

**Before the
FEDERAL COMMUNICATION COMMISSION
Washington, D.C. 20554**

In the Matter of:)

Applications for Consent to the)
Transfer of Control of Licenses)

General Electric Company,)
Transferor,)

to)

Comcast Corporation,)
Transferee)

MB Docket No. 10-56

To the Commission:

PETITION TO DENY

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EXECUTIVE SUMMARY

The National Coalition of African American Owned Media (“NCAAOM”) was founded to represent the interests of African American media owners and to ensure that African American owned media companies are given the same opportunities as non-African American owned companies to own and distribute cable networks and flourish in today's integrated media landscape. NCAAOM believes that the single greatest impact on African Americans is the lack of ownership, and the current absence of nationwide carriage of independent 100% African American owned programming networks and the extremely low rate of ownership of full and low power television stations by African Americans.

The proposed Merger is not in the public interest and must be denied. The Merger would provide a combined Comcast-NBCU with the ability and incentive to cause harm to and discriminate against independent programmers in order to restrain competition. In particular, NCAAOM has serious concerns regarding potential discriminatory conduct against African American, independently owned video programming.

Over the last three decades, the African American consumer segment has grown to represent more than \$1 trillion in spending power from a base of 13% of the U.S. population. In many cities where Comcast has a dominant share of the cable market, African Americans are a large majority of the viewing population. Comcast is the primary multichannel video programming distributor (“MVPD”) in nineteen of the country’s top twenty-five designated market areas (“DMAs”), most of which include large African American populations. In some instances, the African American population in a DMA exceeds 50%. Despite this growth and substantial viewing population, Comcast, the country’s largest MVPD, historically has not widely carried wholly-owned African American programming networks.

Comcast does not widely distribute any 100% African American owned programming on the cables systems owned by Comcast. On the few systems where Comcast has provided carriage to 100% African American owned channels it has been on narrowly distributed tiers while similar channels owned and/or controlled by Comcast or other large programmers that bundle highly branded programming are placed on the most widely distributed tiers.

The Africa Channel and the Black Family Channel are two examples of African American owned, independent programming networks that have experienced difficulties due in large part to refused or limited carriage on Comcast cable systems. The National Coalition of African American Owned Media's Petition to Deny provides a more fulsome description of the difficulties experienced by the Africa Channel and the Black Family Channel while being carried (or being denied carriage) on Comcast cable systems.

The Merger would harm the public interest by giving Comcast-NBCU greater ability and incentive to perpetuate its discrimination against African American owned programming networks resulting in less diversity of viewpoints, to the detriment of MVPD viewers.

NCAAOM, therefore, petitions the Commission to deny or, failing that, to substantially condition the merger, as set forth more fully in its Petition below.

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I. INTRODUCTION

The National Coalition of African American Owned Media (“NCAAOM”), pursuant to Section 309(d) of the Communications Act of 1934, as amended (the “Communications Act”),¹ and Section 73.3584² of the Commission’s Rules,³ hereby petitions to deny the above-captioned

¹ 47 U.S.C. § 309(d).

² This Petition extends to all of the licenses and authorizations included in the Application.

³ 47 C.F.R. § 73.3584.

application for transfer of control of NBC Universal, Inc. (“NBC”) from General Electric Company (“GE”) to Comcast Corporation (“Comcast”).⁴

The Comcast-NBCU Transaction raises substantial and material questions of fact whether it will serve the public interest. Comcast, the country’s largest multichannel video programming distributor (“MVPD”), has a history of not widely carrying independent 100% African American owned programming networks. The Application, if granted, would give Comcast control over some of the most desirable cable programming in the U.S. making it even more difficult for African American owned programming networks to gain wide carriage on Comcast cable systems and other cable systems nationwide.

The proposed Merger will injure the public interest by granting Comcast-NBCU the ability and incentive to cause harm and discriminate against independent programmers in order to restrain competition. This discrimination threatens imminent injury to independent programmers, particularly those which are 100% African American owned, and will negatively affect the viewing public.

The Commission must deny the Application as currently proposed. In the alternative, if the Commission was to grant the Application, the Commission must condition the Merger to dissuade Comcast from further discriminating against African American owned programming and programming networks.

⁴ See “Commission Seeks Comment on Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc., to Assign and Transfer Control of FCC Licenses,” Public Notice (Mar. 18, 2010) (hereinafter, the applications referred to therein, “Application” and the transaction referred to therein, the “Transaction” or the “Merger”).

A. NCAAOM's History and Mission.

NCAAOM was founded to represent the interests of African American media owners and to ensure that African American owned media companies are given the same opportunities as non-African American owned companies to own and distribute cable networks and flourish in today's integrated media landscape. While other African American groups, including many historic civil rights organizations, focus on the lack of African American jobs, senior management, television show runners, suppliers and board members within the industry, NCAAOM believes that the single greatest negative impact on African Americans stems from the lack of media ownership, and the current absence of nationwide carriage of any independent 100% African American owned programming and programming networks, and by the extremely low rate of ownership of full and low power television stations by African Americans.

Research studies continue to illustrate the negative social impact on African Americans when their media images are not controlled by African Americans. Continuous negative images of African Americans in the media -- on television, in film and in print -- have a significant effect on the world's perception of African Americans.⁵ An increased ability by African Americans to produce and own content and secure distribution of that content on major distribution channels will stop the erosion of image, build positive perceptions and have a strong positive economic impact for the African American community at large.

NCAAOM's goals are to (1) promote the growth of African American owned media; (2) ensure that African American owned media products have nationwide distribution on all

⁵ Ardis C. Martin, M.D., Television Media as a Potential Negative Factor in the Racial Identity Development of African American Youth, 32 Academic Psychiatry 338 (2008) ("The images seen in media, in general, and on TV, in particular, perpetuate these negative stereotypes about African Americans and impact majority society's views of Blacks.").

platforms; and (3) ensure that African American owned media receives significant ongoing advertising revenue support. NCAAOM is focused not only on the visibility of African Americans on television, cable and now the Internet, but the critical need for African Americans to own programming, programming networks, television stations and other media outlets that target African Americans and the general public.

NCAAOM strongly supports ownership opportunities for African Americans who provide programming nationwide, both for the general market and for African American targeted audiences. NCAAOM's ultimate goal is to ensure that African Americans are able to perform on a level playing field and have the opportunity to wholly own, maintain and distribute independent cable networks and programming across the rich geographic, ethnic, and income diversity of the American viewing audience.

B. The African American Owned Media Market.

African Americans are significantly under-represented in media ownership. The controlling equity in Granite Broadcasting, the last large African American owned television group, was sold to Silver Point Capital Finance, LLC, in a 2006 pre-packaged bankruptcy so Granite Broadcasting could continue to meet its financial obligations. Since then, African Americans have struggled to regain their foothold in television station ownership. In contrast, over the last three decades, the African American consumer segment has grown to represent more than \$1 trillion in spending power from a base of 13% of the U.S. population.⁶ In many cities where Comcast has a dominant share of the cable market, African Americans are the majority or near majority of the viewing population. For example, Comcast is the primary

⁶ The Multicultural Economy 2008, Selig Center for Economic Growth, at 7, available at http://www.terry.uga.edu/selig/docs/buying_power_2008.pdf.

MVPD provider in 19 of the county's top 25 DMAs, most of which include large African American populations. In some instances, the African American population exceeds 50%. The cities listed below are Comcast markets that all have significant African American populations:⁷

Estimated Population by Households

Rank	Cities	AA	Total City	% AA
1	New York, NY	2,086,566	8,308,163	25.1%
2	Los Angeles, CA	370,718	3,749,058	9.9%
3	Chicago, IL	944,152	2,725,206	34.6%
4	Philadelphia, PA	629,734	1,448,911	43.5%
5	Dallas, TX	281,890	1,214,287	23.2%
San Francisco-Oakland-				
6	San Jose, CA	52,065	798,176	6.5%
7	Boston, MA	143,817	613,086	23.5%
8	Atlanta, GA	248,698	445,709	55.8%
9	Washington, DC	320,307	588,373	54.4%
10	Houston, TX	487,666	2,024,379	24.1%
11	Detroit, MI	670,759	808,398	83.0%
13	Seattle-Tacoma, WA	239,730	571,798	41.9%
15	Minneapolis-St. Paul, MN	98,885	628,084	15.7%
16	Denver, CO	56,325	584,563	9.6%
17	Miami-Fort Lauderdale, FL	128,957	514,689	25.1%
Orlando-Daytona Beach-Melbourne, FL				
19	Melbourne, FL	91,479	358,515	25.5%
Sacramento-Stockton-				
20	Modesto, CA	104,557	936,519	11.2%
22	Portland, OR	35,246	551,226	6.4%
23	Pittsburgh, PA	78,575	295,988	26.5%
25	Indianapolis, IN	206,012	794,211	25.9%
27	Baltimore, MD	405,116	639,343	63.4%
29	Nashville, TN	165,614	592,582	27.9%

⁷ Fact Sheet, 2006-2008 American Community Survey, U.S. Census Bureau, <http://factfinder.census.gov/>.

Rank	Cities	AA	Total City	% AA
30	Hartford and New Haven, CT	88,136	240,701	36.6%

A little more than 50% of all residents of Washington, D.C. are African American.⁸ In Detroit, 8 out of 10 residents are African American.⁹ Nevertheless, the availability of African American owned media does not reflect these statistics. Indeed, not one of the widely distributed networks on Comcast's cable television platform is 100% African American owned. Even channels that carry African American targeted content are no longer independently, wholly owned by African Americans. Viacom owns BET and Comcast owns 33% of TV One. The proposed Merger will perpetuate or even worsen the lack of independently owned African American cable networks.

A 2007 report by Free Press notes that only 0.6% of all broadcast television stations are 50% African American owned and even fewer are or were 100% African American owned and controlled. The same report also showed that, in 2007, no cable networks were 100% African American owned and between October 2006 – October 2007, the number of African American owned full power commercial television stations decreased by nearly 60%, leaving only eight (8) African American owned full power commercial television stations in the entire nation.¹⁰

⁸ Washington, D.C. Fact Sheet, 2006-2008 American Community Survey, U.S. Census Bureau, <http://factfinder.census.gov/> (estimated Black or African American population for Washington, D.C. is 320,307 or 54.4%).

⁹ Detroit, Michigan Fact Sheet, 2006-2008 American Community Survey, U.S. Census Bureau, <http://factfinder.census.gov/> (estimated Black or African American population for Detroit, Michigan is 670,759 or 83%).

¹⁰ Out of the Picture 2007: Minority & Female TV Station ownership in the United States, Current Status, Comparative Statistical Analysis & the Effects of FCC Policy and Media Consolidation, Free Press, at 2, available at <http://www.freepress.org/> (In 2007, no cable networks were 100% African American owned.).

The NAACP 2008 Consumer Choice Guide scored Comcast with an overall 2.68 out of 5 or C+ for diversity; 2.31 or C for African American employment; 1.50 or D+ for Marketing / Communications targeted to African Americans; 3.00 or B for Supplier Diversity; 4.00 or A for Service Deployment to African American Communities; and 3.00 or B for Charitable Giving to African American organizations.¹¹ These numbers are far more telling than the many comments solicited by Comcast from African American organizations requesting their support of the Merger in exchange for donations.¹²

II. NCAAOM HAS STANDING TO PETITION TO DENY THE APPLICATION

NCAAOM has standing to petition the Commission to deny the Comcast-NBCU Transaction as a party in interest¹³ in that it has both “competitor” standing¹⁴ and “listener” standing.¹⁵ NCAAOM meets the constitutional threshold elements to establish standing as either a competitor or a listener, NCAAOM will suffer injury-in-fact that is traceable to the

¹¹ 2008 NAACP Consumer Choice Guide at 126-27, available at http://www.naacp.org/advocacy/economic/NAACP_consumer_guide_08.pdf.

¹² See Letter from Germaine Smith-Baugh, Ed.D, President and CEO, Urban League of Brown County, to Hon. Julius Genachowski, Chairman, FCC, dated May 21, 2010, in MB Docket No. 10-56; Letter from Dr. Dorothy Anderson, President, Tacoma Urban League, to Hon. Julius Genachowski, Chairman, FCC, dated Mar. 29, 2010, in MB Docket No. 10-56; Letter from Maudine R. Cooper, President and CEO, Greater Washington Urban League Inc., to Hon. Julius Genachowski, Chairman, FCC, Michael J. Copps, Commissioner, FCC, Robert M. McDowell, Commissioner, FCC, Mignon Clyburn, Commissioner, FCC, Meredith Attwell Baker, Commissioner, FCC, dated May 3, 2010, in MB Docket No. 10-56; Letter from Marcus C. Mundy, President and CEO, Urban League of Portland, to Hon. Julius Genachowski, Chairman, FCC, dated June 8, 2010, in MB Docket No. 10-56; Letter from Dr. Warner Dickerson, President, Memphis Branch NAACP, to Hon. Julius Genachowski, Chairman, FCC, dated May 10, 2010, in MB Docket No. 10-56; and Letter from Kenneth L. Harris, President and CEO, International Detroit Black Expo Inc., to Marlene H. Dortch, FCC, dated Apr. 6, 2010, in MB Docket No. 10-56.

¹³ 47 U.S.C. § 309(d).

¹⁴ See FCC v. Sanders Bros. Radio Station, 309 U.S. 470, 471-72 (1940).

¹⁵ See Office of Commc'n of United Church of Christ v. FCC, 359 F.2d 994, 1002 (D.C. Cir. 1966).

Application, and grant of this Petition to Deny will redress NCAAOM's injury.¹⁶ NCAAOM's injury stems directly from the Comcast-NBCU Transaction and is neither hypothetical nor conjectural, but, in fact, concrete and particularized, imminent injury.¹⁷

A. NCAAOM has Standing as a Listener.

NCAAOM has standing to petition the Commission to deny the Application as a "listener" or member of the public viewing broadcast stations KNBC(TV) and KWHY-TV, both Los Angeles, California (collectively, the "Stations").¹⁸ A petitioner asserting listener standing must, in addition to being a listener, also meet the basic requirements for Article III standing.¹⁹ The listener must allege an injury-in-fact, that the injury is remediable and fairly traceable to the agency action.²⁰

As a resident of Los Angeles, California, the Stations' service areas, and a viewer, NCAAOM "can assert a possible injury to a legally protected interest... as 'spokesman' for a station's entire audience."²¹ The injury facing a viewer is not based on competitive

¹⁶ See New World Radio, Inc. v. FCC, 294 F.3d 164, 170 (D.C. Cir. 2002) (citing Jersey Shore Broad. Corp. v. FCC, 37 F.3d 1531, 1535 (D.C. Cir. 1994)); Liberty Prods., L.P. WOXL-FM, Biltmore Forest, NC, Letter, 20 FCC Rcd 11987 (2005).

¹⁷ New World Radio, 294 F.3d at 170 (citing SunCom Mobile & Data Inc. v. FCC, 87 F.3d 1386, 1388 (D.C. Cir. 1996) and Application to Assign Wireless Licenses from Worldcom, Inc. to Nextel Spectrum Acquisition, 19 FCC Rcd 6232, 6241 (2004).

¹⁸ See United Church of Christ, 359 F.2d at 1002. See also the attached Declaration of Stanley E. Washington, President and Chief Executive Officer of NCAAOM, a resident of Los Angeles, California, a regular viewer of NBC programming. As a member of the public and the President and CEO of NCAAOM, his individual listener standing may be imputed to NCAAOM. itself. See Application of WGSN Radio, Inc., Assignor, et al., Memorandum Opinion and Order, 2 FCC Rcd 4565, ¶ 4 (1987).

¹⁹ See supra notes 16-18 and accompanying text.

²⁰ See supra note 16.

²¹ Huddy v. FCC, 236 F.3d 720, 722 (D.C. Cir. 2001) (citing United Church of Christ, 359 F.2d at 1002) Mr. Stanley E. Washington is the President and Chief Executive Officer of NCAAOM and a resident of Los Angeles, California. Mr. Washington's listener standing may be imputed

disadvantages or adverse effects to the bottom line, but rather “material impairment of [a viewer’s] hopes or expectations.”²² Further, such standing exists when faced with an injury caused by the grant of an application that seriously impacts the public interest. For example, the D.C. Circuit has affirmed the granting of standing to a listener on the basis that such listener is injured when grant of applications would contravene policies underlying the Communications Act and FCC rules because the FCC serves (at Congress’ behest) as the public’s proxy in assuring, through the apparatus of agency licensure, that media outlets in the same market do not fall into a small number of closely related hands.²³

The Comcast-NBCU Transaction threatens long established Commission policies favoring diverse media ownership.²⁴ NCAAOM objects to the loss of an independent programming and news source, NBC, by its vertical integration with Comcast. The Merger underlying the Application would reduce competition by permitting Comcast to bundle its affiliated and attributable networks E! Entertainment, Golf Channel, Style, Versus, G4, Sprout Channel, Retirement Living and TV One, among others (“Affiliated and Attributable Programming Networks”), which compete with independent non-affiliated networks with popular sports programming and newly acquired NBC. Such injury will be a direct result of the

to NCAAOM. Application of WGSM Radio, Inc., Assignor, et al., Memorandum Opinion and Order, 2 FCC Rcd. 4565, ¶ 4 (1987).

²² Huddy at 723 (citing Jaramillo v. FCC, 162 F.3d 675, 677 (D.C. Cir. 1998)).

²³ Llerandi v. FCC, 863 F.2d 79, 85 (D.C. Cir. 1988) (“The ultimate point of the duopoly rule is, after all, to assure (or at least enhance) diversification of viewpoints within the broadcast industry. That is, the FCC serves (at Congress’ behest) as the public’s proxy in assuring, through the apparatus of agency licensure, that media outlets in the same market do not fall into a small number of closely related hands. Listeners are, by definition, “injured” when licenses are issued in contravention of the policies undergirding the duopoly rule.” (emphasis added)).

²⁴ See, e.g., FCC v. Nat’l Citizens Comm. for Broad., 436 U.S. 775, 784 (1978) (“The Commission suggested that the proposed [cross-ownership] regulations would serve ‘the purpose of promoting competition among the mass media involved, and maximizing diversification of service sources and viewpoints’”).

Commission's consent to the merger. NCAAOM members' injuries are redressable through denial of the Application.

B. NCAAOM Has Standing Because It Will Suffer Competitive Harm If The Merger Is Approved Without Conditions.

Competitor standing²⁵ requires a showing that “the party seeking to establish standing... must demonstrate that it is a direct and current competitor whose bottom line may be adversely affected by the challenged government action.”²⁶ A party has standing if its likely financial injury concretely results from the challenged action.²⁷

1. Certain of NCAAOM's members are direct and current competitors of the Applicants' affiliated and attributable programming networks, and will be harmed if the Merger is granted.

NCAAOM's members are “likely to be financially injured” by the proposed combination.²⁸ NCAAOM's member networks, which compete with Comcast's Affiliate and Attributable Programming Networks share significant common characteristics in content and advertisers, and if Comcast's Affiliated and Attributable Programming Networks are included in a programming bundle, MVPDs will be less likely to carry competing independent African

²⁵ Liberty Productions, a Limited Partnership WOXL-FM, Biltmore Forest, NC Facility ID No. 37242 File No. BAPH-20040116ACT Application for Consent to Assignment, Letter, 20 FCC Rcd 11987 (2005) (“[A]n entity claiming standing must allege and prove three elements: (1) personal injury; (2) the injury is ‘fairly traceable’ to the challenged action; and (3) there is a substantial likelihood that the relief requested will redress the injury claimed.”).

²⁶ Mobile Relay Assocs v. FCC, 457 F.3d 1, 13 (D.C. Cir. 2006) (quoting KERM, Inc. v. FCC, 353 F.3d 57, 60 (D.C. Cir. 2004)); New World Radio, 294 F.3d at 170.

²⁷ New World Radio, 294 F.3d at 170 (citing FCC v. Sanders Bros. Radio Station, 309 U.S. 470, 471-72, 477 (1940)).

²⁸ Sanders Bros., 309 U.S. 470 at 477.

American owned programming networks. Therefore, grant of the Merger may adversely affect the financial position of NCAAOM member owned programming networks.²⁹

NCAAOM's members are concerned that the Merger threatens to entrench the status quo that keeps African American owned programming networks from being able to secure distribution on the Comcast cable systems.

2. Comcast, the country's largest MVPD, is discriminating against independent African American owned programming networks.

Comcast does not carry independent, 100% African American owned programming on the same programming tier as similar channels owned and/or controlled by Comcast or other large programmers that bundle highly branded programming.

For example, Comcast carries the Africa Channel in only 8 U.S. markets and in those markets the Channel is carried on the lowest penetrated programming tier. Such level of carriage means that the Africa Channel, even if carried on all Comcast systems would have potential viewers limited to roughly only 4% penetration or 1 million households, while non-African America owned channels are carried on Comcast's most widely distributed tiers giving those channels potential viewership of 24 million households. Not only is the Africa Channel receiving a reduced per subscriber fee from Comcast compared to similar programming on the more widely distributed tiers, but also it is viewed by few subscribers because it is on the tier with the lowest penetration. As a result, the total compensation the Africa Channel receives for carriage and that it can generate from advertising is much less than what similar programming receives on the most widely distributed tiers. TV One, an African American targeted network in

²⁹ New World Radio, Inc. v. FCC, 294 F.3d 164, 170 (D.C. Cir. 2002).

which Comcast has a significant equity stake, is carried on a more widely distributed Comcast tier, typically, the widely carried expanded basic level on Comcast and other major systems.³⁰

The African American entrepreneur-financed Black Family Channel (“BFC”), which operated for over six (6) years, was required by Comcast to pay millions of dollars in unnecessary launch fees in order to be distributed on certain Comcast cable systems. Such fees and limited carriage contributed to BFC’s demise, even though Comcast serves millions of African American families that would have benefited from BFC’s programming. After an initial carriage period on a favorable programming tier, Comcast moved the Black Family Channel to a tier with fewer subscribers which significantly reduced the network’s revenues and accelerated the network’s financial struggles and ultimate demise in 2007. Contributing to that demise was the fact that in 2004, Comcast funded the launch of TV One, a competitive channel targeting African Americans. Unlike independent African American owned BFC, TV One received preferential carriage on Comcast and other large systems and has thrived. In spite of financial and other support from many well known African American celebrities and entrepreneurs, BFC was unable to compete on a level playing field and ultimately failed against Comcast’s more favorable treatment of its own channel - TV One, a Comcast-Radio One joint venture.

3. The Comcast-NBCU Transaction will directly injure NCAAOM.

NCAAOM members face direct injury in the form of competitive disadvantage in nationwide carriage on Comcast Systems. Comcast routinely denies wide distribution to independent 100% owned African American programming networks.

Congress and the Commission have previously recognized the harm that

³⁰ See http://www.tvoneonline.com/inside_tvone/channel_listings.asp.

increased horizontal concentration and vertical integration in the cable industry have created an imbalance of power between cable operators and program vendors[;]... vertically integrated cable operators have the incentive and ability to favor affiliated programmers over unaffiliated programmers with respect to granting carriage on their systems.³¹

Courts have recognized future competitive disadvantages resulting from governmental action as injuries-in-fact.³²

4. Injury is “Fairly Traceable.”

The causal link between the Application and NCAAOM’s injury-in-fact is clear. If the Commission grants the Application, the Merger will proceed, leading to the vertical integration of highly branded programming and the largest MPVD, Comcast. Comcast will then be able to bundle together with its Affiliated and Attributable Programming Networks that will prevent MVPDs from carrying NCAAOM member programming networks.

Comcast will have less incentive to negotiate competitive carriage agreements with independent programming networks because it will own highly branded programming networks that it can carry on its cable systems on more favorable terms. NCAAOM members will be forced to accept non-competitive terms in order to be carried.

The Commission’s carriage rules do not go far enough to ensure competitive carriage terms for African American owned programming and do not encourage meaningful carriage of

³¹ Implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992, Second Report and Order, 9 FCC Rcd 2642, 2643 ¶ 2 (1993).

³² Adams v. Watson, 10 F.3d 915, 922 (1st Cir. 1993) (“future injury-in-fact is viewed as “obvious” since government action that removes or eases only the competitive burdens on the plaintiff’s “rivals” plainly disadvantages the plaintiff’s competitive position in the relevant marketplace” (emphasis added)); Baur v. Veneman, 352 F.3d 625, 633 (2d Cir. 2003) (“the courts of appeals have generally recognized that threatened harm in the form of an increased risk of future injury may serve as injury-in-fact for Article III standing purposes”) (citing Friends of the Earth, Inc. v. Gaston Copper Recycling, Corp., 204 F.3d 149, 160 (4th Cir. 2000)).

African American owned programming networks. NCAAOM members' injuries are redressable through denial of the Application or the imposition of conditions on the Application.

Only through the imposition of substantial conditions, specifically requiring Comcast to carry wholly-owned African American programming networks on the most widely distributed tier can the harm be allayed.

III. THE COMMISSION MUST DENY THE MERGER AS PROPOSED BECAUSE IT HARMS THE PUBLIC INTEREST

A. Standard of Review.

The Commission must determine whether Comcast and NBCU have demonstrated that the proposed Transaction will serve the public interest, convenience and necessity.³³ The burden under the Communications Act is on GE and Comcast to demonstrate that the Merger would serve the public interest.³⁴

The Commission “must determine whether the transaction violates our rules, or would otherwise frustrate implementation or enforcement of the Communications Act and federal communication policy. That policy is shaped by Congress and deeply rooted in a preference for competitive processes and outcomes.”³⁵ The public interest standard under section 310(d) involves a balancing process that weighs the potential public interest harms of the Transaction against the potential public interest benefits. Under this public interest standard, the Commission has the authority and duty to preserve independent sources of news and information.

The “public interest evaluation under Section 310(d) necessarily encompasses the ‘broad aims of the Communications Act,’ which

³³ 47 U.S.C. § 310(d).

³⁴ 47 U.S.C. §§ 308, 310(d).

³⁵ General Motors Corp. and Hughes Electronics Corp and The News Corp., Memorandum Opinion and Order, 19 FCC Rcd 473, 484 ¶ 16 (2004) (internal citations omitted) (hereinafter, “News Corp.”).

includes, among other things, preserving and enhancing competition in relevant markets, ensuring that a diversity of voices is made available to the public, and accelerating private sector deployment of advanced services.”³⁶

The Transaction will injure independent programming networks, such as NCAAOM members, reducing the diversity of voices and thus it is not in the public interest.

To meet their burdens under the Communications Act, the Applicants must show by a preponderance of the evidence, i.e., stronger weight of evidence, however slight that might be, that the proposed transaction, on balance, serves the public interest.³⁷ In doing so, the Commission must consider whether the Transaction would “frustrate implementation or enforcement” of the federal communications policies intended to ensure against anti-competitive behavior. These include the preservation of independently owned programming networks and broadcast stations, and prevention of anti-competitive behavior by MVPDs.³⁸

The Commission’s public interest analysis, while informed by traditional antitrust principles, looks beyond a Department of Justice or Federal Trade Commission focus of whether a merger may substantially lessen competition. Rather, because the Commission’s authority is derived from the Communications Act, the Commission focuses on the economic impact of the merger and the benefits of the merger on the public interest.

³⁶ EchoStar Communications Corp., Hearing Designation Order, 17 FCC Rcd 20559, 20575 ¶ 26 (2002).

³⁷ See, e.g., Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Tele-Communications, Inc., Transferor to AT&T Corp., Transferee, Memorandum Opinion and Order, 14 FCC Rcd 3160, 3168-70 ¶¶11-15 (1999) (“AT&T-TCI Order”).

³⁸ 47 U.S.C §533(f)(2)(A), (B) (“no cable operator or group of cable operators can unfairly impede . . . the flow of video programming from the video programmer to the consumer;” and that “cable operators affiliated with video programmers do not favor such programmers in determining carriage on their cable systems.”).

B. Diversity Of Viewpoints In Programming Is Critical To An Informed Democracy And Is In The Public Interest.

The Commission must preserve viewpoint diversity to ensure that the public interest is served. The Commission's media ownership rules are designed to promote the ownership of media outlets by a diversity of entities. Contrary to this goal, media consolidation concentrates programming ownership in the hands of cable system owners to the detriment of independent programmers.³⁹

The First Amendment also supports a diverse media ownership: "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public...."⁴⁰

Diversity is a cornerstone of communications regulatory policy. For example, the Commission's media ownership rules foster diversity of voices by restricting the number of commonly owned media outlets in a single market. Contrary to this goal, media consolidation is concentrating programming ownership in the hands of cable system owners to the detriment of independent programmers.

Comcast is already the nation's largest cable and broadband operator, with approximately 24 million cable television subscribers, 16 million high-speed broadband subscribers and 7.6 million digital voice customers. Yet not one of the networks on its cable television platform is wholly 100% African American owned and carried on a widely distributed tier. The only African American owned network carried by Comcast is believed to be the Africa Channel and it is relegated to upper tiers on just eight Comcast systems. In light of the lack of African

³⁹ FCC v. Nat'l Citizens Comm. for Broad., 436 U.S. 775, 784 (1978) ("promot[e] competition among the mass media involved, and maximize[e] diversification of service sources and viewpoints.").

⁴⁰ Associated Press v. United States, 326 U.S. 1, 20 (1945).

American owned broadcast stations, networks and programming available on Comcast's cable systems, ensuring access to, and a level playing field for, wholly owned, independent African American broadcast stations, networks and programming is more important than ever to ensure the public interest is served.

The public interest is harmed by the underrepresentation of African Americans among broadcast station owners. The Commission has recognized that the viewing and listening public suffers when minorities are underrepresented among owners of television and radio stations:

Acute underrepresentation of minorities among the owners of broadcast properties is troublesome because it is the licensee who is ultimately responsible for identifying and serving the needs and interests of his or her audience. Unless minorities are encouraged to enter the mainstream of the commercial broadcasting business, a substantial portion of our citizenry will remain underserved, and the larger, non-minority audience will be deprived of the views of minorities.⁴¹

Minority ownership of broadcast outlets and minority programming is in the public interest because it meets the needs of minorities and reduces discrimination in other industries.⁴² Similar concerns about underrepresentation and reducing discrimination dictate that increasing African American ownership of cable networks and programming is a public interest priority.

⁴¹ Metro Broad., Inc. v. FCC, 497 U.S. 547, 554 (1990) (citing the Commission's Task Force Report at 1).

⁴² Employment Practices of Broadcast Licensees, 13 F.C.C.2d 766, 771 (1968) ("The United States Department of Justice, for example, contended that equal employment opportunity in the broadcast industry could 'contribute significantly toward reducing and ending discrimination in other industries' because of the 'enormous impact which television and radio have upon American life.'").

Historically, the Commission has recognized that it must take action to ensure that the views of minorities are included in media and that such action is in the public interest.⁴³

C. Diverse Ownership Promotes Content Diversity.

Diversity is a cornerstone of communications regulatory policy. For example, the Commission's media ownership rules foster diversity of voices by restricting the number of commonly owned media outlets in a single market.

Far from seeking to limit the flow of information, the FCC has acted 'to enhance the diversity of information heard by the public without on-going government surveillance of the content of speech.' The regulations are a reasonable means of promoting the public interest in diversified mass communications, and thus they do not violate the First Amendment rights of those who will be denied broadcasting licenses pursuant to them.⁴⁴

The Supreme Court has upheld the Commission's restrictions on commonly owned media outlets.

In light of these considerations, the FCC clearly did not take an irrational view of the public interest when it decided to impose the prospective ban, and was entitled to rely on its judgment, based on experience, that 'it is unrealistic to expect true diversity from a commonly owned station-newspaper combination. In view of changed circumstances in the broadcasting industry, moreover, the FCC was warranted in departing from its earlier licensing decisions that allowed co-located combinations.'⁴⁵

⁴³ Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C.2d 979, 980-81 (footnotes omitted) ("[W]e are compelled to observe that the views of racial minorities continue to be inadequately represented in the broadcast media. This situation is detrimental not only to the minority audience, but to all of the viewing and listening public. Adequate representation of minority viewpoints in programming serves not only the needs and interests of the minority community but also enriches and educates the non-minority audience. It enhances the diversified programming which is a key objective not only of the Communications Act of 1934 but also of the First Amendment.").

⁴⁴ Nat'l Citizens, 436 U.S. at 776.

⁴⁵ Id.

The courts support the Commission’s efforts to promote diversity of ownership. “We have identified a corresponding ‘governmental purpose of the highest order’ in ensuring public access to a ‘multiplicity of information sources.’”⁴⁶

D. Promoting Competition Is A Key Part Of The Public Interest Analysis.

Since enactment of the Communications Act of 1934 (the “Act”), as amended, competition in the provision of service to the public has been a core goal of communications policy. The Commission has taken steps to prevent anti-competitive practices. “In setting its licensing policies, the Commission has long acted on the theory that diversification of mass media ownership serves the public interest by promoting diversity of program and service viewpoints, as well as by preventing undue concentration of economic power.”⁴⁷ In the Cable Communications Act of 1984,⁴⁸ Congress explicitly extended that concept to the cable industry, noting that one purpose of regulating the cable industry is to “promote competition in cable communications....”⁴⁹

The Commission must consider the public interest when making policy decisions. “The function of weighing policies under the public-interest standard has been delegated by Congress to the FCC in the first instance....”⁵⁰ The Telecommunications Act of 1996 (“1996 Act”) made enhancing competition a central goal of telecommunications regulation.⁵¹ The Communications Act, the 1984 Cable Act, the 1996 Act, and Commission precedent require the Commission to

⁴⁶ Turner Broad. Sys., Inc. v. FCC, 520 U.S. 180, 190 (1997).

⁴⁷ Id. at 780.

⁴⁸ Pub. L. No. 98-549, 98 Stat. 2780 (1984).

⁴⁹ Id. (codified as amended at 47 U.S.C. § 521(6)).

⁵⁰ Nat’l Citizens, 436 U.S. at 777.

⁵¹ Telecommunications Act of 1996 Preamble, Pub. L. No. 104-104, 110 Stat 56 (1996).

consider the competitive impact of a transaction in its public interest analysis.⁵² The “broad aims of the Communications Act” include “a deeply rooted preference for preserving and enhancing competition in relevant markets... [and] ensuring a diversity of information sources and services to the public[.]”⁵³

The importance of the public interest is not diminished by the introduction of new media outlets. In fact, competition improves public access to information. “Now is the time to strengthen traditional media and now is the time to make sure that new media, as it takes on ever-larger responsibilities, serves the public interest....”⁵⁴ Accordingly, more diverse programming content is in the public interest.

E. Denying The Merger, As Proposed, Will Prevent Excessive Consolidation.

Excessive media consolidation reduces ownership opportunities for African Americans and hinders African American owned programming networks and programming. The 1992 Cable Act was adopted to address concerns about vertically-integrated programmers and transmission systems.

[T]he cable industry has become increasingly horizontally concentrated and vertically integrated. Power has been

⁵² Application of AT&T Wireless Servs., Inc. and Cingular Wireless Corp. for Consent to Transfer Control of Licenses and Authorizations, et. al., Memorandum Opinion and Order, 19 FCC Rcd 21522, 21544 ¶ 41 (2004) (“Our public interest evaluation necessarily encompasses the ‘broad aims of the Communications Act,’ which include, among other things, a deeply rooted preference for preserving and enhancing competition in relevant markets, accelerating private sector deployment of advanced services, ensuring a diversity of license holdings, and generally managing the spectrum in the public interest.”).

⁵³ News Corp., the DirecTV Group, Inc. and Liberty Media Corp. Application for Authority to Transfer Control, Memorandum Opinion and Order, 23 FCC Rcd 3265, 3277-78 ¶ 23 (2008) (“DirecTV Order”).

⁵⁴ Statement of Commissioner Michael J. Copps on Report from Steven Waldman on Future of Media, dated Feb. 18, 2010, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296361A1.pdf, at p. 2.

concentrated in the hands of fewer and fewer operators (horizontal concentration), which has led to increased vertical integration as the largest operators have begun to demand ownership interests in cable programming networks.⁵⁵

As media consolidation increased, the number of minority-owned media outlets has decreased. The protections adopted in the 1992 Cable Act are no longer adequate and the Commission needs to take additional steps to protect the free flow of information and prevent harmful consolidation. The FCC's rules do not provide meaningful incentives for MVPDs to carry wholly-owned African American programming networks, or provide adequate relief for African American -owned programming networks that are discriminated against during the carriage negotiation process. The Commission's carriage complaint process is cumbersome and takes too long to resolve carriage disputes. Moreover, the penalties for discriminating during carriage negotiations or the complaint process are insufficient to deter anti-competitive behavior.

IV. THE COMCAST-NBCU TRANSACTION WILL HARM THE PUBLIC INTEREST

The merger would harm the public interest by giving Comcast-NBCU the ability and incentive to discriminate against African American owned broadcast networks and programming in order to restrain competition, to the detriment of MVPD viewers.

A. NBCU and Comcast Ownership.

NBCU networks include well-branded "must have" programming, such as NBC, USA Network, the Weather Channel, Bravo, Oxygen, CNBC, Universal HD, Syfy, Telemundo, mun2, MSNBC and others. Comcast is the largest multichannel video programming distributor in the United States with close to 24 million subscribers, 15.9 million high-speed broadband customers

⁵⁵ Turner Broad. Sys., Inc. v. FCC, 910 F. Supp 734, 740 (D. Columbia 1995) (subsequent history omitted).

and 7.6 million voice customers. Comcast's "must-have" programming includes networks E! Entertainment, Golf Channel, Style, Versus, G4, Sprout Channel, Retirement Living and TV One and others.

The merged entity resulting from a grant of the Application would own over fifty cable channels (a combination of 100% owned and attributable equity interest), ten regional sports networks, two broadcast networks, twenty five owned and operated broadcast television stations, thirty two online video properties and Universal Studios, Focus Features, and a 20% interest in MGM. Additionally, Comcast controls iN DEMAND, the dominant video on-demand/pay-per-view provider, which distributes content to cable and Internet protocol television operators nationwide.⁵⁶ Comcast also owns the Comcast Media Center / H.I.T.S., which distributes some 280 channels to more than 2,000 cable systems nationwide. None of those 280 channels are fully African American owned. And only BET (owned by Viacom) and TV One (owned by Comcast) are channels targeted to African Americans and distributed on H.I.T.S.⁵⁷

Comcast has over 50% market share of cable distribution in major markets including Chicago, Philadelphia, San Francisco, Boston, Detroit, Seattle-Tacoma, Miami-Ft. Lauderdale, Denver, Pittsburgh, Baltimore, West Palm Beach, Harrisburg and Jacksonville. It has a 45% market share in Washington, DC and other markets. Like NBCU, Comcast owns "must-have" networks that include regional sports networks that carry all key local professional sports teams, the "E" Channel and others. Comcast is also the top Internet Service Provider in the U.S. They would have abusive power through retransmission consent and bundling of other must-have programming to leverage carriage of all their networks effectively eliminating any chance of

⁵⁶ Application at 20. (Comcast owns 53.7% of iN DEMAND).

⁵⁷ See <http://www.comcastmediacenter.com/hits-quantum/programming-lineup.asp>.

100% African American owned networks obtaining carriage not only on the Comcast platform but also on all other MVPDs.

Comcast brings in approximately \$3 billion per month, \$36 billion per year, from nearly 24 million cable subscribers. Based on the large African American population in cities in which Comcast serves, NCAAOM estimates there are millions of African American subscribers that contribute approximately 40% or \$15 billion of Comcast's annual revenue. Because of the enormous support that the African American community has shown Comcast over four decades, NCAAOM finds it unacceptable that none of the 250 plus channels that are offered on the Comcast platform are wholly African American owned and widely distributed on their nationwide platform. Since "Comcast digital Cable service is now available to virtually all Comcast customers, and approximately 19 million subscribers – representing 76 percent of Comcast's cable customer base – now have one or more digital cable connections," Comcast has transitioned many of its cable systems to digital operations and greatly expanded its channel capacity.⁵⁸ That new capacity should facilitate the broad distribution of African American owned programming networks on Comcast cable systems.

While Comcast has supported charity efforts in the African American community, its purchase of NBCU without conditions on ownership will continue to impede, if not kill, wholly-owned African American media companies (as happened with BFC), at a delicate time when they are struggling to get a foothold in the market. If this merger is approved without conditions for African American media owners, the opportunity for ownership may be lost for decades to come.

⁵⁸ Application at 18 & n.19.

B. Refusal To Carry Wholly-Owned African American Networks.

Comcast currently does not carry any independent wholly owned African American programming networks, depriving Comcast's approximately 24 million subscribers in many of the most important geographic markets in the nation access to diverse programming networks. African American centric programming is only carried on selected Comcast cable systems further depriving African American Comcast subscribers that live throughout the United States access to valuable and meaningful programming that is tailored to meet their needs.

Once Comcast owns NBC, it will have the economic incentive to deny access to its distribution system to programming it does not own. Comcast will be able to create programming bundles including NBC and its 54 programming networks that will effectively limit the ability of wholly-owned African American programming networks to be carried on MVPDs. If an MVPD receives Comcast Affiliated and Attributable Network Programming as part of a programming bundle that includes NBC, the MVPD will be less likely to carry independent wholly-owned African American programming and programming networks because it is already carrying certain Comcast Affiliated and Attributable Programming Networks on more favorable terms. The FCC's nondiscrimination rules do not address the negative impacts caused by such programming bundles. The difficulties encountered in enforcing such rules would provide wholly-owned African American programming networks with only limited and ineffective protection from such anticompetitive conduct because the Commission's complaint process is ineffective.⁵⁹ Denial of the Comcast-NBCU Transaction will prevent

⁵⁹ Implementation of the Cable Television Consumer Protection and Competition Act of 1992 - Broadcast Signal Carriage Issues; Reexamination of the Effectiveness of the Effect Competition Standard for the Regulation of Cable Television Basic Service Rates; Request by TV 14, Inc. to Amend Section 76.51 of the Commission's Rules to Include Rome, Georgia, in the Atlanta, Georgia, Television Market, Report and Order, 8 FCC Rcd 2965, ¶ 91 (1993) ("Congress

Comcast from being able to bundle highly branded content with less branded content that is detrimental to independent programmers.

Comcast spends approximately \$7 billion per year on content acquisition from cable networks. Less than \$2 million per year or 0.03% is allocated to wholly-owned African American networks. Comcast also heralds itself as a friend and contributor to the African American community but NCAAOM's experience has been vastly different.⁶⁰ On May 12, 2010, Mr. Washington, President and CEO of NCAAOM, introduced himself to Brian Roberts at the National Cable Telecommunication Association Cable Show in Los Angeles, California, and requested a meeting to discuss why Comcast does not widely distribute 100% owned African American programming networks on Comcast cable systems. Mr. Washington's meeting request was denied. Only when it was announced that Mr. Washington was scheduled to testify at a House Judiciary Field Hearing on the Comcast-NBCU Transaction did a mid-level executive of Comcast contact NCAAOM— a meeting with Mr. Roberts still has not occurred.

C. Comcast-NBCU Retransmission Consent Leverage Will Unilaterally Enforce Carriage of Over 50 Cable Networks Across All MVPDs, Which Restrains Competition.

Both Comcast and NBCU individually have a history of bundling their channels in such a manner as to require other MVPDs to carry all, or substantially all, of their channels. After the merger, however, the combined Comcast-NBCU will have an interest in 54 cable networks and must-have programming including 25 broadcast stations and ten regional sports networks. The Commission's carriage rules do not ensure that competitive carriage terms are available to African American and other independently owned programming networks and do not encourage

emphasized that the must-carry and channel positioning provisions are meant to protect our system of television allocations and promote competition in local markets.”).

⁶⁰ See, *supra*, note 12.

meaningful carriage of African American and other independently owned programming networks. History has shown that bringing a carriage access complaint is not a meaningful remedy. The complaint process currently lacks concrete deadlines for action with many complaints languishing for years. For example, a June 2008 decision in favor of MASN against Time Warner involving carriage in North Carolina, which was appealed by Time Warner in October 2008, has languished at the Commission for years. The complaint was originally filed in June 2007. Because the complaint process is extremely slow and costly, it tends to favor large cable companies like Comcast over independent networks.

If the Commission grants the Application, the Merger will proceed leading to the vertical integration of highly branded programming and the largest MPVD, Comcast. Comcast will then be able to bundle together NBC with its Affiliated and Attributable Programming Networks that will prevent MVPDs from carrying wholly-owned African American and other independently owned programming networks. Additionally, because the Comcast-NBCU proposed merger would result in a portfolio of over 50 cable networks, the Merger would have abusive power through retransmission consent and the bundling of other must-have channels like RSNs to leverage carriage of all their networks effectively eliminating any chance of 100% African American owned networks carriage not only on the Comcast platform **but unilaterally across all other MVPDs**. Only through the imposition of substantial conditions, specifically requiring Comcast to widely carry wholly-owned African American programming networks, can the harm be allayed.

V. IN THE ALTERNATIVE, THE COMMISSION MUST IMPOSE CONDITIONS TO PROTECT THE PUBLIC INTEREST IF IT CONSENTS TO THE COMCAST-NBCU TRANSACTION

A. Under Section 309 Of The Act, The Commission Must Find That The Merger Is In The Public Interest.

If the Commission does not deny the merger applications, it must impose conditions to ensure that the public interest standard is met. The only way to protect wholly-owned African American programming networks and the viewing public is to require Comcast to provide African American owners and programmers with at least the following protections:

Condition 1: Require allocation of 10% of Comcast's channel capacity (a minimum of 25 channels) to 100% owned African American owned networks

First, the Commission should require allocation of 10% of Comcast's channel capacity (a minimum of 25 channels) to 100% owned African American owned networks. This is not an unprecedented demand. When the Commission approved the application of Sirius Satellite Radio Inc. ("Sirius") and XM Satellite Radio Holdings Inc. ("XM") in 2008, it obtained voluntary commitments from the two parties to each dedicate four (4) percent of their channel capacity, for a total of 8%, to African American owned media and others. In the XM/Sirius merger, the Commission concluded that "Applicants' voluntary commitment to set aside 4 percent of their capacity for NCE programming mitigates the potential harm to program diversity and is consistent with the Commission's expectation, first stated in 1997, that diverse public interest programming would be available on the SDARS platform. ... In the absence of such competitive forces post-merger, we find the potential harm to programming diversity greater than was the

case in 1997.”⁶¹ Here, the stakes are even higher, as the proposed Comcast/NBCU merger will affect substantially more consumers than the Sirius/XM merger.

In justifying the 8% set-aside in the Sirius/XM merger, the Commission “acknowledge[d] and expect[ed] that the merged company must behave in a profit-maximizing manner in order to operate as a successful commercial enterprise, [and that] we have a counterbalancing obligation to protect the public’s interest in diverse programming choices. Accordingly, we find that the proposed set-asides are justified in order to balance the risk of harm to programming diversity and the amount and quality of noncommercial educational and informative public programming available via SDARS post-merger.”⁶² A similar situation exists in the Comcast-NBCU Transaction.

Like XM/Sirius, Comcast and NBCU are commercial enterprises that will seek to act in a profit-maximizing manner as a newly merged entity. Since Comcast already has a financial interest in an Attributable and Affiliated Programming Network that offers programming targeted at African American audiences, it is in Comcast’s interest to ensure that its Affiliated and Attributable Programming Networks will be successful. Comcast can achieve this goal in two ways: one way is to not carry any other competing independent African American owned networks and the other way is to bundle its Affiliated and Attributable Programming Networks with its highly branded programming such as NBC so other MVPDs will be less likely to carry competing African American focused programming networks. The proposed condition will help independently-owned African American programming networks gain wide carriage on Comcast’s cable systems. Once independently-owned African American programming networks

⁶¹ Applications for Consent to the Transfer of Control of Licenses XM Satellite Radio Holdings, Inc., Transferor, to Sirius Satellite Radio, Inc., Transferee, Memorandum Opinion and Order and Report and Order, 23 FCC Rcd 12348, ¶ 141 (2008).

⁶² Id., ¶ 142.

are able to develop and distribute general market content other MVPDs will be more interested in carrying such programming networks even if Comcast continues to bundle its Affiliated and Attributable Programming Networks with its other highly branded programming networks or broadcast stations.

Condition 2: Require Comcast to program NBC at least four (4) hours out of the twenty-two total hours of prime time programming a week to African American owned programming.

The Commission should also require Comcast to program NBC at least four (4) hours out of the twenty-two total hours of prime time programming a week to African American owned programming. The benefits of African American owned programming to the African American community and the general public are numerous. African American programming provides a different viewpoint on the issues of the day and produces programming focused to meet the unique needs of the African American community. A set aside of at least four (4) hours during prime time on NBC for African American programming will help increase minority ownership of media outlets and help prime time reflect the diversity of the United States. Prime time programming focused on African Americans such as the Cosby Show and the Fresh Prince of Bel Air has been reduced to a single African American actor on a program or the occasional guest appearance by an African American actor. This simply does not reflect the population growth of African Americans in the United States and is indicative of the conduct to expect from Comcast and NBCU if the Transaction is granted without conditions. African American programming was available during prime time before significant media consolidation took place. As more and more independent programmers were purchased by media conglomerates, the amount of programming centered on African American actors decreased. The proposed four

hour set aside in a nationwide distribution platform like NBC will help African American programming regain its position in prime time.

These conditions will allow African American owned programming and programming networks to compete on a level playing field. Many of Comcast's subscribers are African Americans and they too deserve programming that is uniquely tailored to meet their needs. The public interest also demands that the Commission foster a diversity of viewpoints and these conditions will help achieve that goal by making African American owned programming and programming networks more widely available to the public.

VI. CONCLUSION

For all of the aforementioned reasons, the Commission should deny the Comcast-NBCU Transaction or grant the Merger with the following conditions: (1) a 10% set aside (at least 25 channels) to be programmed by 100% African American owned companies and (2) a 4 hour set aside during the 22 hours of prime time programming on NBC for 100% African American owned programming.

Respectfully submitted,

By: 

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Dated: June 21, 2010

**Before the
FEDERAL COMMUNICATION COMMISSION
Washington, D.C. 20554**

In the Matter of:)

Applications for Consent to the)
Transfer of Control of Licenses)

General Electric Company,)
Transferor,)

to)

Comcast Corporation,)
Transferee)

MB Docket No. 10-56

DECLARATION UNDER PENALTY OF PERJURY OF STANLEY E. WASHINGTON

I, Stanley E. Washington, hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge.

1. I am the President and Chief Executive Officer of the National Coalition of African American Owned Media ("NCAAOM").

2. NCAAOM represents the concerns of African American media owners, producers, and creators and works to ensure that African American owned media companies are given the same opportunities as their non-African American counterparts to produce compelling content, access distribution, and flourish in today's integrated media landscape. NCAAOM members own and produce a variety of entertainment and news content targeted at broad sections of the American viewing market, including African American communities.

3. NCAAOM seeks to protect and increase African American owned media and ensure that African American owned media products have nationwide distribution on all platforms.

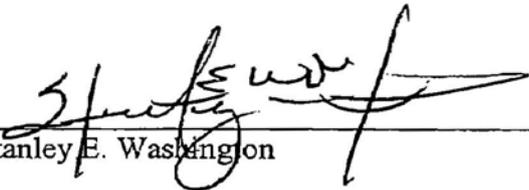
4. I reside in a community presently served by NBC Universal owned-and-operated broadcast stations. I am a viewer of the same.

5. On May 12, 2010, I introduced myself to Brian Roberts at the National Cable & Telecommunication Association Cable Show in Los Angeles, Nevada and requested a meeting to discuss Comcast's lack of carriage of 100% owned African American programming and programming networks. My meeting request was denied.

6. On June 2, 2010, after it was announced that I would be testifying at the U.S. House of Representatives Judiciary Committee Field Hearing on the Comcast-NBCU Merger, I was contacted by Payne Brown, Vice President of Strategic Services, Comcast.

7. I am familiar with the contents of the foregoing Petition to Deny. The factual assertions made in the petition are true to the best of my knowledge and belief.

6/20/10
DATE


Stanley E. Washington

CERTIFICATE OF SERVICE

I, Carly T. Didden, hereby certify that on this 21st day of June, 2010, I caused true and correct copies of the foregoing "Petition to Deny" to be sent by U.S. Mail, postage prepaid, on the following individuals:

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