissuade policy makers from reaching the right conclusion. However, recent accounts of the staff actions at both the Department of Justice and the Federal Communications Commission, suggest that, at the analytic level, the staff has broken through Comcast’s defense. This is an extremely positive development for the public and consumer interests.

¹ Buyer and Bottleneck Market Power Make the Comcast-Time Warner Merger “Unapprovable,” <http://www.consumerfed.org/pdfs/CFA-Comcast-TW-Merger-Analysis.pdf>

² Petition to Deny of the Consumer Federation of America, et al., <http://www.consumerfed.org/pdfs/CFA-Comcast-TW-Comment.pdf>

But, the game “ain’t over till the fat lady sings.” The senior levels of the two agencies must reflect on the fact-based skepticism of the staff in their dealings with Comcast. This frequently has the effect of convincing the parties proposing the merger to concede defeat, but Comcast has been so successful in getting its way in Washington and so brazen in its disregard for antitrust laws and the Communications Act, it may go to court. The public interest can only be served if the senior decision makers reject the merger and defeat Comcast in court, if that is necessary. The future of competition in the broadband and video markets demands no less.

The Consumer Federation of America is a national organization of more than 250 nonprofit consumer groups that was founded in 1968 to advance the consumer interest through research, advocacy, and education.