Areas of Concern (primary parties raising concern)[1]	Applicants' Response	Record Cites To Applicants' Response[2]
	○ Honor NBC's agreements and side letters that preserve existing non-duplication protections against importation of another affiliate broadcast station signal into an NBC local affiliate's market; ○ Ensure that decisions involving exclusivity issues will continue to be made by the NBC Television Network and solely on the basis of Network considerations; and ○ Refrain from using control of the NBC Television Network to transmit a same-day linear feed of Network programming on a Comcast cable system in the television market of an NBC local affiliate in the event that the NBC local affiliate withdraws its consent in the course of a retransmission dispute with the Comcast cable system. • Comcast has entered into a binding agreement with the ABC, CBS, and Fox Affiliates Associations ("Non-NBCU Affiliates") that will also strengthen OTA TV. Specifically, Comcast has agreed to: ○ Engage in arm's-length, good-faith negotiations of retransmission consent agreements with the Non-NBCU Affiliates; ○ Not discriminate in its retransmission consent negotiations with the Non-NBCU Affiliates on the basis of affiliation (or lack thereof) with Comcast or the NBC or Telemundo Television Networks; ○ Maintain Comcast's cable system affiliates' sole responsibility for negotiating retransmission consent agreements with the Non-NBCU Affiliates. Such negotiations will be separate from and not influenced by NBCU. NBCU will remain solely responsible	

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	for retransmission consent negotiations for NBCU-owned stations with non-Comcast MVPDs; ◦ In any retransmission consent complaint proceeding involving a Non-NBCU Affiliate, not rely on the terms of any retransmission consent agreement between Comcast and any television station wholly-owned, controlled, or under common control with Comcast or affiliated with the NBC or Telemundo Television Networks that is entered into following announcement of the Comcast-NBCU transaction in order to establish whether rates, terms, and other carriage and retransmission conditions are consistent with competitive marketplace conditions; and ◦ Refrain from attempting to gain a competitive advantage by discriminating against any local, in-market Non-NBCU Affiliate in favor of any NBCU Station licensed in the same market with respect to certain technical signal carriage matters.	
The transaction will not do enough to promote diverse programming. (Bloomberg, WGAW, Entertainment Studios, CFA *et al.*, NCAAOM)	• Comcast's cable systems carry a large number of unaffiliated networks that offer programming aimed at diverse groups, including ethnic and foreign language networks. • The transaction will enhance the combined entity's incentive and ability to provide even more diverse programming. By increasing the number of platforms on which diverse programming can be delivered – in effect, expanding the potential audience – the transaction will give the combined entity greater incentive and ability to explore innovative business models that support the production and distribution of more and higher quality diverse programming. • In addition, Applicants have made several specific and meaningful commitments to increase the amount of diverse programming they	• Public Interest Statement at 47-50, 112-113, 130-131, Appendix 8. • Rosston Benefits Report ¶¶ 10-14, 65. • Hispanic MOU at 8-10. • Opposition & Response at 33-49, 261-262. • Summary of Diversity

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	provide. For example, they have committed to expand the availability of Hispanic OTA programming (Commitment # 6). Applicants have committed to feature Telemundo programming on On Demand and On Demand Online platforms (Commitment # 7). And Applicants have committed to expand the availability of mun2 on all Comcast's platforms (Commitment # 8). • Comcast has expanded its independent programming commitment to provide that it will add 10 new independently-owned and -operated channels to its digital line-up within eight years of closing the transaction, including four African American channels and four Latino American channels (Commitment # 13, as amended by the Rush Letter, the Summary of Diversity Commitments, and the Hispanic MOU). • Comcast and NBCU have also agreed to increase opportunities for minority media ownership via: (1) Comcast's creation of a venture capital fund for minority entrepreneurs to develop new media and content applications; (2) NBCU's attempt to sell its interest in KWHY-TV to a minority-controlled ownership group; and (3) Comcast's efforts to facilitate opportunities for minority ownership groups to purchase assets in the event of future divestitures.	Commitments at 4-9. • Rush Letter at 2-3.
The transaction will not result in efficiencies. (DirecTV)	• The transaction will result in a reduction of double marginalization. Applicants' economists have demonstrated (and many economists have recognized) that a reduction in double marginalization can result in greater investments in service, expanded program offerings, and other consumer benefits.	• Rosston Benefits Report ¶¶ 80-90. • Opposition & Response at 67-73. • Rosston/Topper Reply Report ¶¶ 30-40.

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The transaction will threaten journalistic independence. (Greenlining Institute)	• The combined entity will continue GE's policy of maintaining the journalistic integrity and independence of NBCU's news operations. To ensure such independence, the combined entity has committed to continue the position and authority of the NBC News ombudsman to address any issues that arise (Commitment # 16).	• Public Interest Statement at 131-133, Appendix 8.
The transaction will not increase competition in purchasing sports rights. (DirecTV)	• The combined entity will have more ways to distribute sports programming than either Comcast or NBCU alone. Thus, the transaction will enable the joint venture to make competitive bids to distribute sports content on a greater number and variety of platforms. This will increase its ability to compete more effectively for sports rights with other networks, such as ESPN/ABC, and to expand the availability of sports programming for consumers.	• Public Interest Statement at 50-52. • Rosston Benefits Report ¶ 12. • Opposition & Response at 31-33. • Rosston/Topper Reply Report ¶¶ 20-25.
II. HORIZONTAL COMPETITION		
The transaction will reduce competition among cable networks. (ACA)	• To pose horizontal competition concerns, a combination of multiple networks must lead to a significant increase in concentration in a relevant market and eliminate substantial pre-transaction competition among the combining networks. The transaction does neither. • The transaction will not significantly increase cable network concentration. NBCU's cable networks account for 10.6 percent of basic cable television viewing while Comcast's national cable networks account for only 2.2 percent. These shares fall well beneath levels that traditionally have caused competitive concerns. Under the DOJ and FTC's Draft Revised Horizontal Merger Guidelines, the	• Public Interest Statement at 90-91. • Israel/Katz Reply Report ¶¶ 101-109, 119-136. • Opposition & Response at 101-13.

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	transaction will result in an unconcentrated market and therefore is "unlikely to have adverse competitive effects." • The transaction will not eliminate substantial pre-transaction competition among NBCU and Comcast cable networks because those networks are not close substitutes in terms of audience reach, audience demographics, or programming content. Moreover, as Drs. Israel and Katz have demonstrated through empirical studies of prior integration events, neither joint ownership of a broadcast station and an RSN within a DMA nor joint ownership of a broadcast station and a national cable network is likely to cause horizontal price effects.	
The transaction will reduce competition among online properties. (CFA *et al.*, Dish Network, Greenlining Institute)	• The combination of NBCU and Comcast online properties will not cause horizontal competitive concerns under any plausible market definition. Applicants' Internet properties together account for only 0.3 percent of total daily unique page views and 1.6 percent of total Internet advertising revenue. Measured by videos viewed, Comcast's online video properties make up only 0.3 percent of videos viewed online, and NBCU video properties make up 0.7 percent. If only professional video content is considered, the properties of Comcast and NBCU account for approximately 1.0 percent and 2.0 percent of the market, respectively, for a combined share of approximately 3 percent. • In addition, online video is a highly competitive and dynamic marketplace, with new competitors frequently emerging and existing competitors expanding and improving their online offerings. No meaningful impediments prevent other entrants from developing and offering online video distribution services that, like the online distribution services offered by Comcast and NBCU, are complementary to traditional MVPD service.	• Public Interest Statement at 93-98. • Israel/Katz Online Video Report ¶¶ 16-17. • Opposition & Response at 113-19.

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	• Concerns that the transaction will eliminate Hulu as a free, advertising-supported service are misplaced. NBCU has long-term contractual commitments to provide content to Hulu on an ad-supported basis, and these commitments will not be affected by the transaction. Moreover, NBCU does not control Hulu and the combined entity will not control Hulu post-transaction. • Post-transaction, Comcast will also have no incentive to eliminate Hulu as a free, ad-supported service because Hulu is complementary to, and often beneficial to, Comcast's MVPD and HSI services. Comcast will continue to be a supportive partner to Hulu, and Comcast intends to be a driving force to bring more, not less, content to online video viewers.	
	III. VERTICAL COMPETITION	
The transaction will lead to foreclosure of local broadcast stations/ retransmission consent. (CWA, Dish Network)	• As Drs. Israel and Katz demonstrated using the Commission's own foreclosure model, any attempt by the joint venture to withhold retransmission consent to NBC O&O stations' signals as part of a foreclosure strategy would be unprofitable. • Dr. Singer's criticisms of the vertical foreclosure analysis performed by Drs. Israel and Katz are without merit. Indeed, if the vertical foreclosure analysis were adjusted to accommodate some of Dr. Singer's complaints, those adjustments would *strengthen* the conclusion that the joint venture would find foreclosure unprofitable. • The risk of damage to NBC and the structure of the joint venture further reduce the likelihood of retransmission consent foreclosure. Engaging in permanent or repeated temporary foreclosure would substantially and irreversibly damage the NBC broadcast network.	• Israel/Katz Vertical Foreclosure Report ¶¶ 1-147. • Israel/Katz Reply Report ¶¶ 14-29, 239-271. • Opposition & Response at 128-142.

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	And so long as GE retains a stake in NBCU, it has strong incentives to protect its ownership interest by ensuring that the joint venture does not engage in costly foreclosure strategies, regardless of the benefits to Comcast.	
The transaction will lead to an increase in retransmission consent fees. (ACA, DirecTV)	• The transaction will not result in an anti-competitive price increase for retransmission consent for NBC O&O stations. • A bargaining model presented by DirecTV economist Dr. Murphy and ACA economist Dr. Rogerson supplies no evidence to the contrary. First, that model predicts that prices will increase materially only *if* a significant number of subscribers would switch away from a foreclosed MVPD to Comcast. No evidence presented in this proceeding indicates that such switching would occur. Instead, the evidence demonstrates that few subscribers would switch to Comcast. • Second, Dr. Murphy's and Dr. Rogerson's reliance on assumptions that lack a factual or empirical basis prevents their model from supplying meaningful predictions of post-transaction price changes. Among other limitations, the bargaining model on which Dr. Murphy and Dr. Rogerson rely cannot rule out the possibility that the transaction will result in *no* price increase. • Third, as applied by Dr. Murphy and Dr. Rogerson, the bargaining model fails to consider that rival MVPDs would respond to threats of foreclosure by, for example, offering promotions, lowering subscription fees, or implementing other strategies to reduce their subscriber losses. The model thereby overstates the extent to which loss of an NBC broadcast station signal would result in switching. • Fourth, the simplified bargaining model cannot account for the complexity of actual content-owner MVPD negotiations, including the	• Public Interest Statement at 118-122. • Israel/Katz Reply Report ¶¶ 33-39, 239-271. • Rosston Benefits Report ¶¶ 80-90. • Rosston/Topper Reply Report ¶¶ 29, 39-40. • Opposition & Response at 143-53.

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	effects of numerous non-price terms that are jointly negotiated with price or the dynamic nature of negotiations. • As Drs. Israel and Katz have shown, there is no evidence that previous vertical integration events have caused the systematic pattern of price increases that Dr. Murphy's and Dr. Rogerson's model would suggest. On average, the integration between cable networks and MVPDs did not have a significant effect on the affiliate fees paid by MVPDs for those networks. Moreover, no individual network exhibited significantly higher fees while integrated with an MVPD. • It would be inappropriate to consider the potential programming-cost increases that may arise without also accounting for programming-cost decreases flowing from efficiencies – notably the reduction of double marginalization – that will arise because Comcast, while paying the same price to NBCU for programming as determined in arm's-length negotiations, will internalize NBCU profits (as it is free to do under the joint venture agreement). Once these efficiencies are incorporated, the net effect of the transaction on average MVPD programming costs is negative. • The combined company's economic incentive to ensure widespread distribution of the broadcast networks' programming is also backstopped by an existing regulatory regime. The retransmission consent rules require parties to negotiate in good faith and prohibit exclusive retransmission consent arrangements. In addition, Applicants have voluntarily committed to import key components of the program access rules to retransmission consent negotiations (Commitment # 15).	

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The transaction will lead to foreclosure of national cable networks (program access issues). (ACA, DirecTV, CWA, Dish Network)	• The transaction will not enhance Comcast's incentive or ability to engage in foreclosure strategies with respect to licensing of national cable networks to rival MVPDs. The combined entity will lack the market power needed to implement a successful temporary or permanent foreclosure strategy with respect to NBCU's cable networks. The record does not support a conclusion that foreclosure of NBCU's national cable networks would cause a substantial number of subscribers to switch MVPDs. • The transaction will not result in an anti-competitive price increase for NBCU's cable networks. Dr. Rogerson's contrary conclusion rests on an analysis that shares all of the flaws of his analysis of NBC broadcast station retransmission consent. It also erroneously assumes – contrary to basic economic principles – that the loss of NBCU's cable networks would cause the same proportion of subscribers to switch MVPDs as a loss of a broadcast network. • Dr. Rogerson's conclusion is also at odds with the empirical evidence. Drs. Israel and Katz performed a regression of past vertical integration events and showed that those events caused no systematic pricing effects for either broadcast or national cable networks. • A national sports foreclosure strategy – which would entail Comcast inducing NBCU to move NBC's national sports content to Comcast's Versus network and thereafter withholding Versus from other MVPDs – is also infeasible. First, Comcast has reached an agreement with NBC's affiliate stations under which Comcast has committed not to move major sporting events off NBC in general, or onto Comcast-owned linear networks in particular. Second, the terms of NBCU's agreements with the ultimate sports rights owners generally require NBCU to air a substantial portion of the relevant content on the NBC	• Public Interest Statement at 114-117. • Israel/Katz Reply Report ¶¶ 30-32, 64-87. • Israel/Katz Vertical Foreclosure Report ¶ 2. • Opposition & Response at 153-159. • NBC Affiliates Association Agreement.

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	Television Network. Third, for much of the sports content currently aired on NBC, NBCU either has no rights to place content on cable networks or faces substantial restrictions on the content that can be aired on cable networks. • The program access rules further mitigate any risks of competitive harm. Comcast has always followed these rules and has never been found in violation of them. • Comcast has committed to voluntarily accept the application of the program access rules to the HD feeds of any network whose SD feed is subject to the program access rules for as long as the Commission's current program access rules remain in place (Commitment # 14).	
The transaction will lead to foreclosure of online video to rival MVPDs. (AAI, ACA, AOL, Bloomberg, CFA *et al.*, CWA, DirecTV, Dish Network, FACT Coalition, Senator Franken, Greenlining Institute, WealthTV)	• Certain parties have attempted to characterize Applicants' efforts to provide content online on an "authenticated" basis as a form of foreclosure, and claimed that post-transaction, Applicants will use authentication to discriminate against rival MVPDs. These claims are inaccurate. • Post-transaction, the combined entity will lack the market power required to pursue a foreclosure strategy by withholding online content from other MVPDs. The joint venture would account for only 13.7 percent of national broadcast and basic cable television viewing, and only 12.8 percent of basic cable television viewing. In fact, these figures overstate Applicants' shares of authenticated online content, as NBCU and Comcast do not have online rights for many of the programs shown on their linear networks. • The combined entity would have no incentive to withhold online content from other MVPDs. Any effort by the combined entity to withhold online content would harm NBCU's content business by	• Israel/Katz Online Video Report ¶¶ 49-63, 126-135. • Opposition & Response at 159-163, 204-208. • Israel/Katz Reply Report ¶¶ 221-237.

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	causing it to forego profitable online distribution deals; as discussed, GE would have a strong incentive to oppose such a strategy. • Other parties have asserted more general complaints regarding authentication arrangements. These non-transaction-specific complaints likewise lack merit. o Authentication arrangements such as Fancast Xfinity TV make content available to viewers anytime, anywhere and are an online benefit offered to cable subscribers at no additional cost to them. As such, these arrangements are pro-consumer, pro-competitive, and nonexclusive, and will help achieve a proper balance between (a) providing consumers access to video content "where and when they want it" and (b) providing content producers with an economically sustainable business model that supports the significant costs associated with production of high-quality video content. o Authentication is not a Comcast-specific initiative, but rather a concept being pursued by an array of content owners and distributors looking for a sustainable business model to make content available to consumers anytime, anywhere, and Comcast is an early adopter of the concept. o Contrary to assertions that authentication restricts the online availability of content to consumers, it actually enables the availability of *more* content than would otherwise be economically feasible. (The 2010 Vancouver Olympics furnish a notable example.)	

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The transaction will lead to foreclosure of competing video programming (program carriage issues). (Bloomberg, CFA *et al.*, DirecTV, MASN, Tennis Channel, WealthTV)	• There is no economic basis for concluding that Comcast would have the ability to pursue anti-competitive foreclosure strategies against unaffiliated content providers. Comcast accounts for fewer than 24 percent of MVPD subscribers in the United States; both the D.C. Circuit and the Commission have found that this share is below the threshold required to pose a threat to competition or diversity in programming. No party has offered any empirical evidence to the contrary. • Because a network only confronts a true threat to its viability when it loses carriage on *multiple* MVPDs, any decision by Comcast to deny carriage to a network would incentivize the network to obtain carriage on other MVPDs – an outcome that could generally be achieved only by reducing the price that the network would charge those MVPDs. This outcome could prove problematic for Comcast on at least two levels: First, it would make Comcast's MVPD service relatively more expensive and less attractive to consumers (by lowering other MVPDs' programming costs). Second, it would disadvantage the joint venture by making its programming networks relatively more expensive and less attractive to MVPDs (by lowering the price that the unaffiliated network would charge those MVPDs). • The combined entity would also lack any incentive to pursue an anticompetitive foreclosure strategy against unaffiliated cable networks. Given the number of available substitutes to NBCU's national cable television networks, Comcast would need to deny carriage to a substantial number of unaffiliated cable networks before NBCU's networks could theoretically realize any appreciable benefit. • Bloomberg's claim to the contrary rests critically on its contention that the Commission should recognize a narrow market for "TV business	• Public Interest Statement at 107-113. • Israel/Katz Reply Report ¶¶ 129-188. • Opposition & Response at 163-180.

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	news programming." Neither Bloomberg nor its economist, Dr. Marx, has presented any meaningful evidence that such a narrow market exists. The methods that Dr. Marx uses to demonstrate the existence of such a market are analytically flawed and generate absurd conclusions. Dr. Marx's methods show, for instance, that CNBC and Teen Nickelodeon are substitutes and belong in the same relevant market, but that Disney and Nickelodeon do not. • It is also clear that pursuing a vertical foreclosure strategy against Bloomberg or any other unaffiliated content provider would be unprofitable for Comcast. Dr. Marx's conclusion that it would be profitable for Comcast to drop Bloomberg is driven by her use of incorrect values in her vertical foreclosure model. Once correct values are used, Dr. Marx's own model implies that it would not be profitable for Comcast to drop Bloomberg. • The evidence does not support Bloomberg's assertion that Comcast and other integrated MVPDs have historically tended to disadvantage unaffiliated networks through carriage, tier, or channel-neighborhood decisions. Instead, as Drs. Israel and Katz have shown, Comcast is *more* likely than other MVPDs to carry networks competing in the same categories as its own networks (specifically, non-Comcast-affiliated women's and sports networks). • Bloomberg's proposed remedies bear only a tenuous relationship to its asserted harms, and represent an attempt to extract superior and unjustified terms of carriage from Comcast. Bloomberg speculates that, post-transaction, it will be placed in a different "programming neighborhood" than CNBC, but it is *already* in a different "programming neighborhood," a circumstance that arose long before Comcast contemplated any ownership interest in CNBC. Bloomberg	

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	is essentially demanding unjustified equality with CNBC, which is a more successful and established network. • No court or agency has ever found that Comcast engaged in unlawful or anticompetitive discrimination against unaffiliated programmers. • Despite an unambiguous ruling against WealthTV by the FCC's Chief Administrative Law Judge in a program carriage case, WealthTV has repeated claims about its network and Comcast's conduct that have been thoroughly disproved and discredited in an adversarial hearing. • MASN's professed concerns about Comcast's alleged "discriminatory channel placement" are similarly baseless: First, MASN's channel placement was determined when Comcast and MASN reached a carriage agreement in August 2006, and reflected Comcast's accommodation of MASN's desire to be launched immediately. Second, since 2006, in several systems where it has been operationally appropriate to do so, Comcast has initiated channel changes to position MASN adjacent to ESPN, CSN Mid-Atlantic, and other sports networks. Third, on Comcast systems throughout MASN's territory, the HD feeds of MASN and MASN 2 occupy the channel positions adjacent to the HD feeds of CSN and other sports networks. Finally, while MASN is on channel 42 in Comcast's Washington, D.C. lineup, MASN 2 is on channel 5, which is in close proximity to ESPN, CSN Mid-Atlantic, and other sports networks. • Tennis Channel's comments simply restate its claims in its pending carriage dispute with Comcast. It further asks that it no longer be required to prove unlawful discrimination and proposes that, if a complainant is merely in the same, very broad "category" (*e.g.*, "sports") as a Comcast-affiliated network, it should automatically be	

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	deemed to compete with that affiliated network, and Comcast should be required to carry the complainant's network at "at least" the same distribution level as the affiliated network. This proposal is ill-advised and contrary to established precedent.	
The transaction will lead to foreclosure of content to online video distributors. (AOL, Bloomberg, CFA *et al.*, CWA, Dish Network, FACT Coalition, Public Knowledge, WealthTV)	• The combined entity will lack the market power in online video programming content required to implement an online foreclosure strategy. The joint venture would account for only 13.7 percent of national broadcast and basic cable television viewing, and only 12.8 percent of basic cable television viewing. As discussed above, even these modest shares overstate the amount of online video content that the parties will control. • There is no evidence that content created by any single cable programmer is necessary for the viability of an online video distributor; notably, the loss of Comedy Central programs (including *The Daily Show* and *The Colbert Report*, which were among Hulu's most-viewed shows) does not appear to have had a meaningful impact on Hulu's size or growth. • The combined firm would also lack the incentive to attempt to carry out an online content foreclosure strategy for at least two reasons. First, online video is not a substitute for traditional linear MVPD service. Both programmers and consumers view online video as a complement to, rather than as a substitute for, traditional linear MVPD service. In addition, several impediments – technological, pricing-related, and rights-related - make it highly unlikely that online video will become a substitute for MVPD service in the foreseeable future. Second, even assuming that an online video distributor designed to replace traditional linear MVPD service were to emerge, any attempt	• Public Interest Statement at 90-91, 105, 122-123. • Israel/Katz Reply Report ¶¶ 189-220. • Israel/Katz Online Video Report ¶¶ 13, 33, 49-134. • Opposition & Response at 180-189.