

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

In the Matter of	)	
	)	
Application of Comcast Corporation,	)	MB Docket No. 10-56
General Electric Company	)	
And NBC Universal Inc.	)	
	)	
For Consent to Assign Licenses or	)	
Transfer Control of Licenses	)	

**REPLY COMMENTS OF THE CITY OF DETROIT, MICHIGAN IN OPPOSITION TO  
COMCAST'S APPLICATION AND PROPOSED JOINT VENTURE**

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**I. COMCAST'S VIOLATIONS OF ITS FRANCHISE OBLIGATIONS ARE A  
RELEVANT ISSUE FOR THE COMMISSION TO CONSIDER**

It is noteworthy that in its Response to Comments, Comcast has not attempted to substantially refute the City's allegations about its poor record of performance in the City, but instead has sought to divert the Commission's attention by asserting that the issues raised by the City in its Comments in Opposition will be addressed in the pending Federal court lawsuit and so the Commission need not consider them. However, regardless of the outcome of the litigation between the City and Comcast, the fact remains that Comcast has not lived up to its public interest obligations and continues to refuse to live up to them, despite having agreed to those obligations in its franchise. This is a fact relevant to the Commission because the Commission's review of the proposed Comcast-NBCU transaction must be based on whether the transaction is in the public interest, and whether it serves the Commission's policy goals of diversity, localism, and competition. Thus, Comcast's record of performance of its public interest obligations, and

its support, or lack of support, for localism in programming are issues that are directly on point and should be a factor given weight by the Commission.

**II. COMCAST MAINTAINS THAT FRANCHISING AUTHORITIES MAY NOT ENFORCE FRANCHISE OBLIGATIONS IN FEDERAL COURT**

The Commission should also be aware that in the current litigation between the City of Detroit and Comcast, and in Comcast's previous litigation with the City of Dearborn and Meridian Township, Comcast has asserted that local franchising authorities in Michigan may not enforce the Federal Cable Act and the Commission's rules respecting customer service and other aspects of cable operations. *See*, Defendant's Motion to Dismiss, *Detroit v. Comcast of Detroit, Inc.* No. 2:10-cv-12427 (E.D. Mich., July 15, 2010), attached. Comcast's radical approach would leave these important Federal interests, including customer service standards, unprotected and unenforceable in Federal court.

In the Complaint it filed in Federal court, the City points out that the Federal Cable Act expressly authorizes the City, as the franchising authority under state and Federal law, the right to establish and enforce customer service standards, including those in the Commission's Rules. *See* Complaint attached to City's Comments filed June 21, 2010; *see also*, MCL 484.3301(2)(e) ("Franchising entity' means the local unit of government in which a provider offers video services through a franchise."), and 47 U.S.C. § 552. Furthermore, the FCC's 1993 Order on customer service standards established that it is the role of the local franchising authority to enforce the Federal standards embodied in the Commission's Rules. *See In re. Implementation of Section 8 of the Cable Television Consumer Protection and Competition Act of 1992: Consumer Protection and Customer Service*, Report and Order, MM Docket No. 92-263, FCC 93-145 (April 7, 1993) ¶¶ 19-21. Despite these clear mandates under Federal law, Comcast has maintained that franchising authorities lack the right to enforce franchise requirements, such as

the customer service standards, in Federal court. *See* attached Comcast's Motion at ¶ 2 and *passim*. Comcast's claims that its violations of Federal law and the Commission's Rules are not addressable by Federal courts should be of concern to this Commission.

In short, Comcast has taken an extreme position with respect to enforcement of its franchise obligations, and has defended that position in the face of clear conflict with Federal law and the Commission's Rules based on the argument that state law somehow trumps Federal law. Despite being rebuffed in the *Dearborn* case on this very point, Comcast is again effectively raising it in the current litigation with the City, arguing that the City may not enforce the explicit preemption provisions of the Federal Cable Act in Federal court. *See City of Dearborn, et al. v. Comcast of Michigan, III, et al.*, No. 08-10156, 2008 WL 4535167, at \*5 (E.D. Mich. November 25, 2008) and Comcast's Motion to Dismiss, attached. This is the type of recalcitrance and disregard for law that has unfortunately come to characterize Comcast's operations in Michigan. It is also an attitude about the applicability of Federal law to its operations that the Commission should be deeply concerned about when it considers whether the proposed transaction is in the public interest.

### **III. COMCAST'S SUPPORT OF LOCAL CHARITABLE ORGANIZATIONS IS IRRELEVANT TO WHETHER OR NOT IT HAS PERFORMED ITS PUBLIC SERVICE OBLIGATIONS UNDER ITS FRANCHISE**

Finally, Comcast points to the City's recent expressions of appreciation for what Comcast has done for local organizations as evidence that the City is somehow being insincere in its filings in this docket. What Comcast seems unable to recognize is that while the City does sincerely appreciate Comcast's contributions in and to the local community, such contributions do not excuse long-standing franchise violations and repeated refusals to honor public service requirements. The issues are wholly different, and while it has been aptly said that charity

covers up a multitude of sins, Comcast's expenditures in the local community do not absolve it from having to comply with its franchise requirements or with Federal law.

**IV. CONCLUSION.**

For the reasons stated above, the City of Detroit, Michigan again asks this Commission to reject Comcast and NBCU's Application, and to not approve the proposed Joint Venture, as the Commission cannot make the assumption that Comcast will comply with applicable provisions of the Communications Act and other Federal, state and local laws nor with its contractual requirements and the "Commitments" it has made in this Proceeding.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of August, 2010, I caused a true and correct copy of the foregoing Opposition to Petition for Reconsideration to be sent by electronic mail to:

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