

Congress of the United States  
House of Representatives  
Washington, DC 20515

December 21, 2010

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

Dear Chairman Genachowski:

I am writing to you to voice concerns about the proposed merger of Comcast and NBC Universal. The merger of the nation's largest cable distributor and Internet Service Provider with one of the world's largest media and entertainment development companies would result in a combined company with tremendous influence on the content marketplace. If a merger is approved, the Federal Communications Commission should require the new company to not restrict the ability of its competitors, be they cable, satellite, broadcast or internet companies, to deliver content to the listening and viewing public.

In an age where technology offers viewers an array of methods to access content, no company or group of companies should be allowed to leverage its dominance to stifle competition by controlling or restricting access to content. In the absence of protective regulations, the proposed Comcast/NBC entity would severely limit competition. It is alleged that Comcast's contracts with many of its content providers prevent or intimidate their content providers from risk-free partnering with other cable, satellite, broadcast and internet carriers. If true, and these enforceable contract provisions were to remain in place, NBC Universal's proprietary content could be exclusively carried on Comcast's cable television, broadband Internet, and telephone services, at the expense of competition and subscribers who want unbundled access to content, telephone, and Internet services.

These concerns are not abstract ones. Comcast's contracts with its content partners have already hurt competition. One example is an online cable company in my district, ivi, Inc. It has stated its inability to secure distribution rights from certain television channels because Comcast's distribution contracts allow Comcast to unilaterally take those content provider channels off the air or drop them into less desirable carriage tiers if those channels separately agree to distribute their programming over the Internet. Comcast has said it will not enforce these provisions, but that handshake agreement has not been enough for many of Comcast's content partners to commit to distributing their content through other carriers beyond Comcast.

Access to distribute content needs to be equal for all forms of carriage. The Commission must ensure that Comcast can in no way enforce any exclusive rights over content for any alternative delivery partnering a content provider may want to do, no matter what the technical form of delivery is--cable, satellite, broadcast or internet.

In considering these concerns, I am confident that the Commission will fulfill its mandate to offer consumers reliable, meaningful choice in accessing affordable content.

Sincerely,

  
Jim McDermott  
United States Congress