

**STATEMENT OF DEPARTMENT OF INFORMATION TECHNOLOGY & TELECOMMUNICATIONS
COMMISSIONER RAHUL N. MERCHANT
SUBMITTED TO THE COMMITTEE ON CONSUMER AFFAIRS & SUBCOMMITTEE ON ZONING & FRANCHISES
OVERSIGHT ON TIME WARNER CABLE, CBS, AND THE CONSUMERS STUCK IN THE MIDDLE
THURSDAY, AUGUST 8, 2013**

The ongoing dispute between Time Warner Cable and CBS Broadcasting, Inc. has left millions of New York City cable television subscribers without access to CBS programming. It is very disappointing that both companies have thus far failed to set their differences aside and find common ground for the good of their customers and viewers. These parties should be compelled to answer for their actions in the full light of public scrutiny, and I commend the City Council for holding this hearing to that end. And as the Commissioner of the City's cable franchising authority, the Department of Information Technology and Telecommunications (DoITT), I sympathize with all affected New Yorkers.

Prior to the blackout I offered my services as a mediator, as well as use of DoITT's facilities as a neutral site to hold talks, to both Time Warner Cable and CBS. The response of both companies was the same: "Thanks, but no thanks." That offer still stands, as does our urging of both parties to return to the negotiating table to resolve this dispute as quickly as possible.

While as government officials we may want to do more than offer mediation to compel the parties to resolution, Federal law leaves the City with very limited authority in this area. Specifically, Federal law precludes the City – all cities – from requiring cable television franchisees to carry particular channels. It also precludes municipalities from penalizing a franchisee for failing carry particular television channels, or for dropping particular channels.

Moreover, Federal law precludes the City from regulating the rates that cable television franchisees charge to consumers. That precludes us from mandating price reductions or refunds when a franchisee discontinues a particular channel.

However, I would remind each Time Warner subscriber who believes that he or she is no longer receiving fair value for her or his subscription fee because a particular channel is no longer being offered, that subscriber can always and at any time cancel the service. Pursuant to Time Warner Cable's franchise agreements, the subscriber can cancel his or her subscription retroactive to the day that Time Warner Cable discontinued the programming in question, and the company must refund any portion of a month for which the subscriber has paid but for which she or he has cancelled service.

DoITT will continue monitoring the situation to ensure that Time Warner Cable remits any such credits appropriately. And of course, complaints about any New York City cable company may be filed anytime by logging onto or calling NYC311. DoITT receives these complaints and works with the responsible company to the extent possible to ensure they are resolved to the customer's satisfaction.

Thank you for the opportunity to submit this testimony.