

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

ALEC

August 19, 2010

The Honorable Julius Genachowski
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 10-56

Dear Chairman Genachowski and Commissioners,

The American Legislative Exchange Council (ALEC) believes it important to respond to calls for the Commission to use its merger review of the proposed Comcast-NBCU joint venture as a means of imposing dubious policies that are more appropriate for careful scrutiny in separate, industry-wide proceedings.

ALEC is the nation's largest nonpartisan, individual membership organization of state legislators. As a public member organization of state legislations, ALEC takes no official position for or against particular private business transactions. However, ALEC's free market-oriented opposition to misguided public policies leads it to oppose such policies regardless of whether they are proposed in legislative, rulemaking or merger review contexts.

The Commission should reject calls to impose network neutrality regulation as a condition for merger approval. While ALEC supports the principles contained in the Commission's *Internet Policy Statement*, it nonetheless believes that government regulation of private broadband network management is unsound policy. ALEC has conveyed its opposition to such regulation in the *Open Internet Proceeding*, based in part on ALEC's official *Resolution on Network Neutrality*. ALEC remains concerned that onerous government restrictions on how ISPs manage their networks amounts to heavy-handed government control over legitimate private marketplace activity that could harm innovation, deter infrastructure investment, and stifle job growth. And ALEC maintains that imposing net neutrality regulation through the backdoor via the Commission's merger review process does not alleviate those concerns.

Regardless of its substantive merits, net neutrality regulation is a matter of industry-wide concern, deserving of fuller consideration and debate as part of a formal rulemaking applicable to parties and non-parties alike. The Commission's *Open Internet Proceeding* involves proposed net neutrality regulation applicable to all broadband Internet service providers (ISPs). It thereby constitutes the proper proceeding for the Commission to address proposals for net neutrality regulation for all ISPs. There is no good reason for the Commission to depart from its precedents that reject calls for conditions in a specific merger transaction that are more appropriate to industry-wide rulemaking.

In sum, it is ALEC's view that the Commission should not adopt any merger conditions that have industry-wide implications, but instead address larger issues in separate rulemakings or inquiries. In particular, the Commission should not impose net neutrality regulation as a condition for approval of the joint venture.

Sincerely,



Rep. William Hamzy (CT)

Public Sector Chair,
ALEC Telecommunications & Information Technology Task Force