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COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

MAJORITY (202) 225-2927
FACSIMILE (202) 225-2525
MINORITY (202) 225-3641

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Opening Statement of Rep. Henry A. Waxman Chairman, Committee on Energy and Commerce

“An Examination of the Proposed Combination of Comcast and NBC Universal” Subcommittee on Communications, Technology, and the Internet February 4, 2010

When the proposed combination of Comcast and NBC was announced late last year, I said that this transaction had the potential to reshape the media marketplace and raised fundamental questions regarding diversity, competition, and the future of the production and distribution of video content. I urged the Federal Communications Commission and the Department of Justice to assess rigorously whether this transaction is in the public interest.

Two months have passed since this transaction was announced, and after additional review, I am now even more certain that this new joint venture, if approved, could trigger dramatic changes in the way consumers access video programming, in the way independent programmers distribute their works, and in the way all video distributors compete for customers.

Given the significance of the proposed joint venture, the Committee should examine its implications carefully and dispassionately. We should ask hard questions, but we should also keep an open mind.

There could be benefits that flow from this transaction, and I look forward to hearing Mr. Roberts and Mr. Zucker expand on the positive aspects of this deal. For example, will Comcast be a better long-term steward of NBC News than the current owner? Will Comcast be more committed to the development of quality, original programming? Will Comcast invest necessary resources to promote localism and diversity and support free over-the-air broadcasting?

One important issue is whether Comcast, as the nation's largest residential broadband provider – and a potential owner of NBC's valuable content – will help protect intellectual property. The theft of content online is a serious issue for the creative community; it is unlawful and it is a serious drain on our economy. This problem deserves more attention and better efforts by broadband providers.

We also need to know what Comcast will do to ensure that independent writers, directors, and producers won't be harmed.

There are many other essential questions. The move to online video and the “TV Everywhere” model could shape the future of how all customers access programming. Perhaps, sooner rather than later, almost everything we do and see on our television will be just another application riding over a broadband connection. We should ask how Comcast, the nation’s largest video programming distributor, will deal with its customers and its competitors as this transition progresses.

I believe that the best way to protect consumers is through competition. But will competition be sustainable with the largest video and broadband provider controlling huge quantities of content? There may be plenty of content outside Comcast-NBC, but will consumers have the same ability and opportunities to access that content – both on and off Comcast’s distribution platforms – as they will content from Comcast?

The future of free, over-the-air broadcast television is also tested by this transaction. Many are concerned that this transaction could result in the best of NBC’s programming being transitioned to a pay-tv service. Might the Olympics or the Super Bowl one day be available only to paying customers? Will the Comcast-NBC joint venture affect local affiliates and the network-affiliate model? We must consider how this transaction will impact the coverage of local news and events as well as major televised events of interest to all Americans.

There are other issues to examine too, including Comcast’s treatment of PEG channels, how this transaction will affect the diversity of voices in the marketplace, and how independent programmers will be impacted. We need to weigh all these topics as this process moves forward and the subcommittee considers related matters.

Ultimately, this transaction must be scrutinized with regard to its impact on consumers: the choices they will have in the market and the bills they will pay. This is the highest consideration required by the public interest review mandated under the Communications Act

In closing, I want to thank Chairman Boucher for convening this hearing so quickly. I look forward to hearing from our distinguished panel and thank them for their participation.