

TIME WARNER INC.
Form DEFA14A
May 19, 2014

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

SCHEDULE 14A

**Proxy Statement Pursuant to Section 14(a) of the
Securities Exchange Act of 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to §240.14a-12

Time Warner Inc.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

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.. Fee paid previously with preliminary materials:

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(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

Explanatory Note: As part of Time Warner Inc.'s regular, ongoing engagement with shareholders, Time Warner is planning to have a number of in-person meetings with shareholders. The attached Proxy Statement Summary is intended to facilitate discussions at those meetings and presents information regarding the Company's businesses, performance, executive compensation programs, and governance practices taken from the Company's 2014 Proxy Statement.

2014 Proxy Statement Summary
May 2014

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Executive Summary

Clear Operating Strategy

Sound Corporate &

Compensation Governance

Practices

Use leading scale and brands to create the best content

Lead digital transition of our industry

Expand internationally in faster-growing territories

Focus on operating and capital efficiency

Compensation Program

Closely Aligned With

Performance

Significant emphasis on variable performance-based compensation (93% of total target pay for CEO)

Mix of performance measures across varying time horizons

Challenging financial and strategic goals set at the beginning of each performance period
Informed by shareholder perspectives; following long-standing practice of ongoing shareholder
engagement, held conversations with shareholders representing > 40% of common stock in late 2013
93%

of
votes
cast
by
shareholders

in
2013

were

in

favor

of

named

executive

officer

compensation

Focused Business Model

Sustained Strong Financial

Performance

Global leader in media and entertainment with a focus on video content

Three ongoing operating divisions: Turner, HBO, and Warner Bros.

Time Inc. will be spun-off on June 6, 2014

Adjusted

Operating

Income

5-year

compound

annual

growth

rate

of

9.5%;

2013

growth

of

7.7%

to

a

record \$6.6B

Free Cash Flow grew 20% in 2013, to \$3.5B

Adjusted EPS 5-year compound annual growth rate of 21.6%; 2013 growth of 16.4% to \$3.77

3

Board's leadership structure and composition provide effective independent oversight

Committee follows strong governance practices to determine executive compensation

Overview of Our Businesses

4

Owns and operates leading cable television networks and related digital properties in the U.S. and internationally, including TBS, TNT, CNN, Cartoon Network, Adult Swim, truTV and Turner Sports

Turner accounted for 33% of the Company's total revenues in 2013

Operates leading premium pay television services HBO and Cinemax, in the U.S. and internationally

Home Box Office accounted for 17% of the Company's total revenues in 2013

Global leader in entertainment with businesses that produce and distribute feature films, television programming, home entertainment, comic books, and

videogames, and license characters and brands for consumer products

Warner Bros. accounted for 39% of the Company's total revenues in 2013

One of the largest magazine publishers based on readership and print advertising revenues; also operates related websites and operations

Time Inc. accounted for 11% of the Company's total revenues in 2013

The Company will spin off Time Inc. to its shareholders on June 6, 2014

Our Operating Strategy

2013 Highlights

Lead digital transition of
our industry

Use leading scale and
brands to create the
best content

Expand internationally
in faster-growing
territories

Turner

o

TBS #1 ad-supported cable network in primetime among adults 18-34 and adults 18-49

- o Adult Swim #2 among adults 18-34
- o TNT aired four of the top 15 original series on ad-supported cable Home Box Office
- o More Primetime Emmy awards than any other network for the 12th year in a row Warner Bros.
- o #1 at the worldwide box office, with films grossing over \$5 billion in 2013
- o #1 producer of primetime broadcast series with > 60 series airing for the 2013-2014 season

Continued to lead the development of new digital services and business models, such as TV Everywhere (including HBO GO), UltraViolet, Disc-to-Digital and digital magazines

HBO
GO
active
users
grew
over
30%
and
average
monthly
usage
grew
at
a
double
digit
rate

Increased monetization of content through platforms such as subscription video on demand

Turner
launched
networks
in
Asia
and
Latin
America,
expanding
to
more
than
150
channels
in
over 200 countries

Home
Box

Office
launched
premium
services
in
Denmark,
Norway
and
India
and
purchased
its
partners
interests in HBO Asia, HBO South Asia and HBO Nordic
5

Sustained Strong Financial Performance*

Free Cash Flow (\$B)

Return on Invested Capital

1-YR Growth: 7.7%

3-YR CAGR: 6.9%

Adjusted Operating Income (\$B)

Adjusted EPS

1-YR Growth: 16.4%

3-YR CAGR: 15.8%

6

* See Annex A for definitions of non-GAAP financial measures and reconciliations to the most directly comparable GAAP financial measures.

\$4.2

\$4.6
\$5.4
\$5.9
\$6.1
\$6.6
2008
2009
2010
2011
2012
2013
2008
2009
2010
2011
2012
2013
\$1.42
\$1.82
\$2.43
\$2.86
\$3.24
\$3.77
2009
2010
2011
2012
2013
\$2.9
\$2.7
\$2.7
\$2.9
\$3.5
20%
19%
19%
2011
2012
2013

Commitment to Driving Shareholder Value

Direct Returns of Capital (\$B)

Total Shareholder Return

7

~\$19.7B in returns

since 2009

\$2.1

\$3.0

\$5.6

\$4.3

\$4.8

2009

2010

2011

2012

2013

Share Repurchases

Dividends

48.6%

133.1%

282.3%

32.4%

56.8%

128.2%

1-YR

3-YR

5-YR

Time Warner

S&P 500

Compensation Mix Focused on Components that
Drive Performance
Chairman / CEO Pay
Pay for Other NEOs
93% Variable
81% Variable
8
7%
36%
57%
13%
19%
43%

25%

Base Salary

Target Annual Cash Bonus

Target Value of Performance Long-Term

Incentive Awards (PSUs & Stock Options)

Base Salary

Target Annual Cash Bonus

Target Value of Performance Long-Term

Incentive Awards (PSUs & Stock Options)

Target Value of Long-Term Incentive

Awards (RSUs)

Performance Measures and 2013 Results
Incentive
Component
Time
Horizon
Performance
Measure
How TWX & NEOs Performed
on the Performance Measures
2013 Outcome Linked to
Performance
Annual Cash
Bonus

1-year
Adj. Divisional Pre-Tax Income
70%
8% growth in 2013
145% financial
performance rating
(maximum
150%)
Free Cash Flow
20% growth in 2013
Annual progress on key long-term
strategic objectives
30%
Individual performance
achievements described on
pages 45-46 of the proxy
statement
Individual performance
ratings ranged from
130% to 140%
(maximum
150%)
PSUs with a
Performance
Period Ending
in 2013
3-year
TSR relative to the S&P 500
130.7% TSR (2011-2013)
91
percentile
of
the
S&P
500
182.2% payout for
2011-2013 PSUs
Stock Options
4-year
vesting
period
TWX common stock price
1-year increase
45.8%
3-year increase
116.7%
5-year increase
235.7%
Value realized
determined by long-

term stock price
performance
9

1
For PSUs, (1) TSR is calculated using the average closing price for the 30 trading days ending on the first and last days of the period from the S&P 500 Index during the performance period due to the decline of such companies stock price below the minimum market capitalization standard only if their stock is no longer traded on a national exchange

Multiple performance measures that are important to investors

Varying time horizons

1
1
st

More
Challenging
Financial
Goals
for
2013

*

2013 Adjusted Divisional Pre-Tax Income and Free Cash Flow goals for annual cash bonuses were significantly more challenging than for 2012

Higher growth required to achieve the same rating across entire range of outcomes

Adjusted Divisional Pre-Tax Income Growth

Required for 150% Rating

Free Cash Flow

Required for 150% Rating

10

*

See

Annex

A

for

definitions

of

non-GAAP

financial

measures

and

reconciliations

to

the

most

directly

comparable

GAAP

financial

measures.

6%

9%

2012

2013

\$2,565

\$3,195

2012

2013

CEO Pay

The Company entered into a new five-year employment agreement with Mr. Bewkes in 2012, effective January 1, 2013. Terms disclosed in the proxy statement filed last year

Structure of the agreement reflects input from shareholders

Increase in target compensation consisted only of long-term performance-based incentive opportunity

No increase in base salary or target bonus

No upfront grant of equity awards, and no further grants of time-vested RSUs

Removed exercise tax gross-up

Stock ownership requirement increased to 8x base salary (up from 5x)

2013 CEO compensation reflects the terms of the agreement

Mr. Bewkes

2013 Compensation

Base Salary

No change

Annual Cash Bonus

No change in target bonus

Financial criteria:

o

Committee approved a 145% financial performance rating

Individual performance:

o

Committee approved a 140% individual performance rating

Long-Term Incentive

Awards

Target annual value of long-term incentive awards increased

Awards entirely performance-based, with 50% of target value in PSUs and 50% in stock options

11

Best Practices in Compensation Governance

Regular engagement with shareholders, with input reflected in compensation plan design

Emphasis on variable compensation with multiple performance metrics

Substantial share ownership and retention requirements

Limited personal benefits

Limit on annual equity dilution

No gross-ups, including for change-in-control

Clawback policy

Use of independent compensation consultant

Annual compensation-related risk review and disclosure

12

Sound Corporate Governance

Lead Independent Director

has robust authority, including authority over meeting agendas

Board Leadership Policy requires consideration of Board leadership at least annually, with disclosure to shareholders on factors reviewed (see 2014 report posted at www.timewarner.com/leadership)

Stephen Bollenbach has served as Lead Independent Director since

May 2012

Director

Qualifications:

The

Board

believes

that

the
Company
is
best
served
by
a
board
of
directors
consisting
of

individuals who have a variety of complementary skills, professional experience, and backgrounds, and who bring diverse viewpoints and perspectives to the Board

Board Independence:

All directors, other than the CEO, are independent and each Board committee consists solely of independent directors

Board Refreshment:

The Board believes it is well-served by having non-employee directors with a mix of tenures and expects that average tenure will generally not exceed 10 years

Director Accountability:

Board is elected annually (no classified board) under a majority-vote standard

Special
Meeting

Rights:

Shareholders

have

the

right

to

request

special

meetings

(15%

threshold)

ESG Disclosure:

The Company keeps the investment community informed on activities relating to environmental, social and governance matters, including through updates on corporate social responsibility (additional details at

www.timewarner.com/citizenship)

13

Non-GAAP Financial Measures -
Definitions

A-1

Annex A

Adjusted Operating Income (Loss) is defined as Operating Income (Loss) excluding the impact of noncash impairments of goodwill, intangible and fixed assets; gains and losses on operating assets (other than deferred gains on sale-leasebacks); gains and losses recognized in connection with pension and other postretirement benefit plan curtailments or settlements; external costs related to mergers, acquisitions or dispositions, as well as contingent consideration related to such transactions, to the extent such costs are expensed; and amounts related to securities litigation and government investigations.

Adjusted Divisional Pre-Tax Income is defined as Adjusted Operating Income plus Income (loss) from equity method investments.

Adjusted EPS is defined as Diluted Income per Common Share from Continuing Operations attributable to Time Warner Inc. common shareholders excluding noncash impairments of goodwill, intangible and fixed assets and investments; gains and losses

operating assets (other than deferred gains on sale-leasebacks), liabilities and investments; gains and losses recognized in connection with pension and other postretirement benefit plan curtailments or settlements; external costs related to mergers, acquisitions, investments or dispositions, as well as contingent consideration related to such transactions, to the extent such costs are expensed; amounts related to securities litigation and government investigations; and amounts attributable to businesses classified as discontinued operations, as well as the impact of taxes and noncontrolling interests on the above items.

For periods ending on or after July 1, 2012, **Free Cash Flow** is defined as Cash Provided by Operations from Continuing Operations plus payments related to securities litigation and government investigations (net of any insurance recoveries), external costs related to mergers, acquisitions, investments or dispositions, to the extent such costs are expensed, contingent consideration payments made in connection with acquisitions, and excess tax benefits from equity instruments, less capital expenditures, principal payments on capital leases and partnership distributions, if any. For periods ending prior to that date, **Free Cash Flow** is defined as Cash Provided by Operations from Continuing Operations plus payments related to securities litigation and government investigations (net of any insurance recoveries), external costs related to mergers, acquisitions, investments or dispositions, to the extent such costs are expensed, and excess tax benefits from equity instruments, less capital expenditures, principal payments on capital leases and partnership distributions, if any. A change to the definition of Free Cash Flow for periods prior to July 1, 2012, to adjust for contingent consideration payments made in connection with acquisitions would have had no impact on the reported Free Cash Flow for such periods.

Year Ended December
31,
2013
2012
2011
2010
2009
2008
Adjusted Operating Income
\$
6,599
\$
6,126

\$
5,864

\$
5,400

\$
4,618

\$
4,193

Asset impairments

(140)

(186)

(44)

(20)

(85)

(7,213)

Gain (loss) on operating assets, net

142

9

7

70

(33)

(3)

Other

(1)

4

(31)

(22)

(22)

(30)

(21)

Operating Income

\$

6,605

\$

5,918

\$

5,805

\$

5,428

\$

4,470

\$

(3,044)

Non-GAAP Financial Measures -

Reconciliations

A-2

Reconciliation of Adjusted Operating Income to Operating Income

(In millions; Unaudited)

(1)

For 2013 and 2012, the definition of Other includes gains and losses recognized in connection with pension and other postretirement

mergers,
acquisitions
or
dispositions;
and
amounts
related
to
securities
litigation
and
government
investigations.

For
2011,
the
definition
of

Other
includes
external
costs
related
to

mergers,
acquisitions or dispositions; and amounts related to securities litigation and government investigations. There were no pension
2011. For
2010, 2009 and 2008,

the
definition
of

Other
includes
only
amounts
related
to

securities
litigation
and
government
investigations.

Reconciliation of Adjusted EPS to Diluted Income Per Common Share from Continuing Operations
(Unaudited)

Year Ended December
31,
2013
2012
2011
2010

2009

2008

Diluted income per common share from continuing operations

\$

3.77

\$

3.00

\$

2.71

\$

2.27

\$

1.74

\$

(4.27)

Less Impact of items affecting comparability on diluted income
per common share from continuing operations

(0.24)

(0.15)

(0.16)

(0.08)

(5.69)

Adjusted diluted income per common share from continuing
operations

\$

3.77

\$

3.24

\$

2.86

\$

2.43

\$

1.82

\$

1.42

A-3

Reconciliation of Cash Provided by Operations from Continuing Operations to Free Cash Flow

(In millions; Unaudited)

Year Ended December

31,

2013

2012

2011

2010

2009

Cash provided by operations from continuing operations

\$

3,716

\$
3,476
\$
3,448
\$
3,314
\$
3,386
Add payments related to securities litigation and government investigations

3
8
22
30
Add
external
costs
related
to
mergers,
acquisitions,
investments
or
dispositions and contingent consideration payments

232
33
14

21
Add excess tax benefits from equity instruments

179
83
22
7
1

Less capital expenditures

(602)
(643)
(772)
(631)
(547)

Less principal payments on capital leases

(9)
(11)
(12)
(14)
(18)

Free Cash Flow

\$

3,516

\$

2,941

\$

2,708

\$

2,698

\$

2,873

Non-GAAP Financial Measures -
Reconciliations

A-4
Non-GAAP Financial Measures -
Reconciliations
Reconciliation of Return on Invested Capital (ROIC)
(In millions; Unaudited)
Reconciliation of Operating Income to NOPAT
Year Ended December 31,
2013
2012
2011
Operating Income
\$
6,605

\$
 5,918
 \$
 5,805
 Asset impairments
 140
 186
 44
 Loss on Operating Assets
 (142)
 (9)
 (7)
 Other operating income items
 (4)
 31
 22
 Adjusted Operating Income
 6,599
 6,126
 5,864
 Add Amortization expense
 251
 248
 269
 Adjusted Operating Income before amortization expense
 6,850
 6,374
 6,133
 Less
 Income
 taxes
 (1)
 (2,261)
 (2,167)
 (2,024)
 Add equity loss, net of taxes
 (152)
 (183
)
 (79)
 Adjust for items affecting comparability relating to equity
 method investments
 30
 94
 1
 NOPAT
 (2)
 \$
 4,467
 \$

4,118
\$
4,031

A-5
Reconciliation of Total Assets to Capital Employed
Non-GAAP Financial Measures -
Reconciliations
(1)
Calculated
using
the
Company's
adjusted
effective
tax
rate

33%

for

2013,

34%

for

2012

and

33%

for

2011.

The

Company's

adjusted

effective

tax

rate

reflects

the

impact

of

the

items

affecting

comparability on the Company's Income from continuing operations as set forth as set forth below.

2013

2012

2011

Actual

Adjustments

As Adjusted

Actual

Adjustments

As Adjusted

Actual

Adjustments

As Adjusted

Income from continuing

operations before

income taxes

5,303

39

5,264

4,448

(335)

4,783

4,359

(201)
 4,560
 Income tax provision
 (1,749)
 (34) (1,715)

(1,526)
 100
 (1,626)
 (1,477)
 43
 (1,520)

Effective Tax rate

33%
 87%
 33%
 34%
 30%
 34%
 34%
 21%

33%
 Year Ended December

31,
 2013
 2012
 2011
 2010

Total Assets

\$
 67,994
 \$
 68,089
 \$
 67,801
 \$
 66,732

Less:

Deferred tax assets

(447)
 (474
)
 (663
)
 (581)

Total current liabilities of continuing
 operations less debt due within one year

(8,317)
 (9,050)
 (8,899

)
 (8,800
)
 Excess cash
 (3)
 (362)
 (1,341)
 (1,976
)
 (2,163)
 Capital employed
 58,868
 57,224
 56,263
 55,188
 Less Purchase Price Adjustments
 (34,888)
 (35,060)
 (35,292)
 (35,528)
 Capital employed excluding PPA
 \$
 23,980
 \$
 22,164
 \$
 20,971
 \$
 19,660
 Average Capital Employed
 (5)
 \$
 58,046
 \$
 56,744
 \$
 55,726
 Average Capital Employed excluding PPA
 (5)
 \$
 23,072
 \$
 21,568
 \$
 20,316
 ROIC
 (6)
 8%
 7%
 7%

ROIC excluding PPA

(6)

19%

19%

20%

(4)

A-6
Non-GAAP Financial Measures -
Reconciliations
Year
Ended
December
31,
2013
2012
2011
Items Affecting Comparability
Asset impairments
\$

(140)

\$

(186)

\$

(44)

Gains on operating assets, net

142

9

7

Other

operating

income

items

(a)

4

(31)

(22)

Gains (losses) on investments

61

(30)

(136)

Other

Amounts related to separation of Time Warner Cable Inc.

3

4

(5)

Amounts related to separation of Warner Music Group

(1)

(7)

Items affecting comparability relating to equity method investments

(30)

(94)

(1)

Total other

(28)

(97)

(6)

Total of above items affecting comparability

39

(335)

(201)

Income

tax

impact

of

above

items

(b)

(34)

100

43

Impact of items affecting comparability on income attributable to Time Warner Inc. shareholders

\$

5

\$

(235)

\$

(158)

(a)

For 2013 and 2012, the definition of Other operating income items includes gains and losses recognized in connection with per settlements; external costs related to mergers, acquisitions or dispositions; and amounts related to securities litigation and gove operating income items includes external costs related to mergers, acquisitions or dispositions; and amounts related to securities

(b)

For the year ended December 31, 2012, includes \$42 million that reflects the reversal of a valuation allowance related to the us 2013 sale of the Company s investment in a joint venture in Japan. The sale of such investment closed in the first quarter of 2

(2)

Net operating profit after taxes (NOPAT) represents the Adjusted Operating Income before amortization expense, net of tax (loss), net of taxes

from

investments

accounted

for

under

the

equity

method

adjusted

for

the

Company s

share

of

items

affecting

comparability

relating

to

such

equity

method

investments.

(3)

Excess cash represents the amount of cash in excess of \$1.5 billion.

(4)

Purchase Price Adjustments (PPA) reflect the net outstanding goodwill and intangible assets recognized in connection with America Online,

Inc.

(now

known
as
Historic
AOL
LLC)
in
2001
and
the
restructuring
of
Time
Warner
Entertainment
Company,
L.P.
in
2003.

(5)
Average Capital Employed and Average Capital Employed excluding PPA are calculated using the respective amounts at Decem

(6)
Return
on
Invested
Capital
(ROIC)

is
calculated
as
NOPAT
divided
by
Average
Capital
Employed
and
ROIC
excluding
PPA
is
calculated
as
NOPAT
divided
by
Average
Capital
Employed
excluding
PPA.