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Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

FILED/ACCEPTED

JUN 17 2010

Federal Communications Commission  
Office of the Secretary

Filing of comments on MB docket No. 10-56

Re: Application of Comcast Corporation, General Electric Company, and NBC/Universal, Inc. to assign and transfer control of Federal Communications Commission licenses.

Filing by: The Caucus for Producers, Writers & Directors ("The Caucus")

**The Caucus urges a 25% "carve out" of the prime time schedule of the domestic cable and free broadcast networks of Comcast/NBC-Universal for the protection of the independent producer of creative program content as a condition of approval by the FCC of this Comcast/NBC-Universal filing.**

The Caucus is a group of independent producers, writers and directors committed to increasing the quality of programming available to viewers. In addition to threatening the diversity of views expressed in a marketplace of ideas dominated by a handful of companies that control the production and distribution of content, **consolidation threatens the livelihoods of the small business owners and entrepreneurs who make up the independent production community.**

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List A B C D E

Filing of comments on MB docket No. 10-56

Most independent producers (as defined herein) are “Main Street/small businesses” that do not have the financial leverage to position themselves to achieve timeslots for their programs without tendering their ownership and distribution rights to the conglomerates thus restricting the formation of viable entrepreneurs to provide more diverse programming to the viewing audience.

*The definition of a true independent producer is one who provides diverse programming that they own and control; and who is not owned by or has an ownership interest in a broadcast network or cable entity now or in the future. A consolidated marketplace eliminates real competition, creating an incentive to cut costs and cut corners – and a disincentive to create quality. Media consolidation creates a race to the bottom.*

The following changes have resulted in the demise of the independent producer:

- a) The repeal of the Financial Interest and Syndication Rules.
- b) The proliferation of network owned and operated free broadcast stations due to the relaxation of ownership rules.
- c) The consolidation of the film studios and the free broadcast networks which entities have acquired and created cable networks, virtually giving them control of all distribution channels.

Some argue that the internet provides new outlets for independent producers, creating a theoretically infinite number of new venues for creators. Unfortunately the internet itself is vertically and horizontally integrating. While there are countless websites, a relative handful receive significant traffic – and those sites are often owned by the handful of media companies who own and distribute most television content.

The few companies that control most of the production and distribution of content have an incentive to prevent competition and produce content that is easily distributed across a variety of platforms and that is easily repurposed – even at the expense of quality and diversity. The losers in this effort are viewers and independent producers. **The fewer producers and distributors of content there are the harder it is for those small businesses and entrepreneurs to bring new ideas to the marketplace.**

Filing of comments on MB docket No. 10-56

This application of Comcast Corporation, General Electric Company, and NBC/Universal, Inc. to assign and transfer control of Federal Communications Commission licenses is another giant step towards the complete domination of network programming at the expense of independent producers and content. As such, we propose the following carve out of the prime time schedules of the network entity (defined in #1 below) for the independent producer as a condition of the transfer of the NBC/Universal station licenses to Comcast:

1. In this proposal the independent producer (as defined above) is an entity that is neither owned nor controlled by Comcast/NBC/Universal or any of their affiliated entities including all their U.S. domestic cable and free broadcast networks all of which comprise Comcast/NBC Universal the network entity.
2. The network entity may not own or co-own and control the copyright in the independent producer's production(s) nor any off-network, domestic or foreign, distribution rights or any other subsidiary rights such as home video, DVD, merchandising, licensing, etc. and shall not be entitled to a share of the independent producer's profits.
3. Cross licenses for program production between the network entity and other studios/networks including ABC/Disney, CBS/Viacom, FOX/News Corp, Time/Warner and CBS/Viacom wherein they produce programs for Comcast/NBC/Universal are not independent producers for purposes of this proposal.
4. The network entity must have not less than 25% of its prime time schedule consist of programs supplied by independent producers by September 1, 2012.
5. On approval of development the independent producer will elect whether they want to be in the 25% carve out pool from which the network entity will choose the programs to be produced by the independent producers.

Filing of comments on MB docket No. 10-56

6. License fees paid for Independent Producer programs will be commensurate with other programming of a similar genre and production values.
7. The percentage of required prime time productions will be computed on a semi-annual basis and theatrical motion pictures will not be included in this calculation.

The last major true independent producer to close down their business was the Carsey-Werner Company who was the producer of such hits as the *Bill Cosby Show*, *Roseanne*, *Grace Under Fire*, *That 70's Show* among others. **The demise of the independent producer is a direct result of the consolidation of program production, broadcasting and distribution which has given significant decision making leverage to several conglomerates: ABC/Disney, CBS/Viacom, FOX/News Corp, NBC/Universal as well as Time Warner and CBS/Viacom who are joined in a free broadcast venture known as the CW Network.**

These are the gatekeepers that through the use of public airwaves use their leverage to control the market and the independent producer's ability to acquire timeslots for their product. These six companies represent an oligopoly essentially controlling the programming market through their ownership and control of the networks and a significant number of the free broadcast stations, basic cable and pay TV channels.

Now comes Comcast, the largest cable distribution company in the United States, to join with NBC/Universal to create a mega-corporate media conglomerate that will be more monopolistic than those noted above since it will combine the creative production, free broadcast, basic and pay cable telephone and internet facilities with the cable infrastructure to control the distribution of all of those entities to the consumer. This overall control will impact the quality of the programs delivered to the television audiences and further diminish the ability of the creative independent producer to contribute diverse programming and to own and control those programs.

For comparison, think about this: what if every supplier/manufacturer who offered a product to a supermarket chain was told they must cede the

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Filing of comments on MB docket No. 10-56

ownership and control of their product line to the chain before they would carry the item(s). This is precisely the way the studio/network buying process works in most cases. And if Comcast and NBC/Universal are allowed to merge without conditions to protect and support the independent producer the situation will be compounded even further.

In conclusion: **The Caucus believes that a vibrant independent production community can create jobs and benefit the public interest by generating more diverse creative content.** The Comcast/NBC Universal merger does not have to, and indeed should not, come at the expense of small business and the general public. Implementing the aforementioned changes regarding independent producers would be a significant step in the overall preservation of independent content for the enjoyment of the American public. Starting with Comcast/NBC Universal can be the beginning of a trend toward extending the terms of this proposal to other studio/network conglomerates.

Respectfully submitted,  
The Caucus