

STATE OF COLORADO  
OFFICE OF THE ATTORNEY GENERAL

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**ASSURANCE OF DISCONTINUANCE**  
IN THE MATTER OF COMCAST CORPORATION HD FEE

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This Assurance of Discontinuance (“Assurance”) is entered into between the State of Colorado, *ex rel.* Philip J. Weiser, Attorney General for the State of Colorado (“the State” or “Attorney General”), and Respondent COMCAST CORPORATION (“Comcast” or “Respondent”). The State and the Respondent are collectively referred to as “the Parties.” This Assurance is entered into pursuant to the Attorney General’s powers under C.R.S. section 6-1-110(2) and constitutes a settlement between the Parties regarding the allegations described below.

**I. PARTIES**

1. Philip J. Weiser is the duly elected Attorney General for the State of Colorado and has express jurisdiction to investigate and prosecute violations of the Colorado Consumer Protection Act (“CCPA”), C.R.S. sections 6-1-101, *et seq.*

2. Comcast’s principal place of business is One Comcast Center, Philadelphia, PA 19103-2838. Comcast provides services, including cable television, internet, wireline telephone, mobile telephone, and home security, to hundreds of thousands of Colorado consumers.

## II. DEFINITIONS

3. The term “Effective Date” means the first date upon which both Parties execute this Assurance.

4. The term “Covered Customers” means all Colorado residential customers who pay an additional fee for HD television service, not including Comcast employees or customers who live in a property or community where Comcast provides service to the residents of the property or community under a separate agreement with owner or controller of the property or the community (the “bulk customers”).

5. Unless otherwise specified, all definitions found in C.R.S. section 6-1-102 are incorporated herein by this reference, and any term defined in those sections shall have the same meaning when used in this Assurance.

## III. COLORADO ATTORNEY GENERAL’S ALLEGATIONS

6. In the early 2000s, Comcast began offering high-definition television service (“HD”) for an additional fee of what is now \$9.95 per month.

7. In the ensuing years, HD has become standard industry-wide. Comcast no longer charges an additional HD fee for any of the new packages it offers in Colorado.

8. However, Comcast continues to charge approximately 60,000 Colorado consumers on older packages a \$9.95 monthly fee for HD.

9. It is unfair and misleading to charge some customers an extra fee for a service that is now standard. *See* C.R.S. 6-1-105(1)(kkk). Comcast is not the only

cable television service provider that continues to charge this additional fee for HD, and the State has taken action against other providers.

#### **IV. COMCAST'S RESPONSE TO ALLEGATIONS**

10. Comcast denies any wrongdoing under the CCPA (and/or its implementing regulations), and/or any other Colorado consumer protection statute, in any way. Comcast states that it has provided multiple, clear, and sufficient disclosures of its various rates and service offerings, that customers are free to move into a new differentiated service offering or package that includes HD on their own, and that some customers choose not to add HD to their service. Comcast further states that it is the company's practice, and a legal requirement, to require its customers to consent to the repackaging of their service offerings. Comcast further maintains that there is no Colorado statute that prohibits charging an HD fee for differentiated cable service packages, and that the Federal Communications Commission has exclusive jurisdiction over the rates and services offered by cable service providers.

#### **V. CONSIDERATION**

11. The Parties enter into this Assurance as a compromise and settlement of the Attorney General's allegations herein and to avoid the expense of protracted litigation. The Parties have consented to the entry of this Assurance without trial of any issue of fact or law.

12. Neither this Assurance, nor any negotiations, statements, nor documents related thereto, shall be offered or received in any legal or administrative

proceeding or action as an admission, evidence or proof of any factual allegation, violation, liability, or wrongdoing in connection with any law, rule, or regulation, except in an action by the Attorney General to enforce the terms of this Assurance.

## **VI. RELEASE**

13. The State acknowledges by its execution hereof that this Assurance constitutes a complete settlement and release of all claims under the CCPA on behalf of the State against Comcast or any of Comcast's parents, subsidiaries, affiliates, successors, officers, directors, managers, agents, and employees with respect to all claims, causes of action, damages, fines, costs, and penalties which were asserted or could have been asserted under the CCPA for the conduct described in this Assurance, that arose prior to the Effective Date and relating to or based upon the acts or practices which are the subject of this Assurance. The State agrees that, except as provided in this Assurance, it shall not proceed with or institute any civil action or proceeding under the CCPA against Comcast for any conduct or practice prior to the Effective Date which relates to the subject matter of this Assurance.

## **VII. ASSURANCE**

14. Within ninety days of the Effective Date of this Assurance, Comcast agrees to begin notifying each of the Covered Customers that they may switch to a different plan that does not include an additional fee for HD, without penalty.

15. Comcast shall send the notice with the paper bill for each of the Covered Customers who receive their bills via U.S. Mail, and in addition via email

to each of the Covered Customers who receive their bills via U.S. Mail and have a verified email address on file with the company. Comcast shall send the notice via email to the verified email address of each of the Covered Customers who do not receive paper bills. Comcast shall ensure that each Covered Customer receives this notice two times, with paper billing customers receiving one notice with their bill and one email, and with electronic billing customers receiving their first notice via email within ninety days from the Effective Date of this Assurance and the second notice via email on the next billing date.

16. The notice sent with the bill shall incorporate the following exact language: “You currently pay an additional fee of \$9.95 per month for HD television service. As a result of an agreement with Colorado Attorney General Phil Weiser, we are notifying you that you may switch to a different plan that does not contain an additional fee for HD television service, without penalty. You will not be required to enter into a new contract unless you receive a promotional rate that requires a contract. Below is a list of current non-promotional packages similar to yours, and their prices and key features, that do not contain a separate fee for HD television service. Note that the programming content of the listed packages may vary from the content of your existing package and may change over time, with notice to you regarding any such changes. Please visit <https://www.xfinity.com/learn/channel-lineup-bundles> for a list of the channels included with each of these packages. To switch to a different plan, please visit [www.xfinity.com](http://www.xfinity.com) and or call 1-800-xfinity between 7AM and 7PM (MTD).” The list

of packages shall present, in a clear and accessible format, the information the Covered Customer needs to assess the price and key features of the similar packages without a separate fee for HD service, and to make an informed decision about whether to switch from their current service offering.

17. The email notice shall contain the same exact language set forth in Paragraph 16.

18. Within one hundred and twenty days of the Effective Date, Comcast shall confirm in writing to the State that it is in full compliance with ¶¶ 14-17, above, or explain in writing why Comcast is not in full compliance and identify the date on which Comcast will come into compliance.

19. Comcast shall continue to make available to the Covered Customers the offerings included in the package lists referenced in Paragraph 16 for sixty days following transmission of the initial notice to Covered Customers described in Paragraph 15. Should these offerings materially change before sixty days from transmission of the initial notice described in Paragraph 15 have elapsed, Comcast shall send an additional notice to each Covered Customer who has not previously switched their service in response to the initial notice, via the same format(s) (email and paper bill, or email) used for the initial notices, describing the change and, as detailed in Paragraph 16, presenting, in a clear and accessible format, the information the Covered Customer needs to assess whether to switch from their existing service offering. Standard course-of-business programming changes fall outside this paragraph and will be separately noticed to all customers.

20. Comcast agrees to specially train personnel to assist customers with switching into a new package that includes HD and to respond to other telephone inquiries regarding this Assurance. Comcast shall implement appropriate procedures for routing Colorado customers who inquire about this Assurance through a general Comcast customer service number or through any online customer service platform to the trained personnel described in this Paragraph. The requirements of this paragraph must commence within 45 days of the Effective Date and shall expire 120 days after the Effective Date.

21. Comcast reaffirms and attests to the truthfulness, accuracy, and completeness in all material respects of all of the information Comcast provides and has provided to the Attorney General in connection with entry of this Assurance to the best of its knowledge.

#### **VIII. MONETARY TERM**

22. Within fourteen days of the Effective Date of this Assurance, Comcast shall pay the State \$75,000 as compensation for the State's investigation and as equitable relief associated with the conduct alleged above.

23. Payments to the Attorney General under ¶ 19 shall be in the form of a wire transfer, certified check, cashier's check, or money order made payable to the "Colorado Department of Law," shall reference "Comcast," and shall be delivered to:

Emily Lujan, Program Assistant  
Consumer Protection Section  
Colorado Department of Law  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, Colorado 80203

Such payments shall be held, along with any interest thereon, in trust by the Attorney General to be used in the Attorney General's sole discretion for reimbursement of the State's actual costs and attorneys' fees, the payment of restitution, if any, and for future consumer fraud, consumer credit or antitrust enforcement, consumer education, or public welfare purposes.

## **IX. NOTICE**

24. Whenever notice must be provided pursuant to the terms of this Assurance, such notice shall be made by first-class mail, return receipt requested, and email addressed to the following:

To the Attorney General:

Mark T. Bailey  
Senior Assistant Attorney General II  
Mark.Bailey@coag.gov

Abigail Hinchcliff  
First Assistant Attorney General  
Abigail.Hinchcliff@coag.gov  
Consumer Fraud Unit  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, CO 80203



To Comcast:

Joseph W. Clark  
Senior Vice President and Senior Deputy General Counsel,  
Government Investigations, Legal  
Comcast Cable  
One Comcast Center  
Philadelphia, PA 19103

[Legal\\_Notices@Comcast.com](mailto:Legal_Notices@Comcast.com) *with copy to*  
[Joseph\\_Clark@Comcast.com](mailto:Joseph_Clark@Comcast.com)

## X. GENERAL PROVISIONS

25. Scope of Assurance. This Assurance shall apply to Respondent, its successors and assigns, affiliates, and subsidiaries.

26. Preservation of Law Enforcement Action. Nothing herein precludes the Attorney General from enforcing the provisions of this Assurance or from pursuing any non-released claims, including instituting any law enforcement action with respect to any acts or practices of Respondent not Released herein or any acts or practices in which Respondent engages after the Effective Date of this Assurance.

27. Enforcement. Proof by a preponderance of the evidence of a violation of any of the terms of this Assurance shall constitute a prima facie violation of the CCPA in accordance with C.R.S. § 6-1-110(2).

28. Compliance with and Application of State Law. Nothing herein relieves Respondent of the duty to comply with applicable laws of the State of Colorado nor constitutes authorization by the State or the Attorney General for Respondent to engage in acts and practices prohibited by such laws. This Assurance shall be

governed by the laws of the State of Colorado.

29. No Third-Party Beneficiaries Intended. This Assurance is for the benefit of the Parties only and does not create or confer rights or remedies upon any other person, including rights as a third-party beneficiary except as otherwise provided herein. This Assurance does not create a private right of action on the part of any person or entity, whether to enforce this Assurance or otherwise, other than the Parties hereto.

30. Waiver and Amendment. No waiver, modification, or amendment of the terms of this Assurance shall be valid or binding unless made in writing and agreed upon by the Parties affected by the waiver, modification, or amendment, and then only to the extent specifically set forth in such written waiver, modification, or amendment.

31. Severability. If any clause, provision, or section of this Assurance is held to be invalid, illegal, unenforceable, or in conflict with the law of any jurisdiction, the validity, legality, and enforceability of the remaining provisions, clauses, or sections shall not in any way be affected or impaired, 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.

32. Complete Agreement. This Assurance represents the entire agreement between the Parties hereto and a complete merger of prior negotiations and agreements. No other written or oral terms or agreements exist except for those contained in this Assurance.

33. Public Record. This Assurance shall be a matter of public record.

34. Jointly Drafted. For purposes of construing this Assurance, this Assurance shall be deemed to have been drafted jointly by all Parties and, in the event of any dispute arising out of this Assurance, shall not be construed against or in favor of any Party.

35. Non-Approval of Conduct. Nothing herein constitutes approval by the Attorney General of any of the Respondent's past, present, or future business practices, and Respondent shall not make any representation to the contrary.

36. Voluntary Agreement. Respondent acknowledges that it has had an adequate opportunity to review this Assurance and consult with legal counsel in connection with the negotiation, drafting, and execution of this Assurance. Each Party and signatory to this Assurance represents that he, she, or it freely and voluntarily enters into this Assurance without any degree of duress or compulsion.

37. Entire Agreement. Respondent agrees and represents that Respondent has read and understands this Assurance, accepts the legal consequences involved in signing this Assurance, and that there are no other representations, agreements, or understandings between Respondent and the Attorney General that are not stated in writing herein.

38. Signatures. Facsimiles of signatures and signatures provided by portable documents format (.pdf) or other electronic image format shall constitute acceptable, binding signatures for all purposes of this Assurance. This Assurance may be executed in one or more counterparts, which taken together shall constitute

the entire agreement. If Respondent fails to execute this Assurance, the Attorney General and the State shall not be bound by any provisions herein.

39. Nothing in this Assurance shall be construed to limit or to restrict Comcast's right to use this Assurance to assert and maintain the defenses of res judicata, collateral estoppel, payment, compromise and settlement, accord and satisfaction, or any other legal or equitable defense in any pending or future legal or administrative action or proceeding.

40. If the Attorney General determines that Comcast has failed to comply with any provision of this Assurance, and if in the Attorney General's sole discretion, the failure to comply does not threaten the health, safety, or welfare of the citizens of Colorado, the Attorney General will notify Comcast in writing and specify the issue of noncompliance. Comcast shall then have fifteen business days after receipt of the written notice to provide a written response to the Attorney General, which may include (a) a statement why Comcast believes it is in compliance with the Assurance; or (b) a statement explaining how the alleged breach occurred, and how and when it will be addressed or corrected, as necessary.

Jointly approved and agreed to by:

STATE OF COLORADO, *ex rel.*  
PHILIP J. WEISER, Attorney General

By: Mark T. Bailey  
Mark T. Bailey  
Senior Assistant Attorney General II  
Colorado Department of Law

Dated: May 6, 2022

Comcast Corporation

By: Lynn R. Charytan  
Lynn R. Charytan  
EVP & General Counsel, Comcast Cable  
EVP & Sr. Deputy General Counsel, Comcast Corporate  
One Comcast Center, Philadelphia PA 19103

Dated: May 10, 2022