

April 11, 2014

COMCAST SUMMARY OF JOINT APPLICATION FOR APPROVAL OF INDIRECT TRANSFER OF CONTROL OF CABLE TELEVISION FRANCHISEE DUE TO THE ACQUISITION OF TIME WARNER CABLE INC. BY COMCAST CORPORATION

I. INTRODUCTION

Comcast Corporation, a Pennsylvania corporation (“Comcast”) has entered into an agreement with Time Warner Cable Inc., a Delaware corporation (“TWC”) whereby Comcast will acquire 100 percent of TWC’s equity in exchange for Comcast Class A Shares (“CSMA”) (Comcast and TWC are collectively referred to herein as the “Applicants”).¹ This transaction is described in greater detail below (the “Transaction”).

This summary of the above-referenced application is provided to the Department of Commerce and Consumer Affairs, State of Hawaii (“DCCA”), through its Cable Television Division, to briefly summarize the Federal Communications Commission Form 394 Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise, dated April 9, 2014, submitted to the DCCA (the “FCC 394”). In short, this summary describes how the FCC 394 addresses and complies with DCCA regulatory requirements that are applicable to the Transaction.

As described in the FCC 394 and as outlined in brief below, it is respectfully requested that DCCA approve the indirect transfer of control of Oceanic Time Warner Cable LLC (“OTWC”), which has been issued six cable television franchises in the State of Hawaii (“OTWC Franchises”).

II. BACKGROUND

a. TWC and its Indirect Subsidiary OTWC

TWC’s principal offices are located at 60 Columbus Circle, New York, NY 10023.² TWC is a leading provider of video, high-speed data, and voice services to residential and business customers, and its network facilities cover 31 states (including Hawaii).³

OTWC is an indirect, wholly-owned subsidiary of TWC.⁴

¹ See, Application and Public Interest Statement, Description of Transaction, Public Interest Showing, and Related Demonstrations, filed with the Federal Communications Commission (“FCC”), in MB Docket No. 14-57, on April 8, 2014, by Comcast and TWC (the “Public Interest Statement”). The Public Interest Statement can be found at: <http://corporate.comcast.com/images/Comcast-Public-Interest-Statement-April-8.pdf>.

² See, FCC 394, Section I, Part I – Transferee/Assignor, No. 1.

³ See, Public Interest Statement, at 13-16.

⁴ See, In re Oceanic Time Warner Cable LLC, by and through Time Warner Entertainment Company, L.P. for Approval of Transfer of Cable Franchises for the Island of Oahu, Island of Kauai, East Hawaii (Hilo), West

b. OTWC Hawaii Cable TV Franchises

OTWC holds cable television franchises throughout the State of Hawaii under six (6) franchises issued by the DCCA for each of the following geographic areas: Island of Oahu, Island of Kauai, East Hawaii (Hilo), West Hawaii (Kona), County of Maui (excluding Lahaina), and Lahaina.⁵

The cable franchises held by OTWC are described in various Decision and Orders (“D&O”) issued by the DCCA:⁶

Oahu:	D&O No. 346.
Maui County (excluding Lahaina):	D&O Nos. 239, 241, 261 and 317.
Lahaina:	D&O Nos. 174, 245, and 261.
West Hawaii (Kona):	D&O Nos. 173, 244, 261, 318, 322 and 335.
East Hawaii (Hilo):	D&O Nos. 185, 242, 261 and 335.
Kauai:	D&O Nos. 291 and 319.

Subsequent to D&O No. 355, additional D&Os of the DCCA that affect OTWC’s franchises in Hawaii include the following:

Kauai	D&O No. 356
East Hawaii (Hilo):	D&O No. 357
West Hawaii (Kona):	D&O No. 358
Lahaina:	D&O No. 359
Maui (Excluding Lahaina):	D&O No. 360

Hawaii (Kona), County of Maui (excluding Lahaina), and Lahaina, and Decision and Order No. 355, issued by the DCCA, Cable Division, dated September 21, 2012, at 2 (“D&O No. 355”).

⁵ See, FCC 394, Section I. General Information, Item Nos. 1 and 4, and Attachment A, attached thereto. See also, D&O No. 355.

⁶ D&O No. 355, at 2.

Currently, OTWC's franchises have the following expiration dates:

Oahu:	January 14, 2030 ⁷
Maui (Excluding Lahaina):	June 30, 2014 (Pending ongoing renewal application) ⁸
Lahaina:	June 30, 2014 (Pending ongoing renewal application) ⁹
West Hawaii (Kona):	June 19, 2014 (Pending ongoing renewal application) ¹⁰
East Hawaii (Hilo):	June 19, 2014 (Pending ongoing renewal application) ¹¹
Kauai:	December 31, 2016 ¹²

c. Comcast

Comcast's principal offices are located at One Comcast Center, Philadelphia, PA 19103-2838.¹³ Comcast is a global media and technology company with network facilities covering portions of thirty-nine (39) states and the District of Columbia. Comcast is a leading provider of video, high-speed Internet, digital voice, and other next-generation services and technologies to residential customers and small- and medium-sized businesses.¹⁴

The FCC 394 provides information on Comcast's legal,¹⁵ financial,¹⁶ and technical¹⁷ qualifications to oversee the continued operation of OTWC's cable television franchises in the State of Hawaii.

⁷ D&O No. 346, dated January 14, 2010, Section V, at 43.

⁸ Letter agreement, between DCCA and OTWC, dated November 27, 2013, extending time for DCCA to decide on extension from December 31, 2013 to June 30, 2014, and DCCA extends franchise term (Maui and Lahaina) from December 31, 2013 to June 30, 2014 (the "November 27, 2014 Letter Agreement").

⁹ November 27, 2014 Letter Agreement.

¹⁰ Letter agreement, between DCCA and OTWC, dated February 13, 2014, extending time for DCCA to decide on renewal of franchise (East Hawaii and West Hawaii) from February 19, 2014 to June 19, 2014, and DCCA extends franchise term (East Hawaii and West Hawaii) from February 19, 2014 to June 19, 2014 (the "February 13, 2014 Letter Agreement").

¹¹ February 13, 2014 Letter Agreement.

¹² D&O No. 319, dated April 20, 2005.

¹³ See, FCC 394, Section I. Part II. Transferee/Assignee.

¹⁴ See, Public Interest Statement, at 7-13.

¹⁵ See, FCC 394, Section II. Transferee's/Assignee's Legal Qualifications.

¹⁶ See, FCC 394, Section III. Transferee's/Assignee's Financial Qualifications.

d. Description of the Transaction

As mentioned above, Comcast has entered into an agreement with TWC, whereby Comcast will acquire 100 percent of TWC's equity in exchange for CSMA (or Comcast Class A Shares). The Transaction is a straightforward acquisition of TWC by Comcast, and Comcast intends to retain all of TWC's existing assets, except for the divestiture of cable systems of approximately 3 million subscribers in total. At the closing of the Transaction, Tango Acquisition Sub, Inc. ("Merger Sub"), a new direct wholly owned subsidiary of Comcast, will merge with TWC under Delaware law. At that time, the separate corporate existence of Merger Sub will cease, and thereafter, TWC will be a wholly owned subsidiary of Comcast. Contemporaneously with the merger, each TWC share will be converted to the right to receive 2.875 shares of CMSCA.¹⁸

As illustrated in the merger structure charts submitted with this summary,¹⁹ at the closing of the proposed transaction, TWC will be a direct, wholly-owned subsidiary of Comcast.

III. Standard of Review Under Applicable Statutory Provisions and Administrative Rules

The transfer of control of a cable franchisee is governed by the Cable Communications Policy Act of 1984, as amended, 47 USC sections 521 et seq.²⁰ Federal statutes and rules provide for a 120-day period for a franchising authority to act on a request for approval of such a transfer of control.²¹

The DCCA's regulatory authority for the transfer of control of a cable franchisee is established in Hawaii Revised Statutes ("HRS"), Chapter 440G, Cable Television Systems, and HRS §§ 440G-7, -8, -10.1, and -12, in particular.²² In addition, the DCCA has adopted administrative rules pursuant to HRS Chapter 440G, as Hawaii Administrative Rules ("HAR") Title 16, Chapter 133, Review of Applications by the Cable Television Division.²³

a. HRS Chapter 440G Cable Television Systems

The transfer of control of a cable franchisee requires the approval of the DCCA:

§ 440G-10.1. Transfer of cable franchise

¹⁷ See, FCC 394, Section IV. Transferee's/Assignee's Technical Qualifications.

¹⁸ See, FCC 394, Exhibit 1 and Exhibit 3; see also, Public Interest Statement, at 7.

¹⁹ (a) "TWC 394 Structure Before Merger"; (b) "TWC 394 Structure at Time of Merger"; and (c) "TWC 394 Structure After Merger".

²⁰ See also, Multichannel Video and Cable Television Service, 47 CFR §§ 76.1 et seq. See, D&O 355, at 5.

²¹ See, 47USC § 537. Sale of Cable Systems; and 47 C.F.R. § 76.502. Time limits applicable to franchise authority consideration of transfer applications.

²² D&O 355, at 5.

²³ See also, HAR Title 16, Chapter 201, Administrative Practice and Procedure.

(a) No cable franchise, including the rights, privileges, and obligations thereof, may be assigned, sold, leased, encumbered, or otherwise transferred, voluntarily or involuntarily, directly or indirectly, including by transfer of control of any cable system, whether by change in ownership or otherwise, except upon written application to and approval by the director. The form of the application shall be prescribed by the director.

(b) Sections 440G-7 and 440G-8 shall apply to the transfer of cable franchises.

Under HRS § 440G-10.1(b), quoted above, HRS §§ 440G-7 and -8 apply to the transfer of control of cable franchisees.

HRS § 440G-7 covers cable franchise applications procedures, and public hearing and notice requirements, and provides as follows:

§ 440G-7. Cable franchise application or proposal procedure; public hearing; notice

An application or proposal for a cable franchise shall be [processed] as follows:

(1) After the application or proposal and required fee are received by the director and within a time frame established by rule, the director shall notify an applicant in writing of the acceptance or nonacceptance for filing of an application or proposal for issuance of a cable franchise required by this chapter;

(2) After the issuance of a notice of acceptance for filing and within a time frame established by rule, the director shall hold a public hearing on the application or proposal to afford interested persons the opportunity to submit data, views, or arguments, orally or in writing. Notice thereof shall be given to the governing council and mayor of the county and to any telephone or other utility and cable company in the county in which the proposed service area is located. The director shall also give public notice of the application and hearing at least once in each of two successive weeks in the county in which the proposed service area is located. The last notice shall be given at least fifteen days prior to the date of the hearing;

(3) After holding a public hearing, the director shall approve the application or proposal in whole or in part, with or without conditions or modifications, or shall deny the application or proposal, with reasons for denial sent in writing to the applicant. If the director does not take final action after the issuance of a notice of acceptance for filing and within a time frame established by rule, the application or proposal shall be deemed denied; and

(4) The time limit for final action may be extended, on the director's approval of the applicant's request and justification in writing for an extension of time to the director at least two weeks in advance of the requested effective date of the extension, or by mutual agreement.

HRS § 440G-8 covers authority to issue a cable franchise, and the criteria and considerations in granting a cable franchise, and provides as follows:

§ 440G-8. Issuance of cable franchise authority; criteria; content

(a) The director is empowered to issue a cable franchise to construct or operate facilities for a cable system upon the terms and conditions provided in this chapter.

(b) The director, after a public hearing as provided in this chapter, shall issue a cable franchise to the applicant when the director is convinced that it is in the public interest to do so. In determining whether a cable franchise shall be issued, the director shall take into consideration, among other things, the content of the application or proposal, the public need for the proposed service, the ability of the applicant to offer safe, adequate, and reliable service at a reasonable cost to the subscribers, the suitability of the applicant, the financial responsibility of the applicant, the technical and operational ability of the applicant to perform efficiently the service for which authority is requested, any objections arising from the public hearing, the cable advisory committee established by this chapter, or elsewhere, and any other matters as the director deems appropriate in the circumstances.

(c) In determining the area which is to be serviced by the applicant, the director shall take into account the geography and topography of the proposed service area, and the present, planned, and potential expansion in facilities or cable services of the applicant's proposed cable system and existing cable systems.

(d) In issuing a cable franchise under this chapter, the director is not restricted to approving or disapproving the application or proposal but may issue it for only partial exercise of the privilege sought or may attach to the exercise of the right granted by the cable franchise terms, limitations, and conditions which the director deems the public interest may require. The cable franchise shall be nonexclusive, shall include a description of the service area in which the cable system is to be constructed, extended, or operated and the approximate date on which the service is to commence and shall authorize the cable operator to provide service for a term of fifteen years.

Thus, an application for transfer of control of a cable franchisee under HRS § 440G-10.1 must satisfy the requirements of HRS §§ 440G-7 and -8, described above.

b. HAR Title 16, Chapter 133, Review of Applications by the Cable Television Division

The administrative rules adopted by the DCCA provide further details on transfer of control of cable franchisee applications and procedures. The rules also provide that any such transfers of control require the approval of the DCCA and specifies that a transfer of control approval will authorize the franchisee to provide the service for the remainder of the term of the existing franchise:

§ 16-133-3 Transfer of cable franchise. No cable franchise, including the rights, privileges, and obligations thereof, may be assigned, sold, leased, encumbered, or otherwise transferred, voluntarily or involuntarily, directly or indirectly, including by transfer of control of any cable system, whether by change in ownership or otherwise, without the approval of the director. One seeking to obtain a cable franchise through a transfer shall apply to the director, in the form of a written application that has been co-signed by the transferor. No cable franchise shall be transferred except upon the director's approval of the written application. A transfer of a cable franchise shall authorize the new cable operator to provide service for the remainder of the term of the existing franchise.

The DCCA's administrative rules also specify what must be contained in a written application for a transfer of control:²⁴

§ 16-133-9 Written application. (a) The application shall be in writing and shall fully disclose the facts required to determine whether a cable franchise should be issued or transferred. Included shall be facts as to:

- (1) The citizenship and character of the applicant;
- (2) The financial, technical, and other qualifications of the applicant;
- (3) The principals and ultimate beneficial owners of the applicant;
- (4) The public interest to be served by the requested issuance or transfer of a cable franchise; and
- (5) Any other matters deemed appropriate and necessary by the director, including the proposed plans and schedule of expenditures for or in support of the use of public, educational, and governmental access facilities.

(b) The application shall be in a form designated by the director. No application shall be accepted for filing unless all requested information has been submitted.

²⁴ Counsel for Comcast understands that DCCA does not at this time have available an application form referred to in HRS § 440G-10.1(b) and HAR § 16-133-3 for this type of application. Any additional required information may be made available upon request.

The rules provide further guidance on what the DCCA should consider in reviewing a transfer of control application:

(b) In determining whether a cable franchise shall be issued or transferred, the director shall take into consideration, among other things, the contents of the application, the public need for the proposed service, the ability of the applicant to offer safe, adequate, uninterrupted, and reliable service at a reasonable cost to the subscribers, the ability to provide similar or better quality service in comparison to any existing cable franchise in the same area, the citizenship and character of the applicant, the financial responsibility of the applicant, the technical and operational ability of the applicant to perform efficiently the service for which authority is requested, long and short term plans and resource allocations, any objections arising from the public hearing or elsewhere, and any other matters as the director deems appropriate in the circumstances.

HAR § 16-133-16(b).

IV. ANALYSIS

The Transaction, which involves a merger of a subsidiary of Comcast and TWC, will constitute an indirect transfer of control of OTWC, holder of the OTWC Franchises, under HRS § 440G-10.1 and HAR § 16-133-3. Accordingly, by submitting the FCC 394 and other related documents and information, Applicants seek the DCCA's approval under the applicable statutory and regulatory provisions discussed above for such transfer of control.

Applicants have submitted the FCC 394, which covers each of the franchises granted to OTWC in the State of Hawaii,²⁵ concurrently herewith to the DCCA. The FCC 394 contains information that sufficiently describes the Transaction.²⁶ The FCC 394 contains the information required for an application for transfer of control of cable franchisees under HRS Chapter 440G and HAR Title 16, Chapter 133, as described in HAR § 16-133-9(a), in particular.

With respect to the citizenship and character²⁷ of Comcast, please see the FCC 394. See, FCC 394, Section II. Transferee's/Assignee's Legal Qualifications, and the information provided therein, and in particular responses to Item Nos. 4 and 5.

Information regarding Comcast's financial qualifications²⁸ is provided in the FCC 394. See, FCC 394, Section III. Transferee's/Assignee's Financial Qualifications.

Information regarding Comcast's technical qualifications²⁹ is provided in the FCC 394. See, FCC 394, Section IV. Transferee's/Assignee's Technical Qualifications.

²⁵ See, FCC 394, Section 1. Item Nos. 1 and 4 and Attachment A.

²⁶ See, FCC 394, Exhibit 1; see also, Public Interest Statement, at 7-16.

²⁷ See, HAR § 16-133-9(a)(1).

²⁸ See, HAR § 16-133-9(a)(2).

Information regarding Comcast's principals and ultimate beneficial owners³⁰ is provided in the FCC 394. See, FCC 394, Section II, No. 2, and Exhibit 3.

An explanation and discussion of the public interest to be served³¹ by the indirect transfer of control of OTWC under the Transaction are provided in the FCC 394. See, FCC 394, Section IV, Exhibit 7.³²

V. REQUEST FOR APPROVAL OF INDIRECT TRANSFER OF CONTROL

Based on the foregoing, it is respectfully submitted that Applicants have provided the information required to apply for an approval of the transfer of control of OTWC as described above under HRS Chapter 440G and HAR Title 16, Chapter 133. Accordingly, the DCCA should find that the application described herein is complete, issue a notice of acceptance for filing under HAR § 16-133-10(a), and hold public hearings pursuant to HRS § 440G-7(2) and HAR § 16-133-14.

It also respectfully submitted that the Transaction is in the public interest, and that Comcast is legally, financially, and technically qualified to provide the services required for each of the franchises. Therefore, it is respectfully requested that the DCCA approve the indirect transfer of control of OTWC as described above under HRS Chapter 440G.

²⁹ See, HAR § 16-133-9(a)(2).

³⁰ See, HAR § 16-133-9(a)(3).

³¹ See, HAR § 16-133-9(a)(4).

³² See also, Public Interest Statement.