



**Testimony of Patrick Gottsch
Founder and Chairman
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Before the U.S. House Committee on the Judiciary

**Hearing on
"Competition in the Video and Broadband Markets:
the Proposed Merger of Comcast and Time Warner Cable"**

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Overview

Good morning, Chairman Bachus, Ranking Member Johnson, and Members of the Subcommittee. My name is Patrick Gottsch – I am the founder and Chairman of the Rural Media Group, the parent company of RFD-TV, RURAL TV, FamilyNet, and RURAL RADIO on SiriusXM Channel 80. Thank you for the opportunity to testify today about RFD-TV's experience as a rural independent programmer, and the impact that continued consolidation in the cable industry has had in limiting access to the rural independent programming RFD-TV has worked so hard to deliver.

Rural Media Group is a family-owned business that focuses on serving the needs and interests of rural America and connecting the rural and urban areas of our great country. In 2000, Rural Media Group launched RFD-TV to serve the needs of rural America with agribusiness, equine, rural lifestyle, western sports, music, and family-friendly entertainment programming. RFD-TV also serves the very important purpose of connecting city and country again, by bringing rural issues to urban citizens and connecting city folks with their rural roots.

RFD-TV is about as independent as one can get. RFD-TV is a successful independent programmer with a significant viewership that is passionate about us. They are passionate because we have content not easily found elsewhere and we provide information many in rural communities have come to rely on. RFD-TV is recognized as one of America's leading independent cable television channels and is distributed to over 41 million U.S. homes. As Nielsen ratings indicate, as a percentage of our overall audience, RFD-TV is currently ranked as the nation's #1 cable channel for Adults 50+, #1 in C&D County Viewership, and #1 for Time Spent Viewing (Adults 50+). It was also voted the #1 Bargain over all 400+ cable channels by the 2013 Independent Cable News survey of independent operators.

In spite of all of these accolades, following its merger with NBCUniversal, Comcast dropped RFD-TV in all of Colorado and New Mexico. Because there is no clear business reason to understand Comcast's decision, we can only speculate that RFD-TV has become competitive with Comcast's affiliated programming. As RFD-TV's example shows, in the face of increasing vertical integration by Multichannel Video Programming Distributors ("MVPDs") with massive market share, even passionate viewers who are rising in number cannot keep a channel they love.

Proposed Comcast-Time Warner Cable Merger

Efforts by Congress and the Federal Communications Commission ("FCC") have historically fostered the development of independent programmers, sought to bring new services to rural areas and underserved populations, and promoted localism. For example, the 1992 Cable Act was adopted in part to prevent large cable operators from creating barriers to entry for independent programmers, and to restrict cable operators from favoring affiliated programming. Section 612 of the Communications Act requires the FCC to promote "competition in the delivery of diverse sources of video programming." In adopting the

1992 Cable Act, Congress was concerned that vertical integration of cable operators and cable programmers limits the variety of independent programming available on cable systems and reduces the number of voices available to the public.

The proposed merger between Comcast and Time Warner Cable presents a number of potential concerns for independent programmers – and particular concerns for a rural independent programmer like RFD-TV. As a consolidating industry rushes to attract age 18-34 viewers in urban areas, it's vitally important and in the national interest that the broad groups of consumers falling outside that target demographic are also served. For example, RFD-TV's delivery of rural programming to both urban and rural areas contributes to connecting city and country and gives rural communities programming that is not only of interest or entertaining but that is often critical to more fully understanding rural economic issues. Agriculture markets are international in scope and very important in rural areas, yet those markets are often nearly ignored by urban focused economic and market reporting.

Sadly, the choice and diversity in rural independent programming that RFD-TV offers is threatened by ongoing consolidation and vertical integration in the cable industry. Comcast is a vertically integrated powerhouse with a track record of favoring affiliated programming channels. When an independent programmer becomes stronger and more competitive, its ratings increase and Comcast's incentives to foreclose that competition increase as well. Comcast has the strength to foreclose such competition now, and will be in an even stronger position to do so following its merger with Time Warner Cable. A merged Comcast-Time Warner would control 23 of the top 25 television markets and 37 of the top 40 television markets (SNL Kagan, Comcast and TWC Combined – Top 50 DMA Analysis). And, many current Comcast customers will be prevented from switching over to DISH or DirecTV, which both carry RFD-TV, because of substantial contract penalties keeping them on Comcast's cable system. If Comcast continues on its current course, RFD-TV will be blocked from more one third of all U.S. cable subscribers.

RFD-TV's History and Its Experience with Comcast

In 2000, Rural Media Group launched RFD-TV to serve the needs of rural America with agribusiness, equine, rural lifestyle, western sports, music, and entertainment programming. RFD-TV is truly the industry resource and business channel for rural America. It produces more than 30 hours per week of rural-focused live newscasts, including from its Washington, D.C. based bureau (located at the USDA), which focuses on providing information relevant to rural viewers about developments on Capitol Hill and within the Executive Branch agencies. RFD-TV also provides regular reports from its Chicago news bureau reporting each day directly from the grain and livestock pits at the Chicago Mercantile Exchange. RFD-TV supports rural communities by investing in and supporting women- and youth-focused programming and activities, including broadcasting female and youth western sports and conventions. RFD-TV provides a daily western sports roundup during its rural evening news segment, providing viewers with the latest coverage of the rodeo industry, the PBR and horse shows.

RFD-TV signed its first distribution agreement with DISH Network in 2000 as a direct result of the rules adopted by the FCC implementing the congressional mandate for Direct Broadcast Satellite (“DBS”) providers to set aside a portion of their channel capacity for noncommercial educational or information programming. It subsequently signed carriage agreements with Mediacom and DIRECTV in 2002 and the National Cable Television Cooperative in 2003. Since then, what has followed is truly an American success story. RFD-TV quickly found a large audience with its original and unduplicated 24-hour schedule, filling a void for viewers seeking programming devoted to the rural lifestyle. By September 2006, RFD-TV’s combined satellite and cable carriage surpassed 30 million households.

In 2007, in order to grow and position the RFD-TV network on cable systems in urban markets, Rural Media Group, Inc. was formed and RFD-TV became a for-profit entity. Over the next several months, long-term agreements were quickly reached and signed with the following MVPDs: Comcast Corporation, Time Warner Cable, Verizon FiOS, Cox Communications, Mediacom, Suddenlink Communications, Charter Communications, and Bresnan Communications, in addition to restructuring existing agreements with DISH Network and DIRECTV. During this period of explosive growth, RFD-TV launched its international channel RURAL-TV, RFD-TV The Magazine and RFD-TV The Theatre. In 2012, Rural Media Group purchased FamilyNet, and in July 2013, RURAL RADIO was launched on SiriusXM. Today, RFD-TV carries programming from 146 independent programmers and enjoys nearly nationwide carriage on cable systems and nationwide carriage on DISH and DIRECTV.

RFD-TV continues to enjoy great ratings and strong viewership. RFD-TV for weekend primetime in May 2013 was ranked #72 in Denver (out of 289), #46 in Colorado Springs/Pueblo (out of 288) and #66 in Albuquerque, NM (out of 267) – in the top 25% of channels by ratings in each of these markets. (Nielsen Media Research, May 2013). Moreover, as a percentage of our overall audience, RFD-TV is the #1 cable network in multiple categories including among adults 50+, farmers and ranchers, and C&D counties (counties with populations less than 5,000). It also ranks #1 in time spent watching. (Nielsen Media Research, 4Q 2013; 2013 Fall GfK MRI). In addition, it was voted best value among independent programming networks. (Independent Cable News January/February 2014).

In 2008, RFD-TV signed an 8-year master affiliation agreement with Comcast. Following success in Nashville, in October 2010 Comcast launched RFD-TV on all systems in their Colorado, New Mexico, and Utah markets. RFD-TV worked closely with Comcast’s Denver office, and invested heavily in this launch by purchasing billboards, radio ads, organizing radio remotes, and training Comcast’s telemarketers. The launch was a resounding success, with RFD-TV generating an average 2.8% increase in subscribers, with connects up 15% on the D-1 Tier in all these Comcast markets, according to Denver-based Comcast marketing executives. Independents try harder and have to deliver.

In spite of RFD-TV’s record of success and strong viewership in Comcast markets, however, following the merger between Comcast and NBCUniversal, Comcast stopped launching RFD-TV in new markets and has declined to launch RFD-HD in any markets at all. On August 13, 2013, over vehement objections

from thousands of supportive RFD-TV viewers who were given only a 30-day notice, Comcast dropped RFD-TV on all its cable systems in Colorado and New Mexico. RFD-TV lost nearly 400,000 homes in Colorado and more than 70,000 subscribers in New Mexico – 43% of its very limited Comcast distribution. In quick succession, on August 15, 2013, Comcast launched another programming network on these same Colorado/New Mexico cable systems. That network – Al Jazeera America, the successor to Comcast's part-owned Current TV network – had little to no viewership track record to put up against RFD-TV. In comparison, RFD-TV's ratings are increasing and its carriage on non-Comcast cable systems is expanding.

Sadly, we fear RFD-TV may have been a victim of its own success. In response to RFD-TV's increasing popularity and viewership, especially in the Adult 50+ demographic, Comcast removed RFD-TV from markets where RFD-TV's viewership was especially high – perhaps favoring Comcast's lower-viewed but affiliated Retirement Living TV (RLTV) network, which targets the same age Adult 50+ demographic.

Comcast's decision to drop RFD-TV is supported neither by RFD-TV's ratings nor by cost concerns. RFD-TV's per subscriber carriage rate is very modest among programming networks. Comcast's decision to drop RFD-TV came without any rate dispute or carriage dispute. RFD-TV has not raised its rate since 2008, the start date of its carriage agreement with Comcast.

Moreover, Comcast's decision to stop carrying RFD-TV is inconsistent with the wishes of Comcast's own subscribers, and came despite efforts to meet with Comcast and seek a delay or reconsideration of the decision. RFD-TV worked diligently with Comcast and state and local government officials to understand Comcast's decision and to find a solution. The City of Pueblo and Colorado Governor Jim Hickenlooper attempted to persuade Comcast to reverse its decision and return RFD-TV's popular, rural and western-themed programming to these two states with strong ties to the western lifestyle. Meetings were held with Comcast's regional Denver programming executives to no avail. RFD-TV then requested a meeting directly with Brian Roberts (Chairman and CEO of Comcast Corporation). On September 11, 2013, RFD-TV met with Comcast's programming executives in Philadelphia where it presented RFD-TV's most recent Nielsen weekend prime-time ratings, along with emails from over 4,000 Colorado/New Mexico customers requesting RFD-TV's return. In spite of all these efforts, Comcast denied RFD-TV's request for carriage.

In contrast to its problems with Comcast, RFD-TV enjoys excellent relations with other cable operators. In fact, just this past year, Charter launched RFD-TV on their Fort Worth system, and in October, Time Warner Cable added RFD-TV to many of their franchises throughout the state of Kentucky. Our concerns with Comcast taking over this major western city and another rural state should be obvious.

RFD-TV's current carriage agreement with Comcast expires on December 31, 2015. RFD-TV continues to be carried by a limited number of Comcast cable systems outside of Colorado and New Mexico. Given Comcast's actions to date, however, RFD-TV has every reason to believe that after its current carriage

agreement expires, Comcast will drop RFD-TV across its entire footprint altogether – blocking RFD-TV from reaching thirty million homes, or approximately one third of all U.S. cable subscribers.

Action Must be Taken to Protect and Foster the Growth of Independent Programmers

Actions by any programming distributor “taking undue advantage of programming vendors” is inconsistent with Section 616 of the Communications Act and FCC goals to foster the development of independent programmers and to meet the needs of underserved markets. RFD-TV’s carriage issues with Comcast started after Comcast merged with NBCUniversal. The 2011 merger was granted by the FCC with conditions, in part, to ensure that Comcast did not discriminate against independent programmers in favor of affiliated programming. However, Comcast’s treatment of RFD-TV and RFD-HD appears to be inconsistent with the intent of the FCC’s non-discrimination merger condition requiring Comcast to make 10 channels available to independent programmers over an eight year period of time.

With the proposed merger of Comcast and Time Warner Cable, Comcast will control 23 of the top 25 Nielsen-rated television markets in the United States. Without access to those top media markets, RFD-TV would be severely limited in attracting major advertisers, which provide the necessary funding to invest in its rural news programs. Rural Americans across the country depend on the unduplicated news and information RFD-TV provides. Moreover, RFD-TV would be disadvantaged as compared to those with access to the key urban media markets when competing for programming and licensing of content. In addition, RFD-TV, its 146 independent programmers, and all of the rural/agricultural associations, including the American Farm Bureau Federation, FFA, and 4-H, who depend on RFD-TV for distribution, are concerned that we will be shut-out of these important urban markets, limiting our joint efforts to bridge the gap between rural and urban America through coverage of events and agribusiness issues that are critical to rural communities and not covered by other programming networks. RFD-TV provides family-friendly programming 24-hours a day and it continues to receive requests from additional programmers for carriage.

Comcast’s removal of RFD-TV from its cable systems in states with large rural populations and western lifestyles, and the continued refusal to provide such programming to interested consumers across the country, discriminates against both independent programmers like RFD-TV and the rural consumers it serves, and should be reversed. Furthermore, additional measures, such as more granular reporting by MVPDs of independent and affiliated program carriage relationships for both rural and non-rural programming, are needed to ensure that rural independent programmers like RFD-TV are protected against such discrimination in the future.

In the past, the United States Government has taken critical steps to insure that rural America has a balance of services offered between the rural and urban populations. The Information Super Highway must go down each and every country road, and provide two-way communication to ensure that city and country remain connected, just as it was when the 1893 Mail Communications Act led to the

establishment of Rural Free Delivery, or RFD. In the modern era, RFD-TV has provided such a bridge connecting city and country. To preserve the choice and diversity in programming, including access to rural independent programming, that consumers in both rural and urban areas enjoy, Comcast should reverse its decision to stop carrying RFD-TV and begin distributing RFD-HD in its service territories.

Thank you.