

**STATE OF FLORIDA
OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS**

IN THE MATTER OF:

AG Case # L07-3-1132

Comcast Corporation

Respondent.

_____ /

ASSURANCE OF VOLUNTARY COMPLIANCE

PURSUANT to the provisions of Chapter 501, Part II, Florida Statutes, Florida's Deceptive and Unfair Trade Practices Act, the **OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS** (hereinafter referred to as the "Attorney General"), caused an investigation to be made into the business and advertising practices of **Comcast Cable Communications Management, LLC** and its affiliated entities, including **Comcast Of Arkansas / Florida / Louisiana / Minnesota / Mississippi / Tennessee, Inc.**, doing business in Florida (collectively "Comcast"), whose business address is One Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia, PA 19103-2838.

WHEREAS, Comcast is willing to enter into this Assurance of Voluntary Compliance (hereinafter referred to as "**Assurance**"), it being understood that Comcast denies and does not admit that it has violated Florida's Deceptive and Unfair Trade Practices Act or any other law, and for the purpose of resolving this matter (Investigation Case No. L07-3-1132) only, and the Attorney General, by and through its undersigned Deputy Attorney General being in agreement, does in this matter accept this **Assurance**

in termination of this investigation pursuant to Section 501.207(6), Florida Statutes (2007), and by virtue of the authority vested in the Attorney General by said statute.

THEREFORE, the Attorney General and Comcast hereby agree and stipulate to the following:

FACTUAL BACKGROUND

1. Comcast Cable Communications Management, LLC is a Delaware limited liability company that provides, through its affiliates and subsidiaries, cable television, Internet and telephone services in numerous states across the United States, including in Florida.

2. Comcast markets its products and services on television and in other forms of advertising, on the Internet and through other common forms of advertisement.

3. Among the services that Comcast offers is residential high speed Internet service.

4. Comcast does not currently use (or authorize the use of) advertisements using the term “unlimited” (or synonyms thereof) when describing Internet service usage. In isolated instances in 2003-04, Comcast occasionally used the term “unlimited” in different contexts. Comcast avers that the term was used in these situations to distinguish the “always on,” flat fee nature of cable Internet service from the once-popular “dial-up” Internet service that was frequently billed for by the hour. The Attorney General avers that the use of the term “unlimited” in such advertisements could reasonably be interpreted, in the absence of qualifying language, to mean unlimited downloading or bandwidth usage.

5. Comcast has adopted and employs an “excessive use policy” for its residential high speed Internet subscribers. This policy is disclosed within Comcast’s “Acceptable Use Policy” (AUP) which is posted on its website (www.comcast.net/terms/use). Among other topics, the AUP provides disclosures to subscribers regarding network, bandwidth, data storage and other limitations. Pursuant to the AUP, as currently applied, each month the top 1,000 bandwidth users out of Comcast’s entire customer base of approximately 14.4 million subscribers (i.e., approximately .007% of subscribers) receive a direct, personal notification from Comcast by telephone that they are violating Comcast’s Acceptable Use Policy, because of their excessive use of bandwidth. Comcast avers that the bandwidth usage of these top 1,000 residential subscribers is excessive and not characteristic of typical residential use of Comcast’s high speed Internet service, stating that such usage would be equivalent to sending 20,000 high resolution photos, sending 40 million e-mails, downloading 50,000 songs, or viewing 8,000 movie trailers, all in just one month. Comcast avers that consumers were told when called that their use placed them far outside what was considered typical residential usage, that Comcast’s service was for residential, non-commercial use, and were given representative examples of excessive use.

6. The present investigation by the Attorney General involves, among other things, the Attorney General’s expressed concern that Comcast did not communicate to residential high speed Internet subscribers a fixed limitation on bandwidth usage to enable consumers to know in advance, with greater precision, what level of bandwidth usage constituted excessive usage and would place them in violation of the excessive use restrictions contained in Comcast’s Acceptable Use Policy. The Attorney General avers

that some consumers were informed that, unless their bandwidth consumption drastically or substantially decreased, or remained at or near its current level, their high-speed Internet service would be terminated. When consumers asked Comcast to specify a level of bandwidth usage above which they could not go, Comcast did not provide consumers with a specific bandwidth usage limit, stating that the consumers' service would be at risk if they remained among the top 1,000 bandwidth users and directing them to the AUP and frequently asked questions explaining the AUP's excessive use policy.

7. It is the position of the Attorney General that Comcast did not sufficiently disclose in a clear and conspicuous manner to the consumer the amount of bandwidth that it deemed to be excessive. It is further the position of the Florida Office of the Attorney General that a "top 1,000" criteria, as previously applied, did not clearly and conspicuously disclose to the consumer the specific amount of bandwidth deemed to be excessive under Comcast's subscriber agreements.

8. Comcast has now, following discussions with the Attorney General, offered to make several voluntary changes or amendments regarding the excessive use restrictions reflected in Comcast's Acceptable Use Policy and to disclose such information in a clear and conspicuous manner.

TERMS AND CONDITIONS

WHEREAS, Comcast has cooperated fully with the investigation of this matter conducted by the Attorney General and has voluntarily agreed to modify its Acceptable Use Policy to set a specific bandwidth use limitation and to disclose said limitation to consumers in a clear and conspicuous manner;

WHEREAS, Comcast voluntarily assures the Attorney General that it and its representatives, agents, employees or any other person who act under, by, through or on behalf of it, directly or indirectly, or through any corporate or other device, shall hereby comply with and have actual knowledge of Chapter 501, Part II, Florida Statutes (2007), the Florida Deceptive and Unfair Trade Practices Act.

IT IS HEREBY AGREED that the Effective Date of this Assurance shall mean and refer to the date on which this Assurance is fully executed by the parties. This Assurance shall not be deemed fully executed until such time that it is accepted and signed by the Deputy Attorney General.

IT IS FURTHER AGREED that, for so long as Comcast maintains and enforces excessive use restrictions with respect to residential high speed Internet use, Comcast shall do the following, by no later than January 1, 2009:

1. Comcast shall clearly and conspicuously disclose to consumers the amount of bandwidth usage (in gigabytes or in the measurement standard commonly used within the industry) that Comcast has, in its sole discretion, determined may constitute excessive bandwidth usage for its residential high speed Internet service (the "Threshold"), and that may subject subscribers to application of Comcast's excessive use restrictions, including the termination of subscriber service, by including such information in its Acceptable Use Policy (which is incorporated into the Comcast Agreement for Residential Services), as displayed on its website or elsewhere, in typeface at least as large as that otherwise used in said policy.

2. Comcast may continue to notify any residential high speed Internet service subscriber whose bandwidth usage use exceeds the Threshold (as determined by Comcast

in its sole discretion) that the subscriber's service may be, or will be, terminated as the result of excessive use. However, no residential high speed Internet service subscriber shall be notified of a breach of Comcast's excessive use restrictions unless the subscriber's bandwidth usage exceeds the previously disclosed Threshold.

3. Nothing herein precludes Comcast, in its discretion, from establishing tiered charges and/or tiered bandwidth offerings for higher use or other features, at some time in the future, should it so elect, from modifying the disclosed Threshold utilized in determining "excessive use" or from temporarily or permanently suspending any excessive use policy.

4. As long as Comcast reserves the right to terminate consumer high-speed Internet service for "excessive use," meaning excessive downloading or bandwidth use, Comcast shall not advertise its high-speed Internet service as "unlimited" without a clear and conspicuous disclosure in close proximity to the term "unlimited" of any applicable qualifications pertaining to that term.

IT IS FURTHER AGREED that, upon execution of this Assurance, Comcast shall be responsible for making the substantive terms and conditions of this Assurance known to the officers, employees, agents or representatives of Comcast who are substantially affected by this Assurance. The obligation imposed by this paragraph is continuing in nature and shall apply to new officers, employees, agents, representatives or any other persons, as they become engaged in Comcast's business.

IT IS FURTHER AGREED that Comcast shall pay to the State of Florida, Office of the Attorney General, Department of Legal Affairs, the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) pursuant to Section 501.2105, Florida Statutes. Of

that sum, Fifty Thousand Dollars (\$50,000.00) shall be for attorneys fees and costs expended by the Office of the Attorney General as the result of this investigation and One Hundred Thousand Dollars (\$100,000.00) shall be contributed by Comcast to the Office of the Attorney General for the costs of future OAG investigations pursuant to F.S. 501 Part II. Upon Comcast's receipt of a fully-executed Assurance, payment shall be made by one check made payable to **Office of the Attorney General, Legal Affairs Revolving Trust Fund** in the total amount of One Hundred Fifty Thousand Dollars (\$150,000.00) and sent to South Florida Economic Crimes Bureau Chief, Robert Julian, Esq., Office of the Attorney General, 110 SE 6th Street, Ninth Floor, Fort Lauderdale, FL 33301.

IT IS FURTHER AGREED that, in exchange for the consideration set forth above, upon execution of this Assurance, the Attorney General forever releases any and all claims, demands, rights and causes of action of any kind, nature or description whatsoever, damages, statutory damages, penalties, losses, attorneys' fees, costs and expenses, and remedies, at law or in equity, pertaining to the allegations and averments contained within the Factual Background contained herein, arising from actions which would have occurred prior to the Effective Date of this Assurance.

IT IS FURTHER AGREED that this Assurance is not intended by the Parties to be an admission, or evidence of the validity of any claim asserted by a third party against Comcast, or an admission of wrongdoing or liability by Comcast.

IT IS FURTHER AGREED that failure of the Attorney General to timely enforce any term, condition, or requirement of this Assurance shall not provide, nor be construed to provide, Comcast a defense for noncompliance with any term of this

Assurance or any other law, rule, or regulation; nor shall it stop or limit the Attorney General from later enforcing any term of this Assurance or seeking any other remedy available by law, rule, or regulation.

IT IS FURTHER AGREED that, by entering into this Assurance and agreeing to the terms and conditions provided herein, Comcast does not intend to waive and does not waive any defenses it may have in any action or proceeding that has been or may be brought against it arising from or relating to the subject matter of the investigation.

IT IS FURTHER AGREED that no waiver, modification or amendment of the terms of this Assurance shall be valid or binding unless made in writing, signed by both parties, and then only to the extent set forth in such written waiver, modification, or amendment.

IT IS FURTHER AGREED that no waiver of any term, provision, or condition of this Assurance, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or shall constitute, a waiver of any other provision hereof, whether or not similar, nor shall such waiver constitute a continuing waiver, and no waiver shall be binding unless executed in writing by the party making the waiver.

IT IS FURTHER AGREED that this Assurance shall be governed by, construed, and enforced exclusively in accordance with and subject to the laws of the State of Florida.

IT IS FURTHER AGREED that if any clause, provision, or section of this Assurance shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or enforceability shall not affect any other clause, provision, or section of this

Assurance, and this Assurance shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

IT IS FURTHER AGREED that, except as expressly agreed by the parties in writing, this Assurance contains the entire agreement between the parties and supersedes all prior and contemporaneous agreements, arrangements, negotiations and understandings between the parties hereto, relating to the subject matter hereof. There are no other agreements, understandings, statements, promises or inducements, oral or otherwise, contrary to the terms of this Agreement. No representations, warranties, covenants, or conditions, express or implied, whether by statute or otherwise, other than set forth herein have been made by any party hereto.

IN WITNESS WHEREOF, Comcast has caused this Assurance of Voluntary Compliance to be executed by _____ as _____ of Comcast as a true act and deed in _____, Pennsylvania, this ____ day of _____, 2008.

By my signature I, _____, hereby affirm that I am acting in my capacity and within my authority as _____ of _____ and that by my signature I am binding the corporation to this Assurance.

[NAME]

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF PHILADELPHIA)

BEFORE ME, an officer duly authorized to take acknowledgements in the Commonwealth of Pennsylvania personally appeared _____, _____ of _____, and he acknowledged before me that he

executed the foregoing instrument for the purposes therein stated on the ____ day of _____, 2008.

NOTARY PUBLIC

(print, type or stamp commissioned Notary Public
Personally known ____ or Produced Identification
____ (check one)

Type of Identification Produced: _____

Robert R. Julian
Economic Crimes Bureau Chief
South Florida Region

Accepted this ____ day of _____,
2008.

DEPUTY ATTORNEY GENERAL
The Capitol
Tallahassee, Florida 32399-1050