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28 DEC 2010 RCVD

Congress of the United States
House of Representatives
Washington, DC 20515-0535

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December 20, 2010

1919

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

Re: Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses or Transfer Control of Licensees, MB Docket No. 10-56

Dear Chairman Genachowski,

As a Member of the U.S. House of Representatives, I write with further inquiry into the proposed Comcast-NBCU acquisition, and the standards under which the Federal Communications Commission (FCC) determines whether a merger will serve the public interest. According to the Supreme Court and the Commission's precedent, factors considered to be in the public interest include, "a deeply rooted preference for preserving and enhancing competition; promoting a diversity of license holdings, and generally managing the spectrum in the public interest."¹

While Comcast Corporation and NBC Universal (NBCU) have filed a number of memoranda of understanding (MOU) and voluntary diversity commitments they have reached with the African American, Asian American, and Latino communities, many of the proposed conditions appear to be a series of vague goals and nominal gestures – lacking specificity and binding authority on the applicants. I am further alarmed by the fact that Comcast-NBCU has not filed any of these diversity pledges as official amendments to its application. Since the Commission has had difficulty enforcing diversity conditions in previous proceedings (most recently the order requiring Sirius XM channel set asides), I believe it would have been a reasonable good faith gesture for the companies to file these pledges as amendments, signaling their genuine intent that the Commission condition the merger's approval upon the merged entity's fulfillment of these voluntary commitments. Because Comcast-NBC negotiated these diversity pledges as stand-alone agreements, there is no real assurance that the merged entity will honor them.

Although the civic organizations and community leaders who helped forge these agreements likely negotiated in good faith, absent further action by the Commission, I am afraid that these commitments will result in yet another set of broken promises between communities of color and

¹ *FCC v. RCA Communications, Inc.*, 346 US 86, 90 (1953)

large corporations. Even as these groups enter into new MOUs with Comcast-NBCU, earlier this month, the National Latino Media Council proclaimed that all of the networks (including NBC) “pretty well failed Latinos in their progress on diversity practices.” It appears that NBC Universal has not made much progress since signing an earlier MOU² with the civil rights community in 2000, and we have nothing to indicate that these new MOUs will change what has been a steady decline in diversity among all the major broadcast networks. To that end, I remain very concerned about how the Comcast-NBCU merger will further erode the Commission’s capacity to promote diverse, independent, and competing sources of information³. Therefore, as a matter of guidance for the public and Members of Congress, I urge the Commission to clearly define ‘diversity’ and the types of public interest conditions that promote “diversity of license holdings and broadcast viewpoints.” If the Commission ultimately approves the Comcast-NBCU merger, it must be conditioned upon substantive and enforceable commitments that are in conformity with the agency’s statutory standards and goals⁴.

Since the Comcast-NBCU merger was announced last year, I have participated in the Commission’s public proceeding as well as several congressional committee hearings. I have repeatedly encouraged the companies to use this unprecedented merger as a vehicle to advance credible opportunities for minorities and women in media ownership, programming, management, and advertising. Yet, at every turn, the companies have sought to proceed through the regulatory review process without having to diverge too far from their contemplated post-merger plans. For example, upon being asked by *Multichannel News* how Comcast and NBCU felt about the public interests commitments and conditions they have presented in efforts to gain federal agency approval, two key executives from within the corporations (speaking under anonymity) replied: “It was easy for us to agree [to the commitments] because it was just a way for us to make them feel better about the transaction without us giving up anything in terms of our contemplated operation of the combined Comcast-NBCU.”

Indeed, as various stakeholders and civil rights organizations have taken an interest in the merger, Comcast and NBCU have made haphazard attempts to address their diversity concerns through memoranda of understanding and other diversity proposals. However, due to the FCC’s lack of clarity on diversity, many participants within this proceeding have conflated media diversity with

² *Television Networks Fail Latinos in Diversity*, *Hispanically Speaking News*, December 3, 2010 (<http://www.hispanicallyspeakingnews.com/notitas-de-noticias/details/television-network-fail-latinos-in-diversity/3316/>). In 1999 - 2000, the Multi-Ethnic Media Coalition, a group comprised of the National Latino Media Council, the National Asian/Pacific American Media Coalition, the NAACP and the American Indians in Film and Television, signed Memoranda of Understanding with the four major television networks, ABC, CBS, FOX and NBC.

³ See *In the Matter of Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Business*, Report (<http://www.fcc.gov/Bureaus/OCBO/fcc00279.html>). The FCC has said that it is committed “to implement the spirit and mandate of Section 257 of the Communications Act to promote policies ‘favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.’”

⁴ See, e.g., *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 663 (1994) quoting *United States v. Midwest Video Corp.*, 406 U.S. 649, 668 n.27 (1972). Specifically, under the Public Interest Test, the FCC considers whether the transaction is consistent with the Commission’s policies to advance diversity. It has long been a basic tenet of national communications policy that “the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.”

charitable giving and investments in new Comcast subsidiaries. While charitable gifts serve a critical social utility, they are not a proper gauge for whether a corporation is fulfilling its commitment to the public interest, as is statutorily required of FCC license-holders. In any case, many of the provisions within these proposals are unenforceable, and recent reports of Comcast's alleged anticompetitive business conduct do little to instill confidence in their intent to fulfill these diversity commitments as filed with the Commission.

In fact, as Comcast-NBCU continues to laud its commitment to launch ten independent channels over eight years as a landmark concession (without going into detail about carriage and placement), the Commission continues to receive program access and carriage complaints from larger and more established networks and companies. I hardly believe Comcast will abruptly decide to negotiate in good faith with smaller and/or new independent channels, when networks such as the NFL Network, Wealth TV, and the Tennis Channel have had carriage complaints against the company.

Moreover, while the companies continue to commit to "improve" diversity in executive management, when incoming NBCU Chief Operating Officer Stephen Burke announced the new executive leadership on November 18th, there were no minorities announced to oversee any of Comcast-NBCU's cable, motion picture, or Internet properties. Notwithstanding the announcement's impropriety, this could have been an opportunity for Comcast to signal to the African American, Asian American, and Latino communities its expressed commitment to promote qualified minorities to high-level executive and management positions. Of the 30 new executives (some pulled from the current NBCU team) announced in the *Los Angeles Times* article⁵, there was only one African American listed (NBCU's current diversity officer will retain her position). Altogether, only four of the new Comcast-NBCU executives listed in the article are minorities. However, none of these individuals are on tap to lead the merged entity's massive cable, content, and programming operations.

During the congressional hearings on the merger, many individuals from within the creative arts community have stressed the importance of having diversity in these executive positions as they have the potential to extend opportunities to a diverse pool of writers, directors, actors, producers, and programmers. While the regulatory agencies are not in place to micromanage corporate hiring practices, the FCC is charged with promulgating policies that promote diversity of broadcast viewpoints and responsible spectrum allocation. In this regard, it is within the Commission's jurisdiction to consider whether a company's current practices further or impede those goals in analyzing the potential harm the Comcast-NBCU merger may have on the public interest. It has long been a basic tenet of national communications policy that "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public."⁶

Therefore, in addition to clarifying its definition of 'diversity', I strongly urge the Commission and the Department of Justice (DOJ) to consider public interest proposals advanced by the FCC Advisory Committee on Diversity for Communications in the Digital Age as a framework for substantive and enforceable diversity conditions. For example, the *S-License Proposal* would

⁵ Meg James, *Comcast Unveils Management Team for NBC Universal*, *Los Angeles Times* (2010).

⁶ See, e.g., *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 663 (1994) quoting *United States v. Midwest Video Corp.*, 406 U.S. 649, 668 n.27 (1972).

promote greater media ownership diversity⁷, furthering the Commission's goal to ensure efficient spectrum use and diversity in the media. This proposal would allow Comcast-NBCU to sublease or otherwise permit full-time or part-time use of portions of its multiplexed program feeds for the transmission of programming by unaffiliated entities which would be separately licensed by the Commission under its own share-time rule⁸. In voluntarily committing to this proposal, Comcast-NBCU could narrowly tailor the program to new market entrants, serving local multicultural and multilingual audiences, or simply limit the program to socially and economically disadvantaged businesses⁹. This proposal would afford diverse entrepreneurs the opportunity to enter the market in a way that closely resembles traditional broadcast ownership, and it is more substantive than Comcast-NBCU's current commitments to employ minorities in subordinate positions and create additional Comcast subsidiaries.

I commend the Justice Department and the FCC for its extensive review and ask that you take the necessary amount of time to consider the voluminous record of unprecedented public and congressional participation. I also recommend that the Commission encourage the applicants to file the MOUs they have reached with civic and professional organizations as amendments to their application. If the Commission and DOJ approve this merger, the public will heavily rely on your conditioning this acquisition upon substantive conditions that mitigate the potential harm many believe this merger will cause to our nation's media landscape. I look forward to your responses to the questions outlined above and urge you to closely examine the very serious public interest concerns that I and other Members of Congress have raised in previous correspondence. I respectfully request that you include this letter in the record, as well as the attached transcripts from the congressional hearings on the Comcast-NBCU merger and a report prepared by my office on the companies' cable and content properties. If you have any further questions, please contact Twaun Samuel, of my staff, at 202-225-2201 or via email at Twaun.Samuel@mail.house.gov.

Sincerely,



Maxine Waters
Member of Congress

cc: Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell Baker

⁷ Section 309(j) of the Communications Act of 1934 reflects the directive of Congress that the FCC further opportunities in the auction of licenses to provide spectrum-based services for small businesses and businesses owned by women and minorities.

⁸ 47 C.F.R. §73.1715

⁹ Section 257 of the Communications Act of 1934 (added as part of the Telecommunications Act of 1996) mandates that the FCC identify and eliminate market entry barriers for small telecommunications businesses.

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MEMORANDUM

TO: Members of the House Committee on the Judiciary

FROM: John Conyers, Jr.
Chairman

RE: Hearing on Competition in the Media and Entertainment Distribution Market

DATE: September 21, 2010

On Thursday, February 25, 2010, the Committee on the Judiciary held a hearing on "Competition in the Media and Entertainment Distribution Market." To ensure stenographer accuracy, please find a **verbatim** transcript of the hearing attached for your review. The Judiciary Committee's Rule III (e) pertaining to the printing of transcripts is as follows:

*The transcripts...shall be published in **verbatim form**, with the material requested for the record...as appropriate. Any requests to correct any errors, other than transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted.*

Please return the transcript edits to the Committee by October 12, 2010, to the attention of: ~~Richard Goetzl~~ at 2138 Rayburn House Office Building, Washington, DC, 20515. If you have any further questions or concerns, please contact ~~Mr. Goetzl at (202) 225-3951~~.

2402 provides vertical leverage that will affect all markets, both
2403 the content market and the distribution markets in which one
2404 or the other of the entities owns properties.

2405 Mr. COBLE. Thank you, sir. And in conclusion,
2406 Professor Hazlett, let me put this question to you, if I may.
2407 Do you have a position on whether this deal may present
2408 antitrust concerns, in particular geographic markets, A?

2409 And, B, in particular, I am thinking of circumstances
2410 where Comcast owns a regional sports network and NBC owns and
2411 operates a broadcast station. Does this present, in your
2412 opinion, any competition problems from your perspective?

2413 Mr. HAZLETT. No, I don't think it does. There are
2414 issues about access to programming that predate the merger
2415 and are ongoing, will be of interest after the merger, but
2416 the merger itself does not increase market power in any given
2417 market where that is an issue.

2418 Mr. COBLE. Thank you all again for being here. Mr.
2419 Chairman, thank you. And do I get credit for 5 minutes?

2420 Chairman CONYERS. As always.

2421 Mr. COBLE. With your cooperation. Thank you, Mr.
2422 Chairman.

2423 Chairman CONYERS. Maxine Waters?

2424 Ms. WATERS. Thank you very much, Mr. Chairman. This
2425 hearing has certainly been informational and educational, and
2426 I have learned a lot just listening to the questions and the

2427 | answers over the last half-hour so that I have been sitting
2428 | here. And I think I understand very well what has been
2429 | stated about the desire to go forward with this merger and
2430 | what does it mean to each of the companies.

2431 | But I also understand from those who are opposed to this
2432 | merger, who have questions about this merger why they have
2433 | those questions.

2434 | There are several areas of interest. The first for me
2435 | has to do with diversity. And I have been listening to the
2436 | commitments to diversity, but when I look at the boards of
2437 | directors of both Comcast and NBC, I have questions.

2438 | For example, is it possible, Mr. Roberts, that there are
2439 | no women on the board of directors of Comcast?

2440 | Mr. ROBERTS. No, that is not true. Dr. Judith Rodin of
2441 | the Rockefeller Foundation is on the board.

2442 | Ms. WATERS. How many people do you--how many directors
2443 | do you have?

2444 | Mr. ROBERTS. Like 12, I believe.

2445 | Ms. WATERS. I noted 11. That is on the Internet.

2446 | Mr. ROBERTS. Let me--

2447 | Ms. WATERS. Did she just come on?

2448 | Mr. ROBERTS. No.

2449 | Ms. WATERS. Is it a recent--why would her name not
2450 | appear on the Internet on your board of directors?

2451 | Mr. ROBERTS. I believe it does. If it doesn't, I will

2452 | check that today. She has been on the board for more than 5
2453 | years and has been on the board ever since the AT&T broadband
2454 | merger.

2455 | Ms. WATERS. Okay. So you have 12 directors, you have
2456 | one woman, and one African-American, Mr. Bacon?

2457 | Mr. ROBERTS. We have Mr. Bacon on the board. That is
2458 | correct.

2459 | Ms. WATERS. And any Latinos or Latinas?

2460 | Mr. ROBERTS. We do not, I think, at this time, but the
2461 | governance committee of the board has stated that increasing
2462 | the diversity on the board is one of its top priorities and
2463 | we are--that is an area that we would like to improve, as
2464 | well as additional diversity on the board.

2465 | Ms. WATERS. I think that is very important, because
2466 | when you are judged about your sincerity about diversity, it
2467 | really starts at the top. And when you look at the board of
2468 | directors of any organization, it tells you a lot about who
2469 | they are and what they are trying to do.

2470 | Let's take a look at NBC. We are very pleased about
2471 | Paula Madison. She is kind of a twofer. She is a woman, and
2472 | she is black, and she is connected to the community, and we
2473 | are very appreciative for being able to talk openly and
2474 | candidly with her about our concerns.

2475 | And I guess you have one other woman, Lynn Calpeter. Is
2476 | that correct? Or do you have another woman?

2477 Mr. ZUCKER. Within our executive--within the top
2478 executive ranks at NBC Universal, other than Paula, our CFO,
2479 Lynn Calpeter, is female.

2480 Ms. WATERS. I just want to deal with the board first
2481 before we go to the other offices.

2482 Mr. ZUCKER. On the board of NBC Universal.

2483 Ms. WATERS. With the board.

2484 Mr. ZUCKER. Yes, ma'am.

2485 Ms. WATERS. So you have Paula Madison, one woman, one
2486 black. Any other women? Any other blacks?

2487 Mr. ZUCKER. Lynn Calpeter, Bonnie Hammer also--Bonnie
2488 Hammer, who is the president of USA and Syfy, is also on the
2489 board of NBC Universal. I believe there is--

2490 Ms. WATERS. Bonnie Hammer?

2491 Mr. ZUCKER. Bonnie Hammer.

2492 Ms. WATERS. Not listed on the Internet. You have 19
2493 members on the board or 20?

2494 Mr. ZUCKER. I don't think that is the board of NBC
2495 Universal.

2496 Ms. WATERS. Oh, it is not?

2497 Mr. ZUCKER. Yes, I think you may be looking--I am not
2498 sure what you are looking at.

2499 Ms. WATERS. I am looking at the board where Jay
2500 Ireland, Jeff Zucker, Michael Bass, Lynn Calpeter, Steve
2501 Capus, Marc Chini, Rick Cotton, Dick Ebersol, John Eck, Jeff

2502 Gaspin, Allison Gollust, Mark Hoffman, Paula Madison, Salil
2503 Mehta, Ron Meyer, Richard Pilot, Cory Shields, Peter Smith
2504 and John Wallace. Is that not the NBC Universal board?

2505 Mr. ZUCKER. Those are the executive--I think that would
2506 be the executives of NBC Universal, the top executives of NBC
2507 Universal.

2508 Ms. WATERS. Paula Madison is on the board though,
2509 right?

2510 Mr. ZUCKER. She is one of the top executives of NBC
2511 Universal.

2512 Ms. WATERS. But she is on the board?

2513 VOICE. They don't have a board.

2514 Ms. WATERS. Is she on the board?

2515 Mr. ZUCKER. That is the directors' board, yes, yes.

2516 Ms. WATERS. So is there something different than what I
2517 just read that is the board of directors? Or is it one and
2518 the same, your top executives make up the board, plus others?
2519 How does it work?

2520 Mr. ZUCKER. NBC Universal is not a public company, so
2521 we have a--so we have a legal entity that lists all the top
2522 executives, which I think is what you are reading from.

2523 Ms. WATERS. I see. Okay.

2524 Mr. ZUCKER. So we are not a public board, and I think
2525 that is--

2526 Ms. WATERS. So this basically is the make-up of the top

2527 executives who kind of serve in a board capacity, but not
2528 legally constructed as a board?

2529 Mr. ZUCKER. That is an accurate way to look at it.

2530 Yes, ma'am.

2531 Ms. WATERS. So you have two women, is that right, or
2532 three women? How many in this 19 that I have counted? Or is
2533 it just Paula by herself?

2534 Mr. ZUCKER. Well, I think it is--Paula Madison is on
2535 there. I think Lynn Calpeter is on there. I think Bonnie
2536 Hammer is on there. I think Allison Gollust is on there.

2537 Ms. WATERS. I don't see Bonnie--what is her title?

2538 Mr. ZUCKER. Bonnie Hammer is the president of USA and
2539 Syfy networks.

2540 Ms. WATERS. And are there any more African-Americans on
2541 the board, in this executive make-up?

2542 Mr. ZUCKER. In that executive make-up, no.

2543 Ms. WATERS. Okay. Any Latinos?

2544 Mr. ZUCKER. On that board, no.

2545 Ms. WATERS. Okay. So you have got some work to do,
2546 too, right?

2547 Mr. ZUCKER. As I said before, this has been one of my
2548 key strategic priorities that I put in place when I came into
2549 this role 3 years ago. I feel we have made progress. There
2550 is no question that there is more progress to be made.

2551 Ms. WATERS. Let's talk a little bit about programming.

2552 And I don't know what I am referring to in terms of this
2553 season or next season, but I am told that there is no black
2554 programming, you have no more black programming. Is that
2555 correct?

2556 Mr. ZUCKER. Are you talking about NBC right now?

2557 Ms. WATERS. Yes.

2558 Mr. ZUCKER. Yes, on NBC? There is not a program on NBC
2559 that has an African-American-central theme to it, that is
2560 correct.

2561 Ms. WATERS. Why not?

2562 Mr. ZUCKER. I think we are always looking to--you know,
2563 diversity is incredibly important in all of our casting and
2564 in all of our themes. We are looking for programming that
2565 covers that--you know, that covers both the diverse casting
2566 and diverse programming.

2567 With regard to African-Americans, we haven't found that
2568 program at this time. As was referenced, obviously, we have
2569 been--we were at the forefront of that, when you go way back
2570 into the history of NBC, when you go into the more recent
2571 history of NBC.

2572 Ms. WATERS. That was then, and now is now.

2573 Mr. ZUCKER. Yes, today we don't have that program on
2574 the air.

2575 Ms. WATERS. So, Ms. Prewitt, do you think that they
2576 could get some help from individual filmmakers to help them

2577 | with a little diversity so that they would not be sitting
2578 | here in 2010 with no black programming?

2579 | Ms. PREWITT. I think they could absolutely get some
2580 | help. And the day they say, "Go," I will have members who
2581 | are prepared to start filling those slots.

2582 | Ms. WATERS. But he just said, "Go." He is looking. He
2583 | really wants to.

2584 | Ms. PREWITT. Indeed. Indeed. Well, I will pick up the
2585 | phone and call my board meeting, which is convening now, to
2586 | tell them to get started.

2587 | Thank you.

2588 | Ms. WATERS. And so, Ms. Prewitt, are we talking about
2589 | them working with independent developers to--independent
2590 | filmmakers to help develop new shows? How do they get this
2591 | done? He has forgotten how to do it.

2592 | Ms. PREWITT. There are two issues.

2593 | Ms. WATERS. They used to do it a long time ago--

2594 | Ms. PREWITT. Well, they used to do it. And one looming
2595 | issue here is, who at the end of the day owns that show?
2596 | There are a number of people who may well be prepared to come
2597 | in and work with the network and have been invited to work
2598 | with the network and then turn the ownership of that show
2599 | over to the network.

2600 | The independents with whom we work wish to retain the
2601 | rights to their shows. They want to be in control of where

2602 | those shows are exploited after the initial network or cable
2603 | run.

2604 | So on that basis, people are perfectly happy to work
2605 | with the network, but the network has to be prepared to sit
2606 | on its hands as they try to grab all worldwide Internet
2607 | rights or things of that nature.

2608 | And if you look back in the--you know, the early days,
2609 | what we think of as the great days, the Bill Cosby days, what
2610 | you will find there is that that programming traveled
2611 | worldwide because the back-end rights were left with the
2612 | creator. And that is part of what we think the process is of
2613 | forcing the creator to take risk, along with the network, to
2614 | really define programming that matters. And on that basis,
2615 | there certainly is a wide community that would be happy to
2616 | work with them.

2617 | Thank you.

2618 | Ms. WATERS. Let me ask what I guess is a business
2619 | question. Is there some assumption that black programming is
2620 | not profitable? Is that why you don't have it?

2621 | Mr. ZUCKER. Not at all.

2622 | Ms. WATERS. Well, if it is profitable, don't you want
2623 | to make money?

2624 | Mr. ZUCKER. Yes, we do.

2625 | Ms. WATERS. Well, how could you not pursue those
2626 | efforts that would help to make you profitable, more

2627 | profitable? Tyler Perry does very well with black stage,
2628 | black screen, and we just love it. We love seeing ourselves
2629 | on television and in the movies.

2630 | And I think that it would be credible to argue that
2631 | black viewers deserve the kind of content that they feel good
2632 | about and that they are watching television and should have
2633 | access to this kind of programming. I don't understand why
2634 | you don't pursue it and why you don't do it.

2635 | Mr. ZUCKER. When I mentioned before that diversity was
2636 | one of my key strategic priorities for the company, we didn't
2637 | make diversity a strategic priority for the company just
2638 | because--only because it was the right thing to do. We also
2639 | made it a strategic priority because it is good business, as
2640 | well. And so I agree with what you are saying.

2641 | The fact is, we need the best programs we can find, no
2642 | matter who is the lead characters in them. The fact is, we
2643 | haven't done a very good job of finding programs at NBC
2644 | recently, and so that is on us. We need the best programs
2645 | wherever they come from, whoever stars in them, whatever
2646 | their themes are, and we need to continue to do that.

2647 | Ms. WATERS. Well, I know that you are pretty, you know,
2648 | important in this country--I mean, in this company, but do
2649 | you know Bill Duke and others who are producers of good black
2650 | programming?

2651 | Mr. ZUCKER. Well, I have--I am not involved in taking

2652 | those pitches and, obviously, hearing those ideas, but I can
2653 | assure you that we have increased our funding for diverse
2654 | scripts and diverse ideas dramatically, especially with the
2655 | help of Paula in recent years, the amount of attention that
2656 | is paid to this.

2657 | The amount of resources that are attendant to looking
2658 | for diverse themes, diverse programs and diverse scripts has
2659 | magnified dramatically in the last 2 years.

2660 | Ms. WATERS. But it has not resulted in black
2661 | programming. You don't have any.

2662 | Mr. ZUCKER. It doesn't necessarily happen immediately,
2663 | and I think what we have done and what I am proud of is the
2664 | fact that we are attuned to it, the fact that we are putting
2665 | money where our mouths are, and we are looking for that.
2666 | Whether we have had success yet or not, which we--as you have
2667 | pointed out, we don't have any of those programs on the air
2668 | today. We are--

2669 | Ms. WATERS. How long do you think it will take?

2670 | Mr. ZUCKER. I wouldn't want to put a timeline on it.
2671 | We are looking for the best programs no matter where they
2672 | come from, and we have added dramatic resources to help us
2673 | find those.

2674 | Ms. WATERS. How do you determine whether or not it is a
2675 | good program? Do you have a committee that reviews--

2676 | Mr. ZUCKER. Well, there is a team, obviously, that

2677 | picks the programs. And diversity, including diverse casting
2678 | and themes, is a significant part of what they are looking--

2679 | Ms. WATERS. So you have a team of diverse people that
2680 | includes African-Americans and Latinos and women that review
2681 | these products that are submitted to you? Is that how it
2682 | works?

2683 | Mr. ZUCKER. Yes, ma'am.

2684 | Ms. WATERS. And what are the blacks on your team saying
2685 | about the inability to find black programming? What do they
2686 | say, if you have some who actually look at this stuff?

2687 | Mr. ZUCKER. Yes, we do.

2688 | Ms. WATERS. What do they say, "not good enough"?

2689 | Mr. ZUCKER. I think we haven't found that program yet.

2690 | Ms. WATERS. Well, let me just say that it is very
2691 | difficult to accept that you cannot find the kind of program
2692 | that I am talking about. And it is unacceptable to say that
2693 | you don't know--you have no goals. You don't know when it
2694 | could happen. It may happen. It may not happen. I don't
2695 | think that black viewers would like to hear that kind of an
2696 | answer.

2697 | And I think you can do better. And it is not all on
2698 | Paula Madison. It is good to be able to, you know, deflect
2699 | when you are getting this kind of question, and I am not
2700 | doing it to be in a "gotcha" moment. I am doing it because I
2701 | am trying to be as open and honest as I can be about your

2702 black viewers.

2703 Many of us are searching, looking for black programming
2704 and having to enjoy shows that are very old, that is
2705 repeated, because we can't find any new programming that
2706 reflects us. And we think that is very important, if you are
2707 committed to diversity.

2708 And I think that all of the ethnic groups who are
2709 viewers and who are watching television--otherwise, we don't
2710 have a dog in this kind of fight. I don't know why we should
2711 care whether or not you are successful if we are not
2712 represented. I just don't know why we should be concerned.

2713 First of all, you have got a diversity problem, you have
2714 got a labor problem, and you have got an ownership problem.
2715 There is no ownership in this merger by anybody of color, any
2716 minorities. Labor's not happy with what you are doing. We
2717 think we are going to lose jobs.

2718 So I just don't--I just don't know why I should be
2719 supportive of your merger. I don't know what it does for the
2720 people, some of the people that I represent, et cetera, et
2721 cetera.

2722 So I want to kind of just make that--put that on your
2723 radar screen so that you will actually realize some success
2724 in the area that you are working so hard in. And if you need
2725 additional help, I will just call all my friends that I know
2726 in the industry. And I will get Bill Duke and all the

2727 producers that I know, and I will set up a meeting with you
2728 to make sure you have reviewed their products, that they have
2729 been submitted, take a look at your review committee that is
2730 supposed to be diverse, and see if we can't get this done.

2731 Thank you very much, Mr. Chairman. I yield back the
2732 balance of my time.

2733 Chairman CONYERS. We have a vote on. We will be in
2734 recess for this one vote which has been on. That was the
2735 second bell that rang. And we will resume shortly. Thank
2736 you.

2737 [Recess.]

2738 Chairman CONYERS. The committee will come to order.
2739 Chair recognizes Dan Lungren.

2740 Mr. LUNGREN. Thank you very much, Mr. Chairman.

2741 And I thank the witnesses for being here. As you can
2742 see, we split our duties in a day, and I have been on the
2743 floor and other things, so I haven't heard all the testimony.
2744 I think I have the gist of it, but I would like to ask a few
2745 questions.

2746 I thought it was interesting, and I think it is a
2747 serious discussion on diversity. I am almost tempted to ask
2748 about diversity of opinion, but that would suggest that I
2749 think that networks are biased, and I wouldn't suggest that
2750 at all.

2751 I do want to make sure that, no matter what you do, I

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ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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MEMORANDUM

TO: Members of the House Committee on the Judiciary

FROM: John Conyers, Jr.
Chairman

RE: Field Hearing on the Proposed Combination of Comcast and NBC-Universal

DATE: June 25, 2010

On Monday, June 7, 2010, the Committee on the Judiciary held a hearing on the proposed combination of Comcast and NBC-Universal. To ensure stenographer accuracy, please find a **verbatim** transcript of the hearing attached for your review. The Judiciary Committee's Rule III (e) pertaining to the printing of transcripts is as follows:

*The transcripts...shall be published in **verbatim form**, with the material requested for the record...as appropriate. Any requests to correct any errors, other than transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted.*

Please return the transcript edits to the Committee by July 30, 2010, to the attention of: [REDACTED] House Office Building, Washington, DC, 20515. If you have any further questions or concerns, please contact [REDACTED].

139 STATEMENT OF THE HON. MAXINE WATERS, A REPRESENTATIVE IN
140 CONGRESS FROM THE STATE OF CALIFORNIA

141 Ms. WATERS. Thank you very much, Mr. Chairman.

142 I appreciate your comments about how long we've known
143 each other. I am 100 years old and you are 125, so--

144 [Laughter.]

145 Mr. Chairman, I want to thank you for agreeing to
146 organize this field hearing on Comcast-NBC merger. I am very
147 pleased to welcome you and my colleagues to Los Angeles as we
148 do our due diligence to further investigate and understand
149 the implications of this massive merger, and what it could
150 have on our already heavily-consolidated media market.

151 Over the past couple of months, I have been active in
152 advocating for transparency and an open process in the
153 Federal Communications Commission's review of this merger.

154 I have been very pleased with the FCC's leadership in
155 response to our calls for an extension of the initial comment
156 period and public hearings.

157 Similarly, I hope the Department of Justice is
158 conducting a labor-intensive review, considering the impact
159 this merger stands to have on competition and consumers.

160 While I am not opposed to this merger, necessarily, I
161 have long maintained that the Comcast-NBC merger raises
162 serious questions and should not be rushed through an

163 expedited review process.

164 I also want to thank our witnesses for agreeing to
165 testify today. As some will note, there are a few people who
166 are missing from the panel, who were previously scheduled to
167 attend. It is somewhat troublesome, that many independent and
168 minority programmers, producers, writers, and directors, have
169 been afraid to voice their concerns for fear of blacklisting,
170 or other forms of retaliation within their industries.

171 Indeed, due to the deregulation, and federal agencies
172 rubberstamped approval of media mergers today, only five
173 companies own the major broadcast networks. Ninety percent of
174 the top 50 cable networks produce three-quarters of all
175 primetime programming, and control 70 percent of the
176 primetime television market share.

177 In 2007, minorities owned just 3.2 percent of the U.S.
178 television stations, and 7 percent of the nation's
179 full-powered radio stations, despite comprising more than 34
180 percent of the population. Today, Comcast Corporation has
181 acquired massive reach and influence on its path to becoming
182 the nation's largest cable company, whose first quarter
183 profits this year reached \$9.2 billion.

184 In 2008, the company collected over \$40.3 billion in
185 revenue. Comcast owns cable franchises in 39 states. It has
186 23.9 million customers, 15.3 million high-speed Internet
187 customers, and 7 million voice customers.

188 Under the merger agreement, Comcast Corporation stands
189 to gain majority ownership and control of NBC Universal's two
190 broadcast television networks, NBC and Telemundo, its 26
191 local owned-and-operated broadcast television stations,
192 several national cable programming networks, a motion picture
193 studio, an international theme park business, and NBC's
194 online content business.

195 While both the FCC and DOJ have the statutory authority
196 to review media mergers under our federal antitrust laws, the
197 FCC's process allows for a more comprehensive public interest
198 analysis.

199 Factors considered to be in the public interest may
200 include a deeply rooted preference for preserving and
201 enhancing competition, accelerating private deployment of
202 advanced services, promoting diversity of license holdings.
203 Let me say that again. Diversity of license holdings, and
204 generally managing the spectrum in the public interest.

205 The FCC's process incorporates the antitrust concerns
206 that the DOJ must follow. Under the Clayton Act, the DOJ
207 will evaluate whether the merger will substantially lessen
208 competition or create a monopoly. Accordingly, Comcast has
209 advanced various public interest commitment, pledging its
210 dedication to preserve competition and improve minorities,
211 and underserved populations, in all aspects of media
212 programming, production and distribution.

213 As I understand today, both Comcast and NBC have
214 released a joint statement outlining their plans for
215 corporate diversity and inclusion. While this may be a
216 positive first step, I am anxious to learn more about the
217 proposed plan and how it proposes to meaningfully involve and
218 create opportunities for women and minorities in executive
219 leadership, management, advertising and programming.

220 Therefore, Mr. Chairman, I look forward to hearing from
221 our panel of witnesses, so that they can help this committee
222 understand the scope of this merger. Their diverse views and
223 perspectives will shed light on the type of considerations
224 the DOJ must take into account while reviewing this merger.

225 It is my hope that the parties to this merger can find
226 ways to mitigate the potential harm this deal could have on
227 customers, competition, and minority communities' access to
228 quality and affordable broadband service.

229 Mr. Chairman, let me just close by saying this has been
230 an interesting experience. In opening up and expanding the
231 comment period, and calling for public hearings, we have been
232 deluged with nonprofit organizations, churches, civil rights
233 organizations, all talking about their donations from
234 Comcast.

235 And while we take this opportunity to say to Comcast, we
236 appreciate the donations to the nonprofit organizations, that
237 has nothing to do with this competition and ownership that we

238 | are talking about today. So they should continue to give the
239 | 50 cents to the Boy Scouts. But we are talking about
240 | competition and ownership.

241 | So if there is anybody here today who want to talk about
242 | how much money you have given to the NAACP, the Urban League,
243 | to Al Sharpton, to anybody else, this is not the place to do
244 | it. Thank you very much.

245 | [The statement of Ms. Waters follows:]

246 | ***** INSERT *****

1303 STATEMENT OF ALLEN HAMMOND

1304 Mr. HAMMOND. Thank you. Thank you, Mr. Chairman,
1305 Congresswoman Waters, and distinguished committee members. I
1306 am going to talk, very briefly, about this merger. As you
1307 know, the FCC is considering the merger of Comcast and NBC,
1308 and I think there are potential dangers for minority
1309 ownership. I would like to identify those.

1310 Studies have shown that minority ownership of broadcast
1311 stations has enhanced diversity of news and public affairs
1312 programming provided to ethnic, minority and majority
1313 communities. Despite this fact, the FCC--

1314 Ms. WATERS. Excuse me. Would you pull the microphone a
1315 little bit closer.

1316 Mr. HAMMOND. A little closer.

1317 Ms. WATERS. And speak a little bit louder. Yes.

1318 Mr. HAMMOND. Thank you. I am sorry about that.

1319 Despite this fact, the FCC has too often failed to take
1320 this valuable contribution into account when formulating its
1321 multiple and cross-ownership policies.

1322 For instance, the Third Circuit Court, in issuing its
1323 stay of the commission's ownership rules, in its decision,
1324 Prometheus Radio Project v. FCC, recognized that the
1325 commission had failed to account for the impact of its
1326 policies on minority ownership.

1452 Ms. WATERS. Mr. Chairman, before you move to the next
1453 witness, we have Mr. Mike Davis, assemblyman, that is in the
1454 audience today, and I want to make sure I announce the
1455 correct caucus that you are chairing. It is the Entertainment
1456 and Sports Caucus of the California state assembly. Welcome,
1457 Mr. Davis. We are in your district. Thank you.

1458 Chairman CONYERS. Our next witness is the Emmy award
1459 winning television producer Alex Nogales, who is president of
1460 the National Hispanic Media Coalition and has been tireless
1461 in promoting and advocating on behalf of the
1462 under-represented voices in the industry. Welcome.

1904 Ms. WATERS. I would like to thank the chairman for
1905 giving me the opportunity to introduce a woman I greatly
1906 admire. Ms. Suzanne de Passe, the CEO of the de Passe Jones
1907 Entertainment, and the first female African American to be
1908 nominated for an Academy Award for screen writing. Ms. de
1909 Passe was a force that signed, developed, and coached the
1910 Jackson Five, among other leading Motown recording artists.

1911 She was also the executive producer for various
1912 ministries, including Lonesome Dove, Buffalo Girls, Streets
1913 of Laredo, and Dead Man's Walk. Ms. de Passe's production of
1914 Motown 25, and Motown Returns To The Apollo, both won her
1915 Emmy awards. Additionally, in 1990, Ms. de Passe was
1916 inducted into the Black Film Makers Hall of Fame.

1917 Additionally, Ms. de Passe and her partner, Madison
1918 Jones, are producing a feature length film on Dr. Martin
1919 Luther King with Dreamworks and Steven Spielberg. I wish I
1920 could go into all of her credits. I cannot possibly do that.
1921 We don't have enough time. Let me just conclude by saying she
1922 is one of the most respected, the most honored, in this
1923 business, and we are so delighted that she joins us today
1924 with testimony. Welcome, Suzanne de Passe.

2636 | hear the different responses. I appreciate your patience.

2637 | Chairman CONYERS. Thank you. I want to turn, now, to our
2638 | marvelous host, Maxine Waters. Give her a round of applause,
2639 | please.

2640 | [Applause.]

2641 | Ms. WATERS. Thank you, Mr. Chairman. Before I get
2642 | started, let me thank Mr. Gohmert for being here. I would
2643 | also like to thank you for the way that you have come with an
2644 | open mind, raising relevant questions, and not assuming
2645 | anything but trying to get answers. And why do I do this?

2646 | Mr. Gohmert is from the opposite side of the aisle and
2647 | we find ourselves in quite different positions.

2648 | Philosophically, we often come from different places. Mr.
2649 | Gohmert does not always, most of the time doesn't even agree
2650 | with the chairman. He is very articulate. He is extremely
2651 | bright, well-read, with a lot of experience, and for him to
2652 | come here, in this manner today, really does speak to the
2653 | need to understand this merger and what it is all about.
2654 | Thank you. Give him a big round of applause.

2655 | [Applause.]

2656 | Ms. WATERS. And I would certainly like to thank the
2657 | chairman. You know, John Conyers is an international icon. He
2658 | talked about how long we have known each other. But this is a
2659 | man whose life has been dedicated to civil rights and social
2660 | justice.

2661 This is a man who has put himself on the line for all of
2662 the major issues relative to not only this kind of merger,
2663 and dealing with FCC, but he is constantly dealing with
2664 issues in the Justice Department. He is constantly dealing
2665 with issues about intellectual property. He is constantly
2666 dealing with the tough issues of our time, and he talks about
2667 applauding me.

2668 This man should have a standing ovation for the work
2669 that he has done over the years, and I am going to stand.

2670 [Applause.]

2671 Chairman CONYERS. The check is in the mail.

2672 Ms. WATERS. Now I want you to know that what we are
2673 doing today is not normally how we do these hearings in
2674 Washington, D.C., but because the chairman is in charge, he
2675 gets to do what he thinks needs to be done.

2676 The kind of interaction that you just heard, the back
2677 and forth conversations, you don't get this in Washington,
2678 D.C. I am so pleased about this. I was enjoying, so much, the
2679 exchange, that I wanted it to go on even longer but I guess
2680 we can't be here all day. But thank you, Mr. Chairman, for
2681 your generosity.

2682 Let me start with a little bit of background. Let me
2683 just say to Ms. Madison and others in the room, you are in a
2684 complex in what is viewed as South Los Angeles. This is a
2685 complex that I know an awful lot about because I served in

2686 | the California state legislature with what is known as
2687 | Subcommittee 4. There have been attempts to dismantle this
2688 | complex. They wanted to turn the famous rose garden into a
2689 | parking lot. They wanted to get rid of all of the minority
2690 | security guards when the Olympics was here in Los Angeles,
2691 | and they wanted to choke this existence by denying it the
2692 | resources and the funds that were needed.

2693 | Because I was chair of Sub 4, this was in my
2694 | jurisdiction, I didn't let any of that happen. We fought
2695 | them--

2696 | [Applause.]

2697 | Ms. WATERS. --and under my direction, we started the
2698 | reorganizing and the revamping of this entire complex. It is
2699 | such an important complex, in the middle of this community,
2700 | where our school children come, where we have the opportunity
2701 | to have open space and events, and all of that. So we had to
2702 | fight very hard in order to maintain this important complex.

2703 | And I am just delighted that you are here today. Why do
2704 | I give you that background? I give you that background
2705 | because some of us are in the constant struggle for justice
2706 | and equality in everything that we do. Most people don't have
2707 | a clue about what it is we do constantly and what we have
2708 | done in our careers.

2709 | Even today, for this complex, we make sure that Mr.
2710 | Jeffrey Rudolph, when he comes to Washington, D.C., who's run

2711 | this complex for many years, gets access to the earmarks that
2712 | we have in order to keep the expansion going and the
2713 | development.

2714 | Now having said that, just as one example, we are doing
2715 | this in many ways, with many issues all over this country.
2716 | Serving on the Financial Services Committee and the Judiciary
2717 | Committee, I am oftentimes in touch with and contacted by
2718 | various entities in this country, where I hear about all of
2719 | the problems.

2720 | Ebony magazine is in trouble. We may lose it. And we are
2721 | contacted. What can you help us do to save Ebony magazine?
2722 | Inner City Broadcasting almost got shut down. GE and Goldman
2723 | Sachs were calling in the loans.

2724 | I can't tell you all what all happened to save it,
2725 | because again, they will want to investigate me.

2726 | But we saved Inner City Broadcasting when GE and Goldman
2727 | Sachs wanted to call in those loans, and it has worked out.

2728 | But let me tell you, all of NABOB, our minority radio
2729 | stations, all of NNPA, our black newspapers, our minority
2730 | banks, our automobile dealers--we have lost 50 percent of
2731 | them, just in the past few years. Our minority banks cannot
2732 | get capital investment in order to basically stay in
2733 | compliance with the requirements to be able to operate.

2734 | I got a call, just a few weeks ago, that they were
2735 | calling in the loan on Dr. J's golf course down in the

2736 Atlanta area. And it goes on and on and on. And while I am
2737 telling you about much of this which is basically African
2738 American, the same thing is happening with Latinos.

2739 As a matter of fact, many of the Latino organizations
2740 had not reached the level of participation of African
2741 American organizations, and yet their opportunities are being
2742 denied, and it is systemic exclusion.

2743 You understand what I'm saying? Systemic exclusion. When
2744 I first got involved in this Comcast issue, it was because
2745 some organization said we are trying to get the FCC to extend
2746 the comment period, and they said no, they won't listen to
2747 us. And so I had to develop a piece of legislation that I
2748 filed, immediately, got John Conyers and everybody, 46 other
2749 people to join with me, and send it over to the FCC. And of
2750 course when you file it, it is a piece of formal legislation
2751 and you have a significant number of members who will agree
2752 with you, they stop and they listen, and they opened up the
2753 comment period for another 45 days, and that gives us an
2754 opportunity.

2755 [Applause.]

2756 Ms. WATERS. And we thought, well, you know, that is just
2757 part of it. We need some more hearings. And so now, we are at
2758 the point where not only are they talking about hearings, and
2759 John, we had better take a look at what shape and form those
2760 hearings will take. But the chairman of this committee is

2761 | saying, in addition to that, we are going to continue these
2762 | hearings, and we will perhaps have to go into New York and we
2763 | have to go--maybe we will go right into Pennsylvania, the
2764 | backyard of Comcast, and do some of these hearings.

2765 | But we are going to continue to go. So I appreciate all
2766 | of those who are here today. And let me just say, to some of
2767 | you who are here today, and you are representing Comcast or
2768 | NBC, and that may be your job, or you may have gotten some
2769 | advantage from it--let me tell you, you are going to do
2770 | better because we are doing what we are doing. Do you
2771 | understand?

2772 | [Applause.]

2773 | Ms. WATERS. I have understood, all of my career, that
2774 | oftentimes, when people were taking the opposite position
2775 | from me, because of what I was doing, I was creating their
2776 | opportunity to get more respect in the industries that they
2777 | were defending. Okay?

2778 | [Applause.]

2779 | Ms. WATERS. So do what you have to do, but know and
2780 | understand, because of what we are doing, NBC and Comcast are
2781 | talking about what they now would like to do. Would they be
2782 | doing this, if we weren't doing this? What we are doing? I
2783 | don't think so. We didn't hear from them prior to the
2784 | expansion of the comment period, that they were thinking
2785 | about opening up opportunities, that they had a plan, and

2786 | they asked, one of them asked a question, Why are you just
2787 | doing this to us? Why don't you look at some of these other
2788 | media giants? You are before us, asking for a merger now. You
2789 | give us an opportunity to raise these questions. And that is
2790 | why.

2791 | Because you want the FCC and the Department of Justice
2792 | to rule in your favor, and so you give us the opportunity to
2793 | raise a lot of questions about who you are, and what you do.

2794 | Now having said that, because the chairman is so
2795 | generous with the time, I want to take your attention to a
2796 | recent study by Brandeis University. I kind of alluded to
2797 | some of those organizations and businesses that are
2798 | contacting us about their problems.

2799 | What is the Brandeis study all about? Let me tell you
2800 | what the headline reads.

2801 | Study shows blacks will never gain wealth parity with
2802 | whites under the current system. The other headline says--I
2803 | will find it here in a moment.

2804 | A \$95,000 question: Why are whites five times richer
2805 | than blacks in the United States?

2806 | The conclusion is basically this. The gap between black
2807 | and white household wealth quadrupled from 1984 to 2007,
2808 | totally discrediting the conventional wisdom that the U.S. is
2809 | slowly and fitfully moving towards racial equality, or some
2810 | rough economic parity between the races.

2811 | Like most American myths, it is a direct opposite of the
2812 | truth. When measured, over decades, blacks are being
2813 | propelled economically downward relative to whites, at
2814 | quickening speed, according to a new study by Brandeis
2815 | University. The gap between black and white households
2816 | ballooned during the 23 year study period, as white families
2817 | went from a median of about 22,000 in wealth to 100,000, a
2818 | gain of 78,000 in the same period.

2819 | Black house wealth inched up from a base of 2000 per
2820 | family to only five thousand dollars. The sweat and toil of
2821 | an entire generation had netted black families only \$3,000
2822 | additional dollars, while white families emerge from the
2823 | period with a net worth of 100 grand, that can be used to
2824 | send a couple of kids to college, make investments, help out
2825 | other family members, or continue to the larger white
2826 | community.

2827 | The typical black family has no such options. The
2828 | Brandeis study conducted by the university's Institute on
2829 | Assets and Social Policy shows that upper-income blacks fell
2830 | even further behind their white peers than lower-income
2831 | blacks.

2832 | During the survey period, higher-income blacks saw their
2833 | wealth drop from 25,000 to just 18,000, while their white
2834 | counterparts' wealth soared to \$240,000.

2835 | And what is happening? Whites are both collectively

2836 | privileged and capable of bestowing an endless system of
2837 | privileges on each other, while blacks are deliberately
2838 | positioned outside of the stream, and are preyed upon, as a
2839 | group, by powerful financial sources that profit from the
2840 | wealth differential.

2841 | I will not go any further with that, because that says
2842 | it all. That talks about why we are here today. That talks
2843 | about the fact that we have a potential merger, a huge
2844 | merger, perhaps the biggest media merger in the history of
2845 | this country, with the potential to deal with this economic
2846 | exclusion that we all can agree to.

2847 | There is no way that anybody can sit here and think it
2848 | is all right for there to be one African American-owned
2849 | network, in essence, by Comcast.

2850 | [Applause.]

2851 | Ms. WATERS. So when I was contacted after I got involved
2852 | in this, I got a call from somebody at Comcast, and they
2853 | said, What do you want? I certainly didn't know enough about
2854 | the industry to start to talk about what the response should
2855 | be. But I started to think about it, and I said, well, one of
2856 | the things we have discovered is that the programming is such
2857 | that blacks are really excluded from having the kinds of
2858 | shows and programming that Ms. de Passe alluded to or talked
2859 | about.

2860 | So I started to talk, well, why don't you do this. I

2861 know all of these directors and producers, and African
2862 American and Latino. Why don't you set up a situation where
2863 at least they can come and present their treatments, and you
2864 have credible people inside the industry who would listen,
2865 and say, well, here's some good stuff. And I wanted to do
2866 that because NBC, in the hearing, had said we just can't find
2867 any good product. We can't find any good programming.

2868 We had Jeff Zucker in front of our committee. I said,
2869 well, let me help you find some good programming.

2870 But the fact of the matter is this. Not only do we have
2871 the systematic exclusion, and now we have an opportunity to
2872 do something about it. We have to make this work, or the
2873 Brandeis study will continue to be worse.

2874 So when they called me and asked me what I wanted, I
2875 started to talk about doing that kind of thing, and the
2876 representative said no, I am talking about what do you want.

2877 And I want you to know that it is easy for members of
2878 Congress to have those kind of conversations about What do
2879 you want? But is just so happens that John Conyers and I, and
2880 Gohmert, and perhaps everybody on this panel, have lived long
2881 enough to understand--it is not about taking care of me or
2882 us. It is about taking care, of being fair to everybody. It
2883 is about opening up opportunities. Look. I have some friends
2884 on this panel. Cathy Hughes is one of my dearest friends in
2885 life.

2886 But this is not about Cathy. She is rich. She is going
2887 to be all right. This is not about Suzanne. Suzanne is a
2888 talented woman, and even if she gets turned down, she is so
2889 brilliant, until finally, you know, she is going to have to
2890 work hard, perhaps at it, but they are going to have to let
2891 her in. And on and on and on. This is about generations now,
2892 and generations to come. This is about a Brandeis study, and
2893 if we are so selfish to be concerned about ourselves, we
2894 aren't worth our soul.

2895 [Applause.]

2896 Ms. WATERS. And let me just say this. Again, we have
2897 worked long enough at this, we have enough self-confidence to
2898 look Comcast in the eye, NBC in the eye, and say Not this
2899 time. Not this time.

2900 And this goes for all of the institutions of our society
2901 that are responsible for this kind of exclusion. Much of
2902 this can be solved through public policy. Much of what we
2903 have to do means utilizing our power and our authority to
2904 break up this exclusion. I respect all of those who represent
2905 the companies. I respect those who have the designations of
2906 diversity.

2907 I don't know what you think it means. I don't understand
2908 how, quite, you see your positions. If you can't tell me how
2909 many dollars are being spent with minorities in contracting,
2910 and every aspect of the business, if you can't tell me how

2911 | many major executives making crucial decisions you have, then
2912 | I don't know what you are talking about.

2913 | If you are telling me how many janitors you are hiring,
2914 | how many clerks you are hiring, that is not good enough. We
2915 | know that we can always get some numbers at that lower level.

2916 | So having said that, let's just understand each other.
2917 | This is about ownership. This is about programming. This is
2918 | about executive management. This is about advertising.

2919 | [Applause.]

2920 | Ms. WATERS. And again, let me reiterate, it is not about
2921 | donations to the NAACP, the Urban League. Who else is, who
2922 | else is, who else? It is good. Keep on donating. They need
2923 | the money. But that does not do what we need to have done in
2924 | opening up these opportunities where there is systemic
2925 | exclusion, which keeps our communities and our people poor,
2926 | and keep them from being able to gather the kind of wealth
2927 | that they should be able to accumulate in America.

2928 | Having said that, one or two questions, cause I have
2929 | used my time, and more than my time, to give you my take on
2930 | all of this.

2931 | NBC, how many of the executive producers for your 2010
2932 | fall line-up are minorities?

2933 | Ms. MADISON. Congresswoman Waters, we have, in the 2010
2934 | line-up, for scripted shows, five out of 18 shows, Law &
2935 | Order LA, Law & Order SVU, Love Bites, The Office, and

2936 | Outlaw, have seven diverse co-executive producers.

2937 | Ms. WATERS. How many of the executive producers for your

2938 | 2010 fall line-up are minorities? I want to ask you again so

2939 | we will be on the same wavelength about what I am asking.

2940 | Ms. MADISON. There are seven.

2941 | Ms. WATERS. You have seven executive producers. Is that

2942 | what you are telling me?

2943 | Ms. MADISON. These are diverse co-executive producers.

2944 | Ms. WATERS. No. Well, okay. Explain it again.

2945 | Ms. MADISON. Okay. Five of the 18 shows, and the

2946 | leadership roles in the television, in these television

2947 | series are executive producers, co-executive producers. Of

2948 | the 18 shows we have, five of them, Law & Order LA, Law &

2949 | Order SVU, Love Bites, The Office, and Outlaw, have, among

2950 | them, seven diverse co-executive producers. So five of 18

2951 | shows has seven co's. And then on our reality shows--

2952 | Ms. WATERS. Yes.

2953 | Ms. MADISON. That's scripted. On our reality shows--I'm

2954 | sorry. On our cable shows, there are four diverse executive

2955 | producers and co-executive producers on USA and SciFi.

2956 | Ms. WATERS. All right. Let's see if we are on the same

2957 | wavelength here. The Event. You have two minorities in

2958 | supporting roles, no executive producers. Is that right?

2959 | Ms. MADISON. The Event, we have Blair Underwood as the

2960 | president of--

2961 Ms. WATERS. As an executive producer?
2962 Ms. MADISON. No.
2963 Ms. WATERS. Okay.
2964 Ms. MADISON. I am sorry.
2965 Ms. WATERS. If you would, please, if you call a name, I
2966 know Blair Underwood is in The Event.
2967 Ms. MADISON. He is a lead on The Event.
2968 Ms. WATERS. Okay.
2969 Ms. MADISON. He plays the president of the United
2970 States.
2971 Ms. WATERS. Okay. Do you have an executive producer on
2972 The Event?
2973 Ms. MADISON. We do not have an executive--but we are
2974 still staffing the shows. We do not--
2975 Ms. WATERS. So you are looking for an African American
2976 or Latino executive producer?
2977 Ms. MADISON. We are still--
2978 [Laughter.]
2979 Ms. WATERS. Are there any African American executive
2980 producers types in the audience? Are there any Latino
2981 executive producers in the audience? Do you know of any
2982 African American and Latino or Asian executive producers?
2983 Ms. MADISON. Congresswoman, we know of some, and the
2984 ones who are on the shows, we--
2985 Ms. WATERS. No, no, no. No, no, no. No, no, no.

2986 Ms. MADISON. We hired them on those shows.

2987 Ms. WATERS. But you don't have them on this one. I want
2988 to know whether or not you can get the word out and help
2989 them.

2990 AUDIENCE MEMBER. [Speaking from un-miked location.]

2991 Ms. WATERS. I can't hear. Stand up.

2992 Ms. MADISON. He's an executive vice president at NBC.

2993 Ms. WATERS. Okay.

2994 AUDIENCE MEMBER. We do have Jim Wong, Jay Wong. He's a
2995 very experienced--I have to admit, I don't know, exactly, his
2996 titles.

2997 Ms. WATERS. Okay.

2998 AUDIENCE MEMBER. A senior role.

2999 Ms. WATERS. You all get the word out that they are
3000 looking.

3001 AUDIENCE MEMBER. [Speaking from un-miked location.]

3002 Ms. WATERS. Yes. Now I am told, because my staff really
3003 had to get involved in a lot of research, they say that
3004 co-executive producers are not show-runners. What does that
3005 mean, Suzanne?

3006 Ms. DE PASSE. Well, a show-runner is the person who is
3007 actually most senior on the production and is chartered with
3008 the responsibility of delivering the show every week, you
3009 know, with their team. But they are the most senior of all
3010 of the producers, and just by way of information, very often,