Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Applications for Consent to the Transfer of Control of Licenses	)	
	)	
General Electric Company, Transferor,	)	MB Docket No. 10-56
	)	
To	)	
	)	
Comcast Corporation, Transferee	)	

To the Commission:

BLOOMBERG RESPONSE TO PETITIONS TO DENY AND COMMENTS

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EXECUTIVE SUMMARY

Bloomberg L.P. ("Bloomberg") submits that many of the comments and petitions, as specifically referenced in this Reply (collectively, the "Comments"), filed in response to the above-captioned applications for transfer of control of NBC Universal, Inc. ("NBCU") from General Electric Company ("GE") to Comcast Corporation ("Comcast") (the "Applications" or the "Transaction") support the fact that there are substantial and material questions of fact as to whether a grant of the Applications will serve the public interest. The Comments make clear that the Commission should not approve the Transaction as proposed or that if the Commission determines that it will grant the Applications, it must impose conditions sought by Bloomberg and other commenting parties with respect to three specific areas of concern: Neighborhooding; Internet Distribution of Content; and Bundling of Networks and Advertising.

<u>NEIGHBORHOODING</u>

With respect to "neighborhooding" (i.e., the practice of placing channels of the same genre adjacent to one another in the system's channel line-up), the Commission received multiple Comments asserting the importance of channel placement to the success or failure of networks. The Comments underscore the importance of the Commission requiring the neighborhooding of a variety of genres, but specifically business news, on contiguous and adjacent channels, as sought by Bloomberg. The Comments express deep concern that a merged Comcast-NBCU may misuse its ability to neighborhood certain channels to gain unfair competitive advantages for its affiliated programming channels.

Among parties filing Comments supporting Bloomberg's positions with respect to neighborhooding are: the Greater Metro Telecommunications Consortium; the Alliance for Communications; the National Association of Telecommunications Officers and Advisors; the joint comments of the Consumer Federation of America, Consumers Union, Free Press and Media Access Project ("MAP"); the Greenlining Institute ("Greenlining"); the Communications Workers of America ("CWA"); TCR Sports Broadcasting Holding, L.L.P. d/b/a Mid-Atlantic Sports Networks ("MASN"); the Tennis Channel; WealthTV; and the National Football League ("NFL"). Bloomberg urges consideration of the issues raised in those Comments.

INTERNET DISTRIBUTION

Bloomberg has voiced its concern that a merged Comcast-NBCU would have the incentive and ability to restrict access to Bloomberg TV ("BTV") over the Internet or to degrade consumers' access to BTV's content over the Internet. Many of the parties commenting on the Applications shared that concern. Aside from the technical ability to interfere with such distribution, a combined Comcast-NBCU could inhibit users' access to BTV video over the Internet via other means. Comments in this proceeding support that concern and note that Comcast has engaged in the blocking of lawful content. Bloomberg agrees with Comments that assert the merger would give the combined company increased power over the content that emerging online video competitors need to establish themselves. Several commenters note that Comcast can use its bottleneck control of content to erect barriers to entry in the online video distribution market and is already doing so via its "TV Everywhere" model Fancast Xfinity. Bloomberg shares Commenters' concerns about the potential for competitive harm arising from the "TV Everywhere" model employed by Comcast, which limits access to programming to Internet users who can "authenticate" that they have purchased cable subscriptions.

Bloomberg's position that any artificial limits on the ability to access content online also devalue consumers' broadband subscriptions is supported by the Comments as well.

Lastly, as reflected in the Bloomberg Petition and various Comments, Comcast-NBCU could pressure independent channels into removing or limiting content availability on the Internet by offering independent channels discriminatory or unfavorable terms if they use other platforms to distribute their content.

Supporting the Bloomberg positions are Comments of MAP; Public Knowledge; Earthlink; Alliance for Communications; Mark Cooper; DISH/EchoStar; Caucus for Producers, Writers, & Directors; AOL; Greenlining; and Fair Access to Content & Telecommunications ("FACT"). Bloomberg urges consideration of the issues raised in those Comments.

BUNDLING OF NETWORKS AND ADVERTISING

Commenters and petitioners further support the Bloomberg Petition with respect to the harm to independent programmers caused by network and advertising bundling. Bloomberg's Petition noted that a combined Comcast-NBCU would own content that targets the same audience and attracts similar advertisers as Bloomberg. Through ownership of a major distribution platform as would occur through the Transaction, Comcast-NBCU can bundle its advertising in a manner that makes BTV less attractive, or even redundant, to advertisers. The Comments support Bloomberg's analysis that the merged Comcast-NBCU will be able to bundle channels strategically in ways that could disadvantage independent programmers and consumers.

Sharing this concern are Comments from MAP; Greenlining; NCAAOM; CWA; the American Cable Association ("ACA"); Writers Guild of America, West ("WGAW"); National Telecommunications Cooperative Association ("NTCA"); FACT; Senator Al Franken; and WealthTV. These Comments merit the Commission's close consideration and review.

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To the Commission:

BLOOMBERG RESPONSE TO PETITIONS TO DENY AND COMMENTS

I. INTRODUCTION

Bloomberg L.P. ("Bloomberg") hereby replies to comments and petitions to deny[1] filed in the above-captioned application for transfer of control of NBC Universal, Inc. ("NBCU") from General Electric Company ("GE") to Comcast Corporation ("Comcast").[2]

As evidenced by the comments and petitions filed in response to the Application, there are substantial and material questions of fact as to whether grant of the Comcast-NBCU

[1] See Commission Announces Revised Pleading Schedule for Its Review of Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc., to Assign and transfer Control of FCC Licenses, Public Notice, 25 FCC Rcd 4407 (2010) (stating responses to comments and oppositions to petitions to deny are due July 21, 2010).

[2] See Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee, Public Notice, 25 FCC Rcd 2651 (2010) (hereinafter, the applications referred to therein, "Application" and the transaction referred to therein, the "Transaction" or the "Merger").

Transaction will serve the public interest, in particular by permitting one company to own the single largest video distribution platform in the U.S. and also control the editorial content of a substantial portion of the news programming available in the United States. The Commission cannot approve the Transaction as currently proposed. If the Commission determines that it will grant the application, it must impose conditions sought by Bloomberg and other parties to this proceeding. These conditions include requirements for the neighborhooding of certain programming genres – specifically, but not exclusively, news channels; prohibiting restrictions or limitations on the distribution of content on competing platforms, including the Internet; and restricting bundling of programming and advertising by Comcast.

II. COMMENTS AND PETITIONS TO DENY STRESS THE IMPORTANCE OF NEIGHBORHOODING AND CHANNEL PLACEMENT

Central to the Petition to Deny filed by Bloomberg[3] is the importance of "neighborhooding," a concern discussed at length in the Bloomberg Petition. Neighborhooding is the practice of placing channels of the same genre adjacent to one another in the system's channel line-up. Especially as multichannel video programming distributors ("MVPDs") transition to digital technology, many have already adopted neighborhooding, i.e., placing together news channels, sports channels, children's programming, etc.[4]

MVPDs use channel placement as a tool to both increase or decrease viewership of particular channels. The Commission has received multiple comments and petitions in this

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[3] Bloomberg L.P. Petition to Deny, MB Dkt No. 10-56 (filed on June 21, 2010), erratum filed on June 24, 2010 (hereinafter "Bloomberg Petition").

[4] Time Warner has begun such transitions. For example, it has announced that in North and South Carolina it is rearranging its digital channels into categories by programming type, placing the general news and business news together. Time Warner Cable Press Release: "TV Made Easy: Time Warner Cable Launches New Theme-Based Channel Lineup," March 26, 2010. Time Warner is also neighborhooding channels in various Wisconsin systems. http://www.timewarnercable.com/wisconsin/learn/new_digital_lineup.html, accessed June 20, 2010.

proceeding that note the importance of channel placement to the success or failure of networks. They underscore the importance of the Commission's requiring, in the event that it approves the Merger, the neighborhooding of a variety of genres, but specifically news and business news, on contiguous and adjacent channels, as sought by Bloomberg.[5]

Beyond general concerns regarding channel placement, many commenters and petitioners in this proceeding have expressed their concern that a merged Comcast-NBCU may misuse its ability to neighborhood certain channels, but not others, to gain unfair competitive advantages for affiliated programming channels. The new merged entity could, for example, neighborhood its affiliated regional sports networks ("RSN") while relegating unaffiliated sports programming to channel placements hundreds of channels away. For this reason, in the case of business news, Bloomberg has requested that Bloomberg Television ("BTV") be carried on the same tier of service as CNBC at each channel position where CNBC is carried.[6]

In the absence of the Merger, Comcast would have had the incentive to neighborhood BTV. Consumers desire the clustering of like-channels in neighborhoods as it eases channel searching and facilitates viewing. While CNBC and BTV are similar in nature, each offers different viewpoints and services so as to create a choice for consumers in news – a choice which should naturally fall within a neighborhood on the viewers' channel line-ups.

Furthermore, but for the Merger, there would be an economic benefit to Comcast in placing CNBC and BTV in the same neighborhood. By increasing competition between the two channels, an MVPD benefits in its negotiating power with both channels.

Bloomberg urges the Commission's careful consideration of the many comments and petitions filed in this proceeding that recognize the importance of channel placement in general

[5] Bloomberg Petition, Exhibit 2.

[6] Bloomberg Petition, Exhibit 2, p. 1.

and neighborhooding and that request the Commission to impose channel placement requirements as a condition of the Merger. As Bloomberg has noted specifically with respect to business news channels, this condition should be in the form of requiring that all business news channels be carried on contiguous and adjacent news channels, wherever CNBC is carried. Similar issues raised by other parties merit the imposition of similar remedies. The Commission should affirm the importance of neighborhooding and channel placement for the benefit of independent programmers and viewers. As it does so, it must guard against the use of neighborhooding by Comcast to harm competitive programmers by engaging in discriminatory channel placement tactics.

A. Public Access, Educational and Governmental Channels Recognize and Support Neighborhooding Requirements

The Commission has received comments and petitions from a diverse range of parties who have supported or recognized the importance of neighborhooding. Among these are organizations that support Public Access, Educational and Governmental ("PEG") channels. The Alliance for Communications has noted that Comcast has a history of discriminatory channel placement. "Among other things, Comcast… [has] stripped many PEG stations of their long-held channel positions in the lower digits, close to local broadcast channels, and forced them to move to much higher channel numbers, often in the channel 900s, that are less desirable, and much harder for subscribers to find."[7] Based on such past experiences, the Alliance for Communications noted that "[a] merged Comcast-NBCU will have increased incentives to provide favored channel positions to its own programming, and to make it more difficult for

[7] Comments of Alliance for Communications to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56, at 9 (June 21, 2010) (hereinafter "Alliance for Communications Comments").

subscribers to easily find alternative programming."[8] Comcast has already engaged in channel placement practices detrimental to PEG channels.[9] The Greater Metro Telecommunications Consortium, a Colorado intergovernmental agency, has likewise recognized the importance of channel placement for PEG channels. It has requested that Comcast be required to commit to include all PEG programming on the basic tier of service after any digital conversions.[10]

Bloomberg likewise recognized the importance of channel placement and neighborhooding, not just for news networks, for all genres of channels. As Bloomberg has noted in its Petition, not only is neighborhooding reasonable, as MVPDs convert their expanded basic tiers to all digital, it is a simple change for the operator.[11] These issues are also raised by the Alliance for Communications, the Greater Metro Telecommunications Consortium and the National Association of Telecommunications Officers and Advisors and should be considered as supportive of the kind of neighborhooding sought by Bloomberg.

B. Public Interest Groups and Membership Organizations Support Neighborhooding Requirements

Recognition of the importance of channel placement is not limited to programmers themselves. Groups representing broader public interests and membership organizations also see the importance of neighborhooding and support the imposition of appropriate conditions on the Merger to ensure the maximum utility in programming choices for consumers.

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[8] Id.

[9] See id. at 8.

[10] Comments of the Greater Metro Telecommunications Consortium (Denver, Colorado) to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56 (June 21, 2010); see also Comments of the National Association of Telecommunications Officers and Advisors to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56, at 4-6, 8 (June 21, 2010) (should not migrate PEGs to a digital tier unless all channels are moved to digital tier).

[11] Bloomberg Petition at 65.

In their Joint Petition to Deny, Consumer Federation of America, Consumers Union, Free Press and Media Access Project (collectively, "MAP") argue that the Merger will reduce the amount of diverse programming content and Comcast will have incentive to discriminate against unaffiliated broadcasters. "One way that this could be accomplished is by giving [the] NBC broadcast signal prime placement and giving other broadcasters [a] less favorable spot on the cable 'dial.'"[12] MAP is concerned that Comcast-NBCU would also have the incentive simply to repurpose local NBC news content on its cable channels. "[T]he repetition of content across multiple platforms does not increase the amount of local news or increase the diversity of the sources that provide it."[13]

The Greenlining Institute ("Greenlining") echoes many of the concerns underlying Bloomberg's Petition.[14] Greenlining alleges that a merged Comcast-NBCU will have the incentive to place unaffiliated networks on more expensive, less viewed programming tiers so that they receive less advertising revenue. Bloomberg has specifically highlighted this concern as it relates to Comcast's anticompetitive incentive with respect to BTV, in order to protect its investment in CNBC.[15] Comcast could also require an ownership interest in unaffiliated networks to further control programming. Greenlining highlighted Comcast's history of discriminatory treatment of unaffiliated networks, evidenced by complaints of the NFL, the

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[12] Joint Petition to Deny of Consumer Federation of America, Consumers Union, Free Press and Media Access Project, MB Dkt No. 10-56, at 47 (June 21, 2010) (hereinafter "MAP Petition").

[13] Id. at 53; see also Declaration of Mark Cooper and Adam Lynn at 20 ("The vertical effects in this space are also concerning. Comcast would have incentive to give unaffiliated local broadcasters less favorable carriage terms. For example, they could reduce the quality of the signal carriage or provide placement on less favorable tiers. At the same time, Comcast could provide Telemundo and NBC stations more favorable station quality or tier placements.").

[14] Petition to Deny of Greenlining Institute, MB Dkt No. 10-56 (June 21, 2010) (hereinafter "Greenlining Petition").

[15] Bloomberg Petition at 3, 36, 40.

Tennis Channel, the Mid-Atlantic Sports Network and WealthTV.[16] The merged entity would have more opportunities and a strong incentive to discriminate against unaffiliated networks, which will result in higher consumer prices or fewer programming choices. Greenlining notes that Comcast's voluntary commitment to add two new independently owned and operated channels to its digital line-up does not prevent Comcast from adding such channels to a highly priced, less viewed programming tier. Bloomberg shares Greenlining's concerns.[17]

The Communications Workers of America ("CWA") is an organization representing workers in the communications industry, including workers at Comcast, NBCU and NBCU's parent company, GE. CWA submitted a Petition to Deny the Merger and noted that Comcast has received numerous complaints about discrimination and anticompetitive behavior. CWA asserts that once Comcast has more affiliated content, it will have a greater incentive to favor its own programming. "This may result in refusing to carry competitors' programming, paying them less for carriage, or placing them on a program tier with fewer viewers."[18] CWA noted, for example, that Comcast currently places affiliated sports content on the tier most of its subscribers receive, but places most unaffiliated sports programming on its special sports tier, which only reaches 11.3% of its subscribers.[19] Rather than placing competing sports networks in similar

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[16] See also Petition to Deny of the National Coalition of African American Owned Media, MB Dkt No. 10-56, at 11-12 (June 21, 2010) (describing experience of the Africa channel, which was placed on an expensive tier, and the Black Family Channel, which was charged $1 million launch fee and was moved to a tier with fewer subscribers after initial launch) (hereinafter "NCAAOM Petition").

[17] See also Greenlining Petition at 48-49; Comments in Opposition of the Fair Access to Content & Telecommunications Coalition to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56, at 32 (June 21, 2010) (hereinafter "FACT Comments").

[18] Petition to Deny of Communication Workers of America, MB Dkt No. 10-56, at 33 (June 21, 2010) (hereinafter "CWA Petition").

[19] Id. at 34.

neighborhoods, Comcast's discriminatory tiering policy restrains unaffiliated networks from competing effectively for viewers, advertisers and programmers.

As discussed in Bloomberg's Petition to Deny, it has many concerns in common with these public interest and membership organizations.[20] A combined Comcast-NBCU will have incentive to relegate unaffiliated content to expensive tiers in channel neighborhoods apart from similar but affiliated content. For this reason, Bloomberg has urged the imposition of specific neighborhooding requirements that would require, in the case of business news channels, carriage of competing channels, such as BTV, on contiguous, adjacent channels on all tiers where CNBC is carried.[21] Similar considerations should be given to other programming, particularly public interest programming like the news and information Bloomberg provides.

C. Programming Networks Support Neighborhooding Requirements

Multiple other programming networks filed petitions or comments noting their concern that a combined Comcast-NBCU would engage in discriminatory channel placement with respect to tiering, channel placement, neighborhooding, and subscription fees. A number of these programming networks speak from experience, having already been the subject of discrimination from Comcast due to lack of affiliation.[22]

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[20] See also Comments of National Telecommunications Cooperative Association to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56, at 6 (June 21, 2010) (hereinafter "NTCA Comments"); Comments of The Writers Guild of America, West to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56, at 15 (June 21, 2010) (hereinafter "Writers Guild of America, West Comments").

[21] Bloomberg Petition, Exhibit 2.

[22] See e.g., Petition to Deny of WealthTV, MB Dkt No. 10-56, at 16 (June 21, 2010) (hereinafter "WealthTV Petition").

TCR Sports Broadcasting Holding, L.L.P. d/b/a Mid-Atlantic Sports Network's ("MASN") comments highlight its concern that Comcast will have increased incentive and ability to "engage in discriminatory channel placement practices."[23] Multiple economic models and studies support the importance of neighborhooding in MASN's view. It succinctly condenses the issue as follows: "When a particular network is many channels away from the cluster of related programming, viewers that 'hover' around the cluster are much less likely to navigate to the outlying channel. This can have a substantial effect on a network's viewership, ratings, and advertising revenue."[24] MASN discusses the anticompetitive effect of channel placement in terms of viewership and advertising revenue, and it urges the Commission to consider conditions on channel placement, specifically including "whether it is appropriate to require Comcast-NBC to 'cluster' related programming, including sports programming, in the channel line-up."[25] MASN cited the particular harms that discriminatory channel placement may cause:

> Most importantly, channel position has a significant impact on a programmer's viewership and advertising revenue. A vertically integrated cable operator can hinder an independent programmer's ability to compete by relegating that programming to a very high-numbered channel far away from similar content or other popular channels. The incentive to engage in such conduct is particularly strong when the cable operator's own channels compete against the unaffiliated programmer. In such circumstances, the affiliated programmer may be given a channel number surrounded by similar or other popular programming, while the independent network is given a much less desirable channel position. Such practices give affiliated programmers a significant – but entirely artificial –

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[23] Comments of TCR Sports Broadcasting Holding, L.L.P., d/b/a Mid-Atlantic Sports Network to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56, at 2 (June 21, 2010) (hereinafter, "MASN Comments").

[24] Id. at 5.

[25] Id.

> competitive advantage over independent programmers. That, in turn, makes it more difficult for unaffiliated programmers to win the rights to new programming and to compete effectively against cable operators' affiliated networks, to the detriment of both consumers and independent programmers.[26]

Bloomberg agrees with MASN that commercial arbitration remedies alone like those adopted in the Adelphia Order may not be an effective remedy for the problem of discriminatory channel placement, which is why Bloomberg has urged the imposition of specific neighborhooding requirements and prohibitions against certain anti-competitive practices that should be enforced by the U.S. District Court.[27] Bloomberg further agrees that "[t]he Commission should accordingly consider whether it is necessary to take additional steps to prevent such discrimination ex ante."[28]

MASN's channel placement concerns are common to other programming networks and related stakeholders. The National Football League, for example, expressed similar concerns. In the development and launch of the NFL Network, the National Football League "has been frustrated by its limited success in making fair carriage arrangements... with vertically integrated [multiple system operators] which also own or hold an interest in competing cable networks."[29] It argues that the Commission's program carriage dispute process is "unduly slow, tilted against independent programmers and excessively burdensome..." and has proven ineffective in preventing discriminatory conduct.[30]

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[26] Id. at 4 (citing the example of MASN not being neighborhooded with Comcast-affiliated sports content).

[27] Bloomberg Petition, Exhibit 2 at 1-2.

[28] MASN Comments at 6.

[29] Comments of National Football League to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56, at 2 (June 21, 2010).

[30] Id.

The Tennis Channel has also argued that Merger conditions are appropriate (i) because of Comcast's history of numerous program carriage complaints; (ii) because concern about sports programming resulted in conditions in the Adelphia acquisition; and (iii) because the Commission's program carriage complaint process is "expensive, time-consuming and, by definition, only addresses after-the-fact allegations of discrimination."[31] Bloomberg supports its proposed condition that Comcast not discriminate in terms of carriage, including channel placement and subscription fees, and distribute competing channels to at least the same number of subscribers as affiliated networks. Bloomberg has endorsed more expeditious remedies, including a modified baseball-style arbitration for subscriber fee disputes.[32] This should include non-discrimination in subscriber fees as well.

Many of the comments and other petitions to deny in this proceeding express serious concern that Comcast has a history of discriminating against unaffiliated networks. Such favoritism is contrary to law and detrimental to the public interest. If the Commission decides to permit this Merger to proceed, Bloomberg supports, at a minimum, appropriate conditions to protect independent networks from Comcast's pattern of discriminatory practices. Consistent with the comments and petitions to deny in this proceeding, Bloomberg further contends that neighborhooding is the most appropriate condition to impose on Comcast-NBCU to prevent anticompetitive channel placement. A neighborhooding condition imposes no burden on the Applicants as channels are frequently moved on MVPD systems, and neighborhooding is facilitated by digitized systems with greater expanded basic capacity. Furthermore, neighborhooding is far less intrusive than divestiture or structural separation.

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[31] Comments of The Tennis Channel, Inc. to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56, at 4 (June 21, 2010).

[32] Bloomberg Petition, Exhibit 2 at 4.

Neighborhooding as proposed by Bloomberg – contiguous and adjacent channel placement of BTV with CNBC in all positions where CNBC is carried – is a particularly appropriate remedy for news and information channels in order to protect diverse sources of news from the anticompetitive incentives created by the Merger. As noted by other parties, the Commission should carefully consider such neighborhooding requirements to protect independent programmers from discrimination.

III. BLOOMBERG AGREES WITH AND SUPPORTS COMMENTS AND PETITIONS THAT WANT TO PROTECT THE INTERNET AS A COMPETITIVE DISTRIBUTOR OF VIDEO CONTENT

Bloomberg has asserted in its Petition its concern that a merged Comcast-NBCU would have the incentive and ability to restrict access to BTV over the Internet or to degrade BTV's Internet signal.[33] That concern is shared by many of the parties commenting on the Applications.

A. The Merger Threatens the Development of Internet Video Distribution

Numerous comments and petitions filed in this proceeding buttress the concern expressed by Bloomberg that the Merged entity will have both the ability and incentive to interfere with the distribution of BTV service over the Internet using multiple means at the disposal of Comcast-NBCU. Aside from the technical ability to interfere with such distribution, as Bloomberg has noted in its Petition, a combined Comcast-NBCU could inhibit users' access to BTV video over the Internet via other means. Comments in this proceeding likewise support that concern.

Dr. Mark Cooper submitted a declaration on behalf of the Consumer Federation and other public interest groups demonstrating that the Merger is not in the public interest due to its anticompetitive effects and the damage it would do to the development of online video distribution as a nascent competitor. Dr. Cooper maintains that "Comcast has been active in

[33] Bloomberg Petition at 43-44.

promoting a specific Internet business model that would extend the control of existing traditional MVPD service providers over video content distribution on the Internet."[34] Dr. Cooper provided four economic studies that show why "control of the distribution is critical in the media sector and the exercise of market power through vertical integration of content and distribution or horizontal concentration in distribution can deny consumers the benefits of competition, resulting in substantial harm."[35]

Dr. Cooper concludes that the cable companies' TV Everywhere business model's "goal is to ensure consumers do not cancel their cable TV subscriptions…" but notes that "this plan also eliminates potential competition among existing distributors…[because] incumbent distributors will not compete with one another outside of their 'traditional' regions."[36] "On-line TV distributors are excluded from TV Everywhere…" thus eliminating the possibility of disruptive competition.[37] He concludes that "TV Everywhere consists of agreements among competitors to divide markets, raise prices, exclude new competitors, and tie products."[38] His study notes that dominant high-speed internet providers are also cable television distributors.[39] The cable industry's "most favored nation" program contract clauses mean that the terms that restrict internet distribution are replicated across the industry, ensuring that online distributors cannot compete with cable television distributors. The studies included in Dr. Cooper's filing

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[34] Declaration of Dr. Mark Cooper, Fellow, Donald McGannon Center for Communications Research, Fordham University, MB Dkt. No. 10-56 (June 21, 2010) at 3 (hereinafter, "Cooper Comments").

[35] Id. at 4.

[36] Cooper Comments, The 21st Century Video Market, Which Past is Prologue, Consumer-Friendly Digital Disintermediation or Cable Dominated Vertical Integration?, Fordham University, June 2010, at 3.

[37] Id. at 4.

[38] Id.

[39] Id. at 9.

echo the concerns that Bloomberg raised in its petition with respect to distribution of content over the internet. Dr. Cooper concludes that "Comcast's strong interest in preventing multi-channel Internet video programming distribution from competing with cable distribution, its leadership role in organizing business models to undermine that competition, its contracting practices to deny content to Internet distribution, and the incentives it has to leverage Comcast-NBCU marquee content in pursuit of these anticompetitive goals requires the FCC and the Department of Justice to take action to prevent this threat to competition from materializing."[40] The Commission should carefully consider these concerns.

In its Petition MAP agrees, stating that the combined company's incentive and ability to foreclose competing online video providers' access to programming threatens innovation and competition in the online video market.[41] MAP also notes that Applicants' assertion that "Comcast has never blocked HSI ["High Speed Internet"] subscribers' access to lawful content" is false. In 2008, MAP points out, Comcast was the subject of a complaint submitted by public interest groups, including signatories to the MAP Petition, alleging that Comcast was engaging in de facto blocking of lawful content in violation of the Commission's network neutrality principles and that in response to the complaint, the Commission determined that Comcast's "discriminatory and arbitrary practice unduly squelche[d] the dynamic benefits of an open and accessible Internet and d[id] not constitute reasonable network management."[42] Bloomberg agrees with MAP that the Merger would give the combined company "vastly increased power over the content that emerging online video competitors need to establish themselves."[43]

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[40] Cooper Comments at 8.

[41] MAP Petition at 22.

[42] Id. at 28.

[43] Id. at 23.

Further, Comcast can use its bottleneck control of content "to erect barriers to entry in the online video distribution market" and is already doing so via its "TV Everywhere" model.[44]

Public Knowledge states in its Petition that the merged entity, as a leading provider of both MVPD service and of broadband Internet access, is well placed to favor affiliated content providers over other content. Public Knowledge points out that this view is not mere supposition, as Comcast has repeatedly acted in the past to restrict other methods of online video content distribution, either by blocking those distributions outright, or by selectively tying access to online content to cable subscriptions.[45] Public Knowledge asserts that Comcast's position as both a major cable television distributor and a major broadband Internet access provider gives it significant market power that can be exercised against both end users and content providers. As Public Knowledge notes, "Control over both directions of this transaction allows Comcast the opportunity for anticompetitive behavior against either content creators or consumers, or both simultaneously."[46]

Similarly, Public Knowledge contends that Comcast has incentives to degrade traffic in non-NBCU content on the Internet. Public Knowledge argues that the merged entity would have a distinct incentive to ensure that video streaming of television programs from NBC.com (or from Hulu.com) would load faster and play back more smoothly than programs from any competitor.[47] Bloomberg shares the concern expressed by Public Knowledge that in the case of over-the-top ("OTT") video, Comcast's ability to control users' access to content means that it could unfairly discriminate against non-NBCU content, either by refusing to connect users to the

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[44] Id. at 23.

[45] Petition to Deny of Public Knowledge, MB Dkt No. 10-56, at 4-5 (June 21, 2010) (hereinafter "Public Knowledge Petition").

[46] Id. at 5.

[47] Id. at 6.

online video content of established competitors, or by simply de-prioritizing or throttling the bandwidth available to these competitors versus NBCU content.[48]

EarthLink expresses the fear that Comcast can insist that independent programmers seeking access to NBC program networks and cable channels abide by restrictions that limit distribution of their own programming via online video distribution platforms.[49] The Transaction, EarthLink correctly notes, removes NBCU as an independent programming outlet and an independent source of news and information, including Internet and online outlets. It also enables Comcast to combine content and distribution in a way that stymies content and program competition by bundling traditional broadcast programming, cable offerings and Internet delivery of content. The transaction also increases Comcast's ability to leverage content across multiple platforms (broadcast, cable, Internet) allowing it to act as a "gatekeeper" for affiliated content and to diminish the reach of any competitive service or content.[50]

Echoing Bloomberg's concerns, EarthLink in its Petition to Condition or Deny notes the Transaction also will increase Comcast's incentive to restrict the capacity and throughput of its Broadband Access Service in a way that interferes with the development and distribution of competitive online Video Programming.[51] Earthlink points out that Comcast has the ability to use several technical means – including, for instance, the use of deep packet inspection ("DPI") – to inspect, isolate, degrade or prioritize any traffic to and from a Comcast Broadband Access.[52]

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[48] Id. at 6.

[49] Petition to Condition or Deny of EarthLink, MB Dkt No. 10-56, at 40 (June 21, 2010) (hereinafter "Earthlink Petition").

[50] Id. at 38-39.

[51] Id. at 32.

[52] Id. at 37.

These fears are reflected in numerous comments. The Alliance for Communication says the merged company will have the incentive to use its control over local broadband and cable distribution to create a video portal service with preferred programming that will affect subscriber access to nonaffiliated programming.[53] Mark Cooper points out that content discrimination has been the focal point of concern in relation to high-speed Internet services.[54] DISH/EchoStar note that the Merged Entity could impose Internet usage caps on DISH (or other competitors' subscribers), but not impose a cap on Comcast subscribers.[55] The Caucus for Producers, Writers, & Directors notably and correctly asserts: "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."[56]

B. The Merger Will Limit Consumers' Access to Content on the Web -- the "Walled Garden" Approach to Online Video Distribution Known As "TV Everywhere"

In its Petition, Bloomberg has voiced its concerns about the potential for competitive harm arising from the "TV Everywhere" model employed by Comcast, which limits access to programming to Internet users who can "authenticate" that they have purchased cable subscriptions. Bloomberg noted that Comcast is enforcing this model through contracts that prevent cable programmers from distributing their content via the Internet other than through

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[53] Alliance for Communications Comments at 5-6.

[54] Cooper Comments at 117.

[55] Petition to Deny of DISH Network L.L.C. and EchoStar Corporation, MB Dkt No. 10-56, at 26 (June 21, 2010) (hereinafter "DISH Petition").

[56] Comments of Caucus for Producers, Writers, & Directors, to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56, at 2 (June 17, 2010).

Comcast's preferred mechanisms. During the last Winter Olympics, NBCU allowed viewers to watch full replays on the Internet only if they could first demonstrate that they were subscribers to a cable system, or other MVPD.[57] Many comments and petitions expressed similar concerns.

The Petition filed by MAP comments extensively on this point, accurately asserting that the Merger has already resulted in Internet video foreclosure. It notes that the Merger eliminates the formerly existing competition between Hulu.com and Comcast's own online video model, "Fancast Xfinity" (the Comcast version of TV Everywhere). MAP states the Merger eliminates this nascent, head-to-head competition between NBCU and Comcast in the emerging online video market.[58] Comcast is already pursuing a strategy of foreclosure through its Fancast Xfinity platform to erect barriers to entry in the online video distribution market. MAP further recognizes that the merged entity will reduce the availability of content for consumers who do not subscribe to an MVPD TV service, because the combined company will have more content to capture in its Xfinity model.[59]

EarthLink astutely points to the fact that today, Hulu.com and numerous NBCU properties (e.g., NBC.com, MSNBC.com, CNBC.com, SyFy.com, Chillertv.com, History.com, etc.) make available online full-length programming that competes with other OTT offerings, including Comcast's Fancast XFinity, and decries that such competition will be lost to the Transaction.[60] EarthLink voices its concern that, "Comcast can be expected either to restrict or eliminate NBCU programming from Broadband Access Service subscribers by placing it behind

[57] Bloomberg Petition at 42.

[58] MAP Petition at 17.

[59] Id. at 23.

[60] EarthLink Petition at 24.

the 'paywall' of TV Everywhere, or to favor the NBCU content by degrading competing OVPD offerings in an effort to diminish the competitive threat of online programming."[61]

Greenlining says the merged company could place its content behind a "paywall" so it is only available to subscribers.[62] CWA appropriately raises the concern that "TV Everywhere denies independent video distributors access to must-have programming, and creates a barrier to entry to OTT providers."[63] CWA concludes, "[w]here the Internet used to be a source of expanding consumer choice and diversity of programming content, it would be used to protect the current cable incumbents."[64]

The Alliance for Communication is properly concerned that Comcast already has significant market power in its own online distribution system and the acquisition of NBCU will increase its market dominance "exponentially" and that TV Everywhere is an example of the threat.[65] Bloomberg urges the Commission to consider carefully these issues that echo Bloomberg's concerns.

C. Pressuring Independent Channels to Remove Content from the Internet

In its Petition, Bloomberg also voices the concern that Comcast-NBCU could pressure independent channels into removing or limiting content availability on the Internet by offering independent channels discriminatory or unfavorable terms if they use other platforms to distribute their content.[66]

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[61] Id.

[62] Greenlining Petition at 38-39.

[63] CWA Petition at 45-46.

[64] Id.

[65] Alliance for Communications Comments at 6.

[66] Bloomberg Petition at 42-43.

EarthLink shares that concern and notes, "Comcast can insist that independent programmers that seek access to NBC program networks and cable channels abide by restrictions that limit distribution of their own programming via online video distribution platforms."[67] Similarly, AOL recommends that Comcast not be able to prevent programmers from distributing their content on independent OTT as a condition of carriage on Comcast. In addition, AOL calls for the Commission to preclude Comcast from entering into exclusive or other arrangements with any producer of online content that specifically or otherwise restricts an online content producer from offering its video content to other online video providers.[68] Bloomberg proposed such conditions in its filing.

CWA contends that Comcast requires that unaffiliated cable networks not make their content available online as a condition of being carried on Comcast's cable television systems. Bloomberg shares CWA's concern that "[b]y preventing unaffiliated cable networks from posting their content online as a condition of carriage, and by denying access to its affiliated online content, Comcast can deny a critical input to OTT video providers, impairing Internet-only television." [69]

As MAP notes, not only will the Merger eliminate direct competition between Comcast and NBCU online video platforms, it will also increase Comcast's ability to engage in high-speed Internet and online content foreclosure strategies. MAP also points out that the FCC

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[67] EarthLink Petition at 40.

[68] Comments of AOL, Inc. to the Applications for Consent to the Transfer of Control of Licenses, General Electric Company, Transferor, to Comcast Corporation, Transferee in MB Dkt No. 10-56, at 8 (June 21, 2010) (hereinafter "AOL Comments").

[69] CWA Petition at 48.

currently does not have a regulatory regime in place to attend to the anticompetitive conduct that will arise in the online sphere if this Merger is consummated.[70]

D. Online Restriction Decreases the Value of Broadband Thus Limiting its Development

Bloomberg asserted in its Petition that any artificial limits on the ability to access content on-line also devalue consumers' broadband subscriptions.[71] Various petitioners and commenters support that contention. CWA states Comcast's "exclusionary strategies will slow the growth of Internet-only television and protect Comcast's market power…."[72] CWA correctly advises that having premium content available online increases the value of broadband subscription to consumers and is an important means to encourage the deployment and adoption of broadband.[73]

The Fair Access to Content & Telecommunications Coalition similarly notes that the percentage of consumers watching video on the Internet is rapidly increasing.[74] It expresses concern that "limitations or restrictions on the ability of consumers to access content online (such as through methods imposed by Fancast or TV Everywhere) [devalue] broadband subscriptions and ultimately [discourage] broadband deployment."[75]

Greenlining notes that certain practices of the merged entity will not only reduce competition, but they can also arrest the development and implementation of new video technologies. It further asserts that, as this Merger was being negotiated, Hulu was already beginning to act in an anti-competitive manner with respect to innovative technologies,

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[70] MAP Petition at 22.

[71] Bloomberg Petition at 43.

[72] CWA Petition at 42-43.

[73] Id.

[74] FACT Comments at 8.

[75] Id.

preventing Hulu's "free" content from being viewed by viewers using Boxee's innovative online video technology.[76] This is a concern echoed by Public Knowledge.[77]

E. Proposed Conditions on Online Video Practices

Many parties submitted comments that reiterate Bloomberg's concerns with respect to the Merger's potential impact on the nascent online video market. A number of parties were concerned that the combined Comcast-NBCU would unfairly restrict or discourage unaffiliated programmers from placing content on the web and restrict or degrade access to BTV over the Internet. As demonstrated in its Petition, Bloomberg shares these concerns. Bloomberg has suggested in its Petition that the Commission condition the Merger so that (1) Comcast would be prohibited from imposing any restriction, limitation or disincentive on the ability of competing business news channels to offer their content on other platforms, including but not limited to the Internet; and (2) Comcast-NBCU would be prohibited from diminishing or degrading the terms, level of service or quality of signal delivery of any business news channel on any of its content-distribution platforms (cable, Internet, mobile devices) without the consent of the owner of said business news channel.[78]

[76] Greenlining Petition at 40.

[77] Public Knowledge notes: "In the recent past, Hulu has been reconfigured to prevent other services from presenting its content in customized browsers. For instance, in 2009, Hulu first asked Boxee not to present Hulu programming via its system, and later declared that only "authorized" web browsers could access content that Hulu published on the web. These steps clearly represented an attempt to prevent consumers from viewing Hulu content on their televisions, thus preventing Hulu from competing directly with MVPDs." Public Knowledge Petition at 11.

[78] Bloomberg Petition at 6.

IV. COMMENTS AND PETITIONS TO DENY STRESS THE IMPORTANCE OF PROHIBITING NETWORK AND ADVERTISING BUNDLING

The Bloomberg Petition describes in detail the harms caused by network and advertising bundling to independent programmers.[79] For example, post-Merger, Comcast will have a compelling incentive to favor companies that it controls, including CNBC. BTV targets advertisers interested in reaching BTV's primary audience, affluent adult males, which is a highly sought-after demographic to advertisers. CNBC and several other channels that a combined Comcast-NBCU would own target the same audience and attract similar advertisers. Solely through ownership of a major distribution platform, Comcast-NBCU can bundle its advertising in a manner that makes BTV less attractive, or even redundant, to advertisers. Comcast's cable carriage agreements require programmers like BTV to provide Comcast with a certain amount of free advertising time on BTV's network. As a result, Comcast could bundle advertising time on BTV with advertising on its own programming networks with similar demographic appeal, such as CNBC, The Golf Channel, or regional sports networks. Commenters agree with Bloomberg that this conduct is anti-competitive and deprives independent programmers, such as BTV, of a fair opportunity to sell its own advertising to advertisers who prefer the BTV network.

As evidenced in the comments received by the Commission, the merged Comcast-NBCU will also be able to bundle channels strategically in a way that could disadvantage independent programmers and consumers. Comcast-NBCU, with some 54 channels to offer, will be able to crowd out the number of channels available on other MVPD systems for independent programming. Such bundling, or "tying arrangements," leave MVPDs with a dilemma: they must either refuse the tied programming package and potentially go without must-have

[79] Bloomberg Petition at 45-50.

programming, or they can agree to the tying arrangement and purchase programming that neither they nor their customers want. Such forced bundling harms independent networks' ability to compete for limited cable system "shelf space." If the MVPD refuses to purchase such bundled programming, it deprives itself of economically significant programming. If the MVPD agrees to carry a bundle with programming that subscribers do not want, the costs are passed on to subscribers in the form of higher rates. Such bundling effectively reduces the limited number of channels on an MVPD's system available to independent programmers.

A. Public Interest Groups and Competitive Carrier Organizations Support Network and Advertising Bundling Restrictions

MAP is concerned that Comcast-NBCU will have the incentive and ability to "raise prices, foreclose and block competitive entry, force bundles on other cable systems, and discriminate in carriage of competing programmers."[80] Bloomberg shares MAP's concerns. MAP believes that the Merger will enhance Comcast's ability to preserve its dominant position in the local MVPD market, exercise market power in specific cable or programming markets, and extend its business model to the Internet. MAP is concerned that the Merger will increase Comcast's incentive and ability to foreclose competing MVPD access to programming through control of highly desirable programming. According to MAP, a merged Comcast-NBCU will have "substantial vertical leverage to use against its competitors" in the cable distribution market; it can charge more for NBC content and force less desirable content on MVPDs through bundling, or tie carriage of popular programming to carriage at favorable channel locations to carriage of its least popular programming, or deny access to non-substitutable programming.[81] MAP echoed Bloomberg's petition when it concluded that the FCC's program access rules are

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[80] MAP Petition at 21.

[81] Id. at 30-31.

not sufficient to address the competitive harms in the Merger. MAP noted that Comcast has previously engaged in discriminatory pricing or withholding of access to regional sports programming. MAP further argues that the Merger will allow Comcast to bundle more programming to the detriment of independent programmers through the tying of "must-have" programming with less popular affiliated programming.

Greenlining's comments on this issue mirror those of Bloomberg. Greenlining noted that a merged Comcast-NBCU would bundle less popular programming with popular programming, forcing MVPDs to pay for content that may not be suitable for its viewers.[82] Greenlining alleges that Comcast-NBCU could also distribute programming over a number of channels, forcing MVPD competitors to pay for additional or unwanted content. Greenlining notes that Comcast has received a complaint involving such conduct from two regional sports networks in California.[83] Greenlining also comments that Comcast could take the same approach for the 2012 Olympics, forcing MVPDs to buy all channels in order to deliver the Olympics to their viewers.[84]

CWA alleges that a 20% market share constitutes a significant foreclosure share, because competitors cannot benefit from economies of scale, and since Comcast holds 25% of the MVPD market, economists would conclude Comcast's conduct to be presumptively anticompetitive.[85] CWA also notes that the combined company will have greater incentive and ability to act anti-competitively, such as implementing forced bundling that would raise consumers' cable rates,

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[82] Greenlining Petition at 32.

[83] Id. at 32. ("In December 2009, two small cable companies serving the San Mateo Peninsula in California filed a program access complaint against Comcast for moving the games of Major League Baseball's Oakland A's and the National Hockey League's San Jose Sharks from its San Francisco RSN (CSN Bay Area) to its Sacramento-based RSN (CSN California).").

[84] Id. at 32-33.

[85] CWA Petition at 35-37.

and withholding or delaying the licensing of critical must-have programming.[86] CWA alleges that post-Merger, Comcast will have more premium channels to bundle and will be able to secure higher rates and more favorable placement of its programming to the detriment of independent programmers.[87] Bloomberg agrees with CWA's recommendation that Comcast should be barred from bundling its affiliated channels to MVPDs.[88]

In its comments, the American Cable Association ("ACA") stated that the prices NBCU offered for bundled programming are less than the prices offered if such programming were available individually, thus forcing MVPDs to purchase the bundle whether its customers desire it or not.[89] Bloomberg made a similar argument in its Petition. ACA further commented that program bundling raises consumer prices and occupies spectrum that could be made available to independent programming networks.[90] The American Antitrust Institute ("AAI") submitted similar comments, arguing that bundling is a mechanism for controlling consumer behavior and that Comcast's bundling could become more restrictive post-Merger, potentially including penalties for dropping MVPD or Internet service.[91] Either way, according to AAI, the merged Comcast-NBCU will be able to control how content and Internet platforms develop.

The National Telecommunications Cooperative Association ("NTCA") submitted similar comments in which it argued against the program distributor practice of tying undesired content

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[86] Id. at 13.

[87] Id. at 14-16.

[88] Id. at 53.

[89] American Cable Association Comments, MB Dkt. No. 10-56, at Exhibit B, 3 (June 21, 2010) (hereinafter, "ACA Comments").

[90] Id. at Exhibit C, 3.

[91] American Antitrust Institute Comments, MB Dkt. No. 10-56, at 20 (June 21, 2010).

with desired content.[92] Since nothing in the law prevents such bundling, the Merger will compound the problem because an MVPD will be forced to take all 54 affiliated NBC and Comcast networks. The Writers Guild of America, West ("WGAW") is also concerned about Comcast's anticompetitive bundling tactics. It commented that Comcast will likely be incentivized to thwart direct competition from other multichannel video program distributors operating in the same market and increase prices for consumers.[93] WGAW also states Comcast will bundle less desirable programming with must-have programming and raise prices for competing MVPDs, who will pass along the increased cost to consumers. Once such cost increases are passed onto consumers, they will have an incentive to move to Comcast as their MVPD. Like WGAW, Bloomberg noted that bundling will not only increase prices but also prevents MVPDs from offering desirable independent programming.

The Fair Access to Content & Telecommunications ("FACT") Coalition, whose telephone company members currently engage both in the distribution of NBCU and Comcast-owned content and in MVPD operations competitive to Comcast, note the difficulties that telco-video operators have faced with respect to forced tying of content. FACT expressly notes that its members have been compelled to tie or bundle all of the NBCU owned channels as a condition of carriage and to place all of those channels on the expanded basic tier.[94] FACT further notes that such practices have the effect of squeezing out independent channels from the MVPD's line-up.[95] That is precisely the concern raised in Bloomberg's Petition.

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[92] NTCA Comments at 5.

[93] Writers Guild of America, West Comments at 16.

[94] FACT Petition at 22.

[95] Id. at 23.

Senator Al Franken filed a letter with the Commission noting that by bundling larger packages of content, network owners can compel cable providers to pay higher fees to carry programming that customers do not want. Bloomberg, too, expressed concern that bundling inhibits MVPD carriage decisions because the most desirable programming may be packaged with less desirable programming that may not be of interest to the MVPD's subscribers.

WealthTV argues that the merged entity will have the ability to "squeeze independent programmers off third party MVPD systems by forcing carriage of multiple bundled channels controlled by the Venture."[96] Comcast will increase the number of channels it bundles, and independent programmers will not be able to secure carriage on smaller cable companies' systems. Comcast could also threaten to withhold the most popular Comcast-NBCU channels, or offer them on less advantageous terms. From Bloomberg's perspective, this means Comcast could withhold programming unless an MVPD agreed not to carry BTV, a competitor to Comcast-NBCU's affiliated channel, CNBC, or to carry BTV on a less popular tier or in a more remote neighborhood than CNBC. WealthTV further argues that bundling raises smaller cable companies' costs. For example, once Comcast acquired Versus, WealthTV states that Comcast doubled the monthly fee. Comcast itself would be indifferent to the price increase because it would essentially be transferring money from one pocket to the other. Bloomberg notes that the Versus example is only one of many ways Comcast will be able to use its competitive position against independent programmers.

Bloomberg agrees with FACT that conditions should be imposed that "[p]rohibit Comcast–NBCU from engaging in the forced tying of multiple channels, including a prohibition

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[96] WealthTV Petition at 23.

against forced bundling via pricing differentials, as a condition to acquiring any programming offered by the Venture."[97]

V. CONCLUSION

Comcast and GE have failed to meet their burden to demonstrate that the Merger serves the public interest. The Commission must deny the Merger as presently proposed. In the alternative, if the Commission determines to grant the Application, it can only do so with the imposition of the conditions set forth in Bloomberg's Petition at Exhibit 2 to prevent the anti-competitive harm to BTV, the last independent source of news and information.

Respectfully submitted,

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Dated: July 21, 2010

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[97] Id. at 25.

CERTIFICATE OF SERVICE

I, Jillian Gibson, hereby certify that on this 21st day of July, 2010, I caused true and correct copies of the foregoing Response to Petitions to Deny and Comments to be served by postage pre-paid first-class U.S. Mail on the following individuals:

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