

August 19, 2010

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: MB Docket No. 10-56

Dear Ms. Dortch:

I write on behalf of the American Federation of Television and Radio Artists ("AFTRA") to offer our comments on the proposed joint venture between Comcast and NBC Universal ("Comcast," "NBCU," or jointly, "the parties").

AFTRA members work in all aspects of television production and across multiple platforms, including network and local over-the-air television, basic and pay cable, and in emerging Internet and wireless platforms. Our members provide on-camera and voice-over talent for the programming produced by, or exhibited on, various NBCU and Comcast-owned platforms. As significant stakeholders in the proposed transaction, we are mindful of its potential benefits, and also conscious of potential costs. We are heartened by a number of the commitments made by Comcast and by our productive discussions with Comcast. But we are concerned with the impact of the transaction on the job security of our members, with the ability of employees to exercise their rights to organize as provided under federal law, and with the respect and recognition of collective bargaining rights. We are equally concerned with the extent to which the transaction furthers the Commission's core principles of diversity, localism and competition in broadcasting. Should the Commission approve the joint venture, it should do so with enforceable conditions which enhance and protect those values while minimizing the transaction's risks.

Chief among AFTRA's concerns is the job security and collective bargaining rights of the workers employed by these corporations, including our members. We are encouraged by Comcast's and NBCU's stated commitments to honor all existing collective bargaining agreements and relationships covered by the new entity.¹ We also suggest that careful analysis be made of the substance behind that commitment. For example, although NBCU may have a history of collective bargaining, it does not necessarily follow that throughout that history, collective bargaining has been conducted in good faith. The Commission should examine recent history carefully to determine whether there should be enforceable conditions to ensure that the parties' pledges will be implemented in practice in order to foster labor peace and support stability in the marketplace. Specifically, the Commission should confirm that the new entity will desist from any action meant to deter workers from exercising their rights to unionize and to engage in protected union activity.

¹ Applications and Public Interest Statement, Comcast Corporation, General Electric Company and NBC Universal, Inc., In the Matter of Applications for Consent to the Transfer of Control of Licenses from General Electric Company to Comcast Corporation, Jan. 28, 2010, at 69, n.38, available at <http://www.fcc.gov/transaction/comcast-nbcu.html>.

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AFTRA also believes that it is important to sustain and enhance the viability of local over-the-air broadcast television. We are encouraged by reports that Comcast has pledged to the NBC Affiliates to operate in a manner consistent with that goal, such as committing not to remove over-the-air network sporting events from broadcast television and transfer them exclusively to cable. We support the request by the NBC Affiliates that these commitments be included as enforceable conditions in any order approving the transaction.

The parties have also committed to increasing diversity in broadcasting, by expanding the “amount, quality, variety, and availability of content.”² For example, they have committed to adding ten (10) new independently-owned and -operated channels to Comcast’s digital lineup each year over the next eight (8) years. AFTRA welcomes that commitment. AFTRA also has a concern with context of potential preferences for internally-produced content over independently-produced content. NBCU’s network business practices have demonstrated a bias towards internally-produced content, as with the 2008 fall primetime television lineup, where only about five (5) percent of the total fictional television series aired were independently produced.³ In this regard, AFTRA is encouraged by the agreement reached among Comcast, NBC-U and AFTRA which should lead to more broadcast outlets for independently-produced content.

AFTRA supports the job creation and independent voices that greater diversity in programming could foster. We accept the parties’ statements as being made in good faith, and urge the Commission to ensure long-term implementation of those commitments by requiring appropriate conditions, including the commitments made by the parties to date. Public disclosure conditions would ensure that the new entity is meeting these commitments. Taken with the affirmative commitments to increase independent programming, these conditions would more effectively promote diversity.

As with independent programming, localism in programming is a longstanding Commission goal, and a vital concern for AFTRA members. Local news and public interest programming creates jobs and, equally important, informs the public on issues directly local communities. The parties have pledged to invest new resources in local news programming, to air more local programming,⁴ and to expand the availability of existing local programming via new platforms like On Demand and Internet streams.⁵ The parties have specifically pledged to preserve and expand upon existing local news programs.⁶ The Commission should support those pledges by ensuring the parties do not merely recycle existing material, as has been done in the past, but require the development of new programming with larger, adequately-funded local news operations, which we understand is Comcast’s intention. While AFTRA, in general, is concerned that media consolidation inherently harms local interests, we are cognizant of the potential for improved local programming and diversity this transaction can bring to bear. The Commission should require regular disclosure of the amount of local programming aired to ensure those benefits are realized. Disclosure, combined with specified minimums for local and public interest broadcasting hours, will benefit the public at large.

² *Id.* at 36.

³ *Competition in the Media and Entertainment Distribution Market: Hearing Before the House Judiciary Committee, 111th Cong. 4 (2010)* (statement of Jean Prewitt, President and CEO, Independent Film & Television Alliance), available at <http://judiciary.house.gov/hearings/pdf/Prewitt100225.pdf>.

⁴ *Supra* n.1 at ii.

⁵ *Id.* at 42.

⁶ *Id.* at 70-71.

While AFTRA's concerns about the potential harm from anti-competitive conduct are always present, AFTRA is heartened by the real commitments made by Comcast and the great potential for enhanced investment, localism and diversity that these commitments present. AFTRA believes that a thoughtful and thorough review by the Commission, combined with enforceable pledges made by the parties and proper enforcement of existing Commission rules should alleviate our concerns. The Commission also should safeguard competition in both the distribution and programming markets, by renewing and stringently enforcing both program access and carriage rules, including policing the use of bundling and limited distribution agreements, in particular.

With these substantive conditions in place, this transaction has the potential to create sustainable jobs while fostering a more diverse, locally-oriented and competitive marketplace. We look forward to a thorough and comprehensive Commission review of this transaction. Thank you for the opportunity to offer these comments on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Th. R. Carpenter". The signature is stylized and written in cursive.

Thomas R. Carpenter
General Counsel & Director of Legislative Affairs
American Federation of Television and Radio Artists, AFL-CIO