

CLAIRE McCASKILL
MISSOURI

717 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-6154
FAX: (202) 228-6326
<http://mccaskill.senate.gov>

United States Senate
WASHINGTON, DC 20510

COMMITTEES:
ARMED SERVICES
COMMERCE, SCIENCE AND
TRANSPORTATION
HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS
SPECIAL COMMITTEE ON AGING
AD HOC SUBCOMMITTEE ON
CONTRACTING OVERSIGHT,
CHAIRMAN

January 7, 2011

0039

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

Dear Mr. Chairman,

I am writing to express concerns about the proposed merger between Comcast Incorporated and NBC Universal, Inc. (NBCU), which is currently under review by the Federal Communications Commission.

If completed, this merger will combine one of the nation's largest providers of video content with the largest cable company and largest provider of residential broadband service. I understand and appreciate that Comcast will continue to support local news and public affairs programming but this merger could result in fewer program choices while potentially raising prices for consumers. Accordingly, I believe that this combination requires your careful review, in order to ensure that consumers are not harmed and that the transaction is truly in the public interest.

In particular, I have strong concerns regarding the viability of independent programming on Comcast platforms, should this merger be consummated. As you know, Section 616 of the Communications Act (47 U.S.C. § 536) prohibits cable and satellite operators from engaging in conduct that unreasonably restrains "the ability of an unaffiliated programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or non-affiliation of vendors". However, some stakeholders suggest that Comcast and other multichannel video programming distributors have a history of placing independent and unaffiliated programming on premium tiers while placing content that it owns on more widely-distributed basic cable tiers. These actions may violate the spirit, if not the law in Section 616. I am also concerned that they may become more commonplace following this merger, as Comcast will have even greater programming interests than it does today, including several top-rated national cable networks and a major movie and television studio.

Moreover, while the statute is designed to prevent such discriminatory behavior from occurring, the regulatory dispute process for independent program carriage is both onerous and expensive. In practice, this deters independent programmers from filing complaints. As a result, I believe the Commission should impose enforceable conditions to guard against the potential harms that are specific to this merger, in order to protect the ability of independent programmers to access audiences over Comcast systems and protect the diversity of video programming in the marketplace. Further, I believe

555 INDEPENDENCE
ROOM 1800
CAPE GIRARDEAU, MO 63703
(573) 651-0964
FAX: (573) 334-4278

915 EAST ASH STREET
COLUMBIA, MO 65201
(573) 442-7130
FAX: (573) 442-7140

4141 PENNSYLVANIA AVENUE
SUITE 101
KANSAS CITY, MO 64111
(816) 421-1639
FAX: (816) 421-2562

5850 DELMAR BOULEVARD
SUITE A
ST. LOUIS, MO 63112
(314) 367-1364
FAX: (314) 361-8649

324 PARK CENTRAL WEST
SUITE 101
SPRINGFIELD, MO 65806
(417) 868-8745
FAX: (417) 831-1349

you should work to ensure that consumers whom have already experienced substantial inflation in cable rates will not experience new, disproportionate rate increases as a result of the merger.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" being more prominent than the last name "McCaskill".

Claire McCaskill
United States Senator



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

March 17, 2011

The Honorable Claire McCaskill
United States Senate
717 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator McCaskill:

Thank you for your letter regarding the Commission's review of the proposed joint venture between Comcast Corporation and the General Electric Company subsidiary, NBC Universal, Inc. After a thorough, fair and timely review of the extensive record in the proceeding, the Commission adopted a *Memorandum Opinion and Order* on January 18, 2011, approving the transaction with merger-specific conditions. I am pleased to say that we completed our review expeditiously, particularly given the size and complexity of the transaction. The result was a transaction that the Commission found to be in the public interest.

I appreciate your interest in this important matter. I am enclosing a copy of the Commission's release summarizing the Commission's action. Commission staff will be happy to work with your office if you have any additional questions. Please do not hesitate to contact me if I may be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Genachowski".

Julius Genachowski

Enclosure