

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

In the Matter of)
)
Application of Comcast Corporation,) MB Docket No. 10-56
General Electric Company)
And NBC Universal Inc.)
)
For Consent to Assign Licenses or)
Transfer Control of Licensees)

**OPPOSITION TO COMCAST ACQUISITION OF NBC UNIVERSAL:
POTENTIAL THREAT TO 15 MILLION ASIAN AMERICANS**

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March 15, 2010

**OPPOSITION TO COMCAST ACQUISITION OF NBC UNIVERSAL:
POTENTIAL THREAT TO 15 MILLION ASIAN AMERICANS**

Mabuhay Alliance, a national Pan Asian American consumer, diversity and small business advocacy organization, opposes the Comcast acquisition of NBC Universal (“NBCU”) in its present form. Comcast’s 145 page application (combined with 604 pages of appendices) is direct proof that this acquisition would be of no benefit to 15 million Asian Americans. For example, the combined 749 page application and appendix contain no references to America’s 15 million Asian Americans or any references as to their past treatment or future treatment by Comcast and NBCU. (See attached declaration marked Exhibit A of Mabuhay Alliance Deputy Director.)

Because this acquisition is highly likely to further concentrate non-diverse and non-local media power, particularly as to its vertical integration aspects, it constitutes a threat to Asian American economic, political, and social development.

It also constitutes a threat to the grossly underfunded small Asian American television media, particularly those that seek to promote the educational, business and economic development of Asian Americans. For example, in Comcast’s 145 pages of comments regarding public interest and diversity benefits of this merger, there is no reference to the Asian American community, underserved elements of the Asian American community, or the most ignored Asian American sub-ethnic groups such as Korean American, Vietnamese American, Filipino American, Hmong and many other important Asian American groups. Similarly, Comcast’s 16 specific commitments for the public interest contain no specific interest or benefit for the Asian American community.

For many decades, the Asian American community has been aware of NBCU’s ignorance of and/or indifference to the Asian American community. In part, this is evident by its failure to insure role models and positive content, as well as its unnecessary adverse stereotyping of Asian Americans.

The failure of a 746 page application, including appendices, that was prepared by a vast legal army (estimated 3,000 attorneys at the seven in-house and outside law firms) to even reference Asian American interests, is a snub to the Asian American community and may reflect Comcast’s negative perspective on the FCC’s commitment to Asian Americans. For example, Mabuhay Alliance alone has alerted Mr. Roberts, CEO of Comcast, to Asian American concerns in five separate letters addressed to him beginning July 22, 2009. (See also our letters of October 29 and November 3, 2009 and February 4 and March 2nd, 2010 to CEO Roberts relating to Comcast and NBCU ignoring Asian American concerns and often stereotyping Asian Americans.) In these letters, we requested a meeting with the CEO and/or senior officials, and/or specific information. In each case, information was denied. In each case, a meeting, even with middle management, was denied. (All letters are attached as Exhibit B.)

This acquisition may be the most important test of the FCC's commitment to media diversity and its commitment to the public interest concerns of consumers, including the most underserved, such as limited English proficiency new Asian American immigrants.¹

As a condition for allowing this proceeding to continue, we formally request that the FCC order Comcast to revise its 145 page application and set forth specific and unique benefits this acquisition will have for 15 million Asian Americans, including those most ignored, such as Vietnamese Americans, Korean Americans, Filipino Americans, Samoans, Hmong, Thais, Cambodians and Indonesians.

The FCC should also request that Comcast address how it intends to avoid stereotyping and how it intends to promote positive imagery and content that reflects the Asian American community's growing role in business, government and education. (We call to this Commission's attention, for example, the actions of one of NBCU's competitors, ABC/Walt Disney; see, in particular, its gratuitous defamation of our nation's four million Filipino Americans and their educational attainments in the show *Desperate Housewives*. This led to almost 200,000 protests to ABC and Walt Disney but no action by the FCC.)

It is our position that any concentrations of media power, as exemplified by Comcast/NBCU, either horizontal or vertical, are potentially harmful to minority communities and is anticompetitive if it maintains the status quo relating to the Asian American community. (We believe that the vast majority of Black and Hispanic advocates share this view on permitting major media to maintain the status quo.)

"Unprecedented Array of Public Interest Commitments"?

Comcast, in its application states that this acquisition will promote and enhance diversity and the public interest by an "unprecedented array of public interest commitments." However, nowhere in the application is there any commitment, much less unprecedented commitments to the needs of our nation's 15 million Asian Americans. Similarly, there appears to be no commitments to our nation's forty million African Americans or four million Native Americans. (The commitment to Hispanics is modest and appears to be solely attributable to the fact that NBCU controls the nation's second leading Hispanic television network, Telemundo.)

Throughout the application, there are a number of statements with the right words necessary to secure approval. That is, there are statements that this application will promote diversity and localism necessary for FCC approval. However, these commitments are mere words without specifics. Further, diversity is not defined and there is no mention, much less specifics on the Asian American community.

¹ To the degree it is permissible, this will be raised at our meetings with FCC Commissioner Michael Copps and senior advisor to Commissioner Meredith Atwell-Baker on March 18th, FCC Commissioner Mignon Clyburn on March 19th, Department of Justice's civil rights division Assistant Attorney General Thomas Perez on March 18th and at our meeting with Congresswoman Judy Chu on March 17th and the senior staff of the Chair of the Congressional Asian American Pacific Caucus Mike Honda on March 16th.

Other Consumer Public Interest Concerns

The above concerns relate to the public interest needs of 110 minorities including 15 million Asian Americans. We are also setting forth some other areas of concern that can best be addressed by minority groups working closing with other consumer groups, the FCC and key corporate competitors.

First, we have previously filed with the FCC our support to widen internet access and our general support for the FCC's efforts to ensure a major increase in broadband availability, partially through the sale of spectrum by networks such as NBCU. Although some broadband usage is not necessarily in the public interest and some broadband usage is clearly essential for the public interest, we believe that Comcast/NBCU must make clear, as a condition for approval, its position on selling spectrum for important public use. However, as reported last week, the FCC's hope to free 500 megahertz of spectrum, much of which would come from television broadband, is being resisted by NBCU and other major broadcasters. In part, the Asian American community does not support this contention. (New York Times, March 13, 2010, "Effort to Widen Internet Access Sets Up a Battle: Industries at Odds Over Making Broadband a To Be a Medium".) Based upon meetings with the effective media, the FCC and community groups over the next 60 days, we will fully set forth our position.

Second, Comcast and Cablevision have contended that they have no responsibility to their customers in addressing the needs of satellite television customers in working out fee schedules. The Court of Appeals for D.C. ruled against Comcast and stated that although there was an increase in cable competition, the FCC was within its rights to prohibit exclusive contracts between a cable operator and its affiliated channel due to its impact on limiting competition. We support the FCC position and the Court of Appeals' decision in this matter and believe that this position should remain in effect for at least seven additional years and should be a condition for approval of Comcast's acquisition of NBCU. (That is, the FCC rule in effect and set to expire in 2012 should be extended to 2017.) We will work with consumer groups, the FCC and all competitors within the next 60 days to try to ensure both effective competition and full consumer options.

Third, last week the FCC announced that it would be examining rules to resolve television fee disputes between broadcasters such as NBCU and cable operators such as Comcast. As FCC Chairman Genachowski said at the Senate hearings on Comcast on March 11th, "This is an issue that should be looked at seriously." The acquisition of NBCU by Comcast provides the FCC with a unique opportunity to internally "arbitrate" this fee dispute in a pro-consumer fashion. At a minimum, this acquisition should not be approved until Comcast modifies its position opposing greater consumer access. At the same time, we have not yet determined a position as to whether there is a need for the FCC to set new rules over fee negotiations since there is at least some merit to station owners' argument that "private negotiators and broadcasters deserve compensation for their signals." (Wall Street Journal, March 11, 2009, "FCC to Examine Rules for TV Fee Disputes".)

Conditions for Approval

As to the promotion of localism, we would suggest that relatively small television stations and networks that cater to the local Asian American community might be better served if this acquisition is not approved. If this application is to be considered, it would therefore be appropriate to require Comcast to take the following actions:

- create a “One Billion Dollar Diversity Fund” to be administered by the FCC to continue to promote local Asian American and other minority interests since minority owned media are often the preferred communication channel;²
- present inequitable revenue sharing agreements with small minority media should be modified from the traditional 50/50 split to one that more adequately encourages effective Asian American content, such as 70 percent for the minority local media and 30 percent for Comcast; and
- given Comcast’s lack of information on Asian Americans, it should select with the FCC and with community approval, a fully compensated eleven-member Asian American Advisory Board from among Asian American community leaders with at least one from each of the major Asian American communities.³

Public Hearing and Additional Information on Asian Americans

Since Comcast and NBCU have failed to provide any benefits to 15 million Asian Americans in its 749 page application and appendices, it is further requested that prior to any action being taken that:

- the FCC appoint a Special Master to secure from Comcast and NBCU a comprehensive description on all programs from the last five years that reference Asian Americans, including sub-ethnic groups, and specific content, including all positives and negatives;
- Public Hearings be held in at least five areas of the nation, including California, where 5 million Asian Americans, 15 million Latinos, 2.5 million African Americans and 1 million Native Americans reside;
- the CEO of Comcast, Brian Robert, be urged by the FCC to personally meet with the protesting Asian American groups along with senior FCC staff, to discuss appropriate conditions that affects the Asian American community; and

² This is a modest sum considering the multimillions of dollars of savings and profits likely to be derived over the next decade from the synergy of what many believe to be an “unholy alliance” between content and delivery. It is also modest relative to the estimated 250 to 500 million dollars that Comcast/NBCU will pay in Wall Street fees, legal fees, expert fees, advisory fees, lobbying costs and staff time.

³ The compensation should be set at a minimum of 25 percent of the compensation presently provided to Comcast board members. Average Fortune 500 board compensation for part-time members is two hundred and fifty thousand dollars each and also provide for lucrative pension and health benefits, as well as stock options.

- specific data on the number of Asian Americans employed on senior management and content development, as well as information on philanthropic investments to the Asian American community and outside contracts with Asian American owned businesses.

In the context of the opening of the Mabuhay Alliance D.C. office in February 15th, we will be scheduling meetings with all of the FCC commissioners, FTC Chairman Leibowitz, and the Department of Justice's antitrust and civil rights divisions to further discuss our concerns. However, Mabuhay Alliance always remains open to effective dialog between the CEO of a privately held corporation and the CEOs of community groups most affected by that CEO's action.

Respectfully submitted,

/s/ Faith Bautista
Faith Bautista
President and CEO

/s/ Mia Martinez
Mia Martinez
Deputy Director

/s/ Robert Gnaizda
Robert Gnaizda
Of Counsel

March 15, 2010

Exhibit A

**Declaration of Deputy Director of Mabuhay Alliance
Regarding Asian American Public Interest**

At the request of counsel, I carefully read the entire application of all of the 145 page application of Comcast acquisition of NBC Universal to determine if there were any references to Asian Americans and Asian American public interest. I was informed to interpret this request broadly to ensure that no reference would be missed. During the timeframe March 10th to 12th, I examined the application with this request in mind. My opinion, based on careful reading, is there were zero references to Asian Americans. There was, however, a reference on page 18 of the application that said that the status quo would be maintained for "Hispanic, South Asian, Filipino and other minority audiences." In addition, the application on page 130 quoting from Professor Spitzer says he finds nothing in the transaction that "would lead the applicants to reduce service to the underserved audiences, such as women and racial and ethnic minorities."



Mia Martínez
Deputy Director
March 15, 2010

Exhibit B



July 22, 2009

Brian L. Roberts
Chairman and Chief Executive Officer
Comcast Corporation
1500 Market Street
Philadelphia, PA 19102
SENT VIA FAX AND U.S. MAIL

Corporate Responsibility Survey for Submission to FCC and Department of Justice

Dear Mr. Roberts,

We met with both the FCC and Department of Justice's Civil Rights and Antitrust divisions in Washington D.C. during the week of July 13th to discuss the future roles of the cable industry and the telecommunications industry such as AT&T, Verizon, Sprint/Nextel, TMobile and Cellular South. Our discussion related the importance of public interest, corporate responsibility and corporate efforts to address the needs of the underserved as factors in determining what types of behavior should be considered under Section 2 of the Sherman Act and in terms of FCC policy.

Based upon these meetings, we have determined to do a survey of the five largest wireless carriers and 3 largest cable companies to be completed by August 22nd. The results of survey will be submitted to the Chairman of the FCC, other commissioners, and the heads of the civil rights and antitrust divisions of the Department of Justice.

We are requesting the full cooperation of the five largest major wireless carriers and the three cable companies. The questions are attached as Exhibit A.

Please contact Deputy Director Mia Martinez or Assistant Deputy Director Elaine Valdez if you have any questions regarding any of the information requested.

Sincerely,

A handwritten signature in cursive script that reads "Faith Bautista".

Faith Bautista
President and CEO

A large, stylized handwritten signature in cursive script that reads "Faith Bautista", positioned below the typed name and title.



EXHIBIT A

Question 1: Supplier Diversity

Please set forth for the years 2007 and 2008, separately for each year by race and gender on a national basis, and for disabled veterans on a national basis, the dollar amount and percentage of contracts to African Americans, Latinos, Asian Americans, white women, and disabled veterans.

Please set forth whether such is verified or unverified.

Question 2: Relating to Diversity

Please set forth as of the end of 2008 or the end of June 2009, the percentage and number of board of directors by race, ethnicity and gender.

Similar data should be provided for officers and the top 100 executives, as well as for all managers and overall employment.

Question 3: Philanthropy

Please set forth total philanthropy in dollar amount nationally to each of the years 2007 and 2008, and the percentage of philanthropy allocated: a) to underserved communities, b) and separately for African American, Latino, and Asian Americans.

Please also provide, on an optional basis, a brief summary of the three key philanthropic areas where your philanthropy is concentrated, such as, for example, inner city youth education.

Question 4: Investments

Please set forth cash investments made to enhance broadband and internet access to underserved communities, separately for each of the years starting with 2007 and 2008.

Question 5: Future Projects

Please set forth, on an optional basis, up to five key future projects directly to the underserved communities that you are contemplating, or in the process of initiating with the rest of 2009 and for the year 2010.

Please note that based upon expert information provided to us, that a failure to provide such information could be considered an indication of inadequate efforts in the areas of inquiry.



October 29, 2009

Brian Roberts
CEO
Comcast Corp.
One Comcast Center
Philadelphia, PA 19103-2838
SENT VIA FAX AND US MAIL
(215) 981-7790

Broadcasters Seek Cable TV Fees: A Conflict for Comcast?

Dear Mr. Roberts,

We write to you on behalf of 15 million Asian Americans, many of whom are underserved by cable TV or cannot afford the cost of cable TV. They are in effect, advocates for free TV.

We have many questions relating to the diversity and effectiveness of major free networks such as ABC, NBC and CBS, but we do believe they serve a public interest and could serve a very important public interest.

As with many other traditional media, it may be appropriate for them to seek alternative fees.

We are concerned that Comcast's proposed acquisition of NBC could produce a conflict of interest that could adversely affect free TV, including CBS and ABC.

With recent meetings with FCC Chairman Genachowski and commissioners Baker, Clyburn and Copps (September and October 2009), we have expressed our concerns regarding competition, the public interest, corporate responsibility and related issues such as lack of diversity including stereotypes on Asian Americans. We have also indicated to them our interest in a wide range of issues such as net neutrality and competition between cable and wireless and the need for additional airwave space.

As a result of the growing interest of the Asian American community in issues pertaining to the FCC and other regulatory bodies, we will be opening a Washington D.C. office by early spring of 2010 and are opening an office in your main California area, San Francisco, by December 1st.



During our upcoming meetings in D.C. on November 16th to 18th, we will be discussing some of these issues with the FCC and the Department of Justice antitrust division, which we have previously met with in July and September of 2009.

We would be pleased to meet with you either in D.C. or in our headquarters state, California, to discuss how our nation's largest cable company can also be our nation's most responsible corporation in meeting the public interest needs of underserved communities including 15 million Asian Americans.

Sincerely,

A handwritten signature in cursive script that reads "Faith Bautista".

Faith Bautista
President and CEO



November 2, 2009

Brian Roberts
CEO
Comcast Corp.
One Comcast Center
Philadelphia, PA 19103-2838
SENT VIA FAX AND US MAIL
(215) 981-7790

Asian American Interest in Comcast/NBC Universal Acquisition

Dear Mr. Roberts,

We write to you on behalf of our nation's 15 million Asian Americans, a community that thrives upon diversity and in the past, has been critical of the lack of content diversity.

As a result of these concerns, we have met with Chairman Genachowski of the FCC, as well as with commissioners Baker, Clyburn and Copps. We will be in Washington, D.C., for a number of follow up meetings with the FCC, the FTC, and the Department of Justice's antitrust division on concerns we have raised relating to both lack of content diversity as it affects Asian Americans and in the context of a failure of many Fortune 500 corporations to properly market to and advance the interests of our nation's 15 million Asian Americans.

On July 22, 2009, we wrote to you requesting information on Comcast's diversity relating to its management, philanthropy, outreach and its relationships with Asian American businesses. We sent similar letters to a number of your competitors, such as AT&T and Verizon, who have met with us and provided us with substantial data.

We would greatly appreciate it if we could meet with your senior executives on the abovementioned issues while we in D.C. on November 16th to 18th for meetings with the FCC, AT&T and Verizon.

Sincerely,

A handwritten signature in cursive script that reads "Faith Bautista".

Faith Bautista
President and CEO



November 3, 2009

Brian Roberts
CEO
Comcast Corp.
One Comcast Center
Philadelphia, PA 19103-2838
SENT VIA FAX AND US MAIL
(215) 981-7790

California Public and FCC Scrutiny of Comcast

Dear Mr. Roberts,

This is a follow-up of our letter of October 29th. (Letter attached).

On November 2nd, the California Public Utilities Commission led by President Mike Peevey raised serious questions about the lack of achievements in diversity at Comcast relatively, for example, to potential competitors such as, AT&T and Verizon.

We will be having follow-up meetings in D.C. with the FCC (we previously met with Chairman Genachowski and commissioners Baker, Clyburn and Copps) on the issue of corporate responsibility, including diversity. We will also be meeting with AT&T and Verizon on these issues.

In the context of the CPUC concerns and the likely FCC concerns, we would appreciate a meeting in D.C. with your most senior staff which can then be followed-up with a meeting, if you deem appropriate, with your most senior representative in the West Coast.

We look forward to working with you and improving the status of 15 million Asian Americans, including California's five million Asian Americans.

Sincerely,

A handwritten signature in cursive script that reads "Faith Bautista".

Faith Bautista
President and CEO



February 4, 2010

Brian Roberts
CEO
Comcast Corp.
One Comcast Center
Philadelphia, PA 19103-2838
SENT VIA FAX AND US MAIL
(215) 981-7790

Potential Concerns about Comcast Acquisition of NBC Universal

Dear Mr. Roberts,

Since our October 29th and November 3rd letters to you, we have testified on media ownership diversity before the FCC commissioners and raised our potential concerns regarding your acquisition of NBC Universal. (January 27, "Media Ownership Workshop - Minority & Female Ownership") We have also discussed this matter with a number of public interest advocates whose concerns are more concrete than ours.

Prior to your filing with the FCC and its possible investigation and scrutiny, we remain available to meet with you to discuss our concerns and determine more from you as to how this acquisition will concretely benefit our nation's 15 million Asian Americans. Since we will be opening our D.C. office on February 15th and will be in D.C. during the week of February 15th for two major conferences, including one we are doing with Google, AT&T and Verizon on broadband, we would like to suggest a meeting in D.C. during that time period.

We look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script that reads "Faith Bautista".

Faith Bautista
President and CEO

A handwritten signature in cursive script that reads "Mia Martinez".

Mia Martinez
Deputy Director/Director of DC Office



March 2, 2010

Brian Roberts
CEO
Comcast Corp.
One Comcast Center
Philadelphia, PA 19103-2838

Silicon Valley Ignores Diversity: Where is Comcast?

Dear Mr. Roberts,

A recent report by the San Jose Mercury (February 14, 2010, "*Blacks, Latinos And Women Lose Ground At Silicon Valley Tech Companies*") has caused growing concern in the minority community about its future in the technology field. (Attached is a copy of the letter that we, the Black Economic Council, and the Latino Business Chamber of Greater Los Angeles recently sent to the Federal Communications Commission on this subject.)

Previously, we requested that Comcast provide data on diversity much as AT&T and Verizon has provided to us and the FCC. We are still awaiting that transparency and the failure of that transparency could affect the likelihood of a quick resolution by the FCC and the antitrust divisions. (Please see our prior letters of July 22nd and November 3rd.)

We are fascinated by a recent ad in BusinessWeek (March 1, 2010) entitled, "*We are 12 People Fast.*" It shows a minimum of three African Americans, two Asian Americans and apparently two to three Latinos among the 12 executives in the photo. If, in fact, this is your record (two-thirds minority) and is also reflective of your percentage of contracts to minorities and philanthropy to minorities, we believe you will have little or any opposition from any minority groups. However, until these questions of diversity are demonstrated by hard data, we will remain concerned and skeptical.

Once the comment period is announced for the Comcast/ABC Universal acquisition, we will be engaged in an active role with the FCC and plan to meet with the FCC during the week of March 15th. For your information, our Washington DC office opened on February 15th and we are available anytime thereafter for a preliminary meeting. As always, we remain open as we with all of corporate America to the evidence that Comcast is increasingly diverse at all levels of management and in its contracts to minority owned businesses.

Most sincerely,

A handwritten signature in black ink that reads "Faith Bautista".

Faith Bautista
President and CEO

BLACK ECONOMIC COUNCIL

February 24, 2010

Chairman Julius Genachowski
Commissioner Meredith Attwell Baker
Commissioner Mignon Clyburn
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
SENT VIA FAX AND US MAIL

FCC Investigation of Silicon Valley Giants that Discriminate Against Minorities and Women

Dear Chairman Genachowski and Commissioners Baker, Clyburn, Copps and McDowell,

1. The Facts

The Black Economic Council is joined in this letter by the Latino Business Chamber of Greater LA and Mabuhay Alliance. This letter seeks a discrimination investigation based upon the San Jose Mercury News investigation reported on February 14th entitled, "Blacks, Latinos and Women Lose Ground at Silicon Valley Tech Companies." The data collected or attempted to collect from the giant Silicon Valley companies that often seek preferences and favorable treatment from the FCC include: AMD, Apple, Calpine, Cisco Systems, eBay, Google, Hewlett-Packard, Intel, Oracle, Sanmina, Solectron, Sun Microsystems, SYNEX and Yahoo¹.

We are concerned that these Silicon Valley technology giants who promote openness and transparency are using the same pool of available American workers as are competitors with often far better records who are also transparent and often cooperative.

Only one group of workers was apparently not discriminated against and, in fact, may have been given hiring preferences, workers under the H1-B visa program.

The data demonstrates that Silicon Valley giants have:

¹ Please note the high probability that large Silicon Valley companies not included in the San Jose Mercury article have similar records particularly as to those refusing to cooperate.

- The lowest employment rates for African-Americans among Fortune 500 corporations—1.5%;
- The lowest employment rates for Latinos of any Fortune 500 corporation doing significant businesses in California (4.7% for Latinos vs. a Latino population in California of 38%); and
- One of the lowest rates amongst Fortune 500 corporations for women--24% (According to the US Department of Labor statistics women constitute 50.3% of the non-agricultural workforce and 51% of recent college graduates.)

Even more disturbing is that these Silicon Valley technological giants had substantial declines in the percent of African American, Latino and women management workers: 30% decline over a five year period among Blacks, 25% over a five year period among Hispanics and an almost 20% decline among women.

Similar exclusions exist among many Asian American subgroups. However, Silicon Valley has hidden this discrimination through a lack of transparency and manipulation of data. For example, Silicon Valley improperly includes the huge number of H1-B foreign workers within its Asian American category. Upon information and belief, we are prepared to prove that two of the largest Asian American groups, Vietnamese-Americans and Filipino-Americans, are discriminated against. Similarly, we are prepared to show that Samoan, Thai, Cambodian and Hmong Americans are discriminated against.

Using eBay as a typical example, it employs only 2% Blacks, 4% Latinos and 37% women. Its percentage of women declined by over 15% between 2000 and 2005 and its percentage of Latinos was cut in half from 2000 to 2005 according to the San Jose Mercury.

As the FCC is aware from the prior filing by Mabuhay in October 2009 with the FCC, many competitors to Silicon Valley that use the same worker pool have far better records. This includes Verizon, AT&T and the newest competitor Wal-Mart².

Google and Others Censor Data

According to the San Jose Mercury data, Google, Apple and other transparency proponents refused to provide data that they are required to keep by the EEOC. Sadly, when the San Jose Mercury sought to secure this data, Google, Apple and others blocked the San Jose Mercury from securing the data.

These efforts at censorship of unfavorable employment data and efforts similar to these, appear to be in conflict with Silicon Valley's regulatory requests predicated on the need for transparency and open networks.

² Wal-Mart has just acquired a Silicon Valley company Vudu.

These Silicon Valley efforts are also in conflict with the Obama Administration's views on diversity and inclusion. They are also in conflict with various Fortune 500 companies that seek, often successfully, to maximize the employment of Blacks, Latinos, Asian Americans and women in the work force (See for example the relatively outstanding example of Wal-Mart).

We are prepared to document that a number of Silicon Valley competitors have a far better record in hiring minorities at all levels of management than Silicon Valley giants. Some of these competitors, in support of transparency and openness, have previously provided this data to us and we have made such data available in October of 2009 to the FCC and all FCC commissioners. Further, prior efforts by our organizations to secure information by Silicon Valley giants were refused without explanation.

Refusal to Contract with Women and Minority Owned Businesses

We are prepared to prove that the Silicon Valley technology giants do not provide a fair share of small business contracts to Blacks, Latinos, women and most Asian American owned businesses. We have also previously provided to the FCC data from Silicon Valley competitors that demonstrate the contract success of these competitors. Upon information of belief we are prepared to prove that some of these competitors have a five times or better record than those in Silicon Valley. (Average of 18% by competitors committed to transparency v. less than 4% by Silicon Valley.)

No Transparency and Little Philanthropy to Underserved Communities

Today, most Fortune 500 corporations provide comprehensive data on their philanthropy to underserved communities including philanthropy enhancing broadband access to underserved communities. This list of transparent companies includes many competitors and potential competitors of these Silicon Valley companies such as Wal-Mart which has philanthropic grants of almost \$500 million a year. In contrast to these competitors, few, if any Silicon Valley companies provide any transparency as to their philanthropy.

Further, many Silicon Valley companies in comparison to their competitors, provide few grants to minority nonprofits. For example AT&T and Verizon provide over 80% of their philanthropy to underserved communities with a heavy focus on minority led nonprofits.

2. Minorities Request Immediate FCC Investigation

We respectfully request that:

- A) Silicon Valley companies that discriminate against, exclude or fail to hire from the vast majority of our nation's workforce be denied by all federal regulatory agencies any competitive advantages.
- B) All Silicon Valley companies benefiting from FCC actions or participating in FCC filings or hearings should be required to document in a public and transparent

fashion that they are truly transparent and equal opportunity employers before they engage in competitive battles against equal opportunity employers.

- C) Public hearings should be held in the Silicon Valley within 45 days on this subject. All major Silicon Valley CEOs should be required to appear and provide comprehensive data 10 days in advance of the hearing.

3. Additional Actions Sought by the Aggrieved Parties

Separate from this action:

- We will file with the Black, Hispanic and Asian Pacific Caucus chairpersons a request for a joint Congressional hearing by the three minority caucuses.
- Similar requests will be filed with the 17 women US Senators including the two Senators from California, Senators Boxer and Feinstein.
- The Department of Justice, through US Attorney General Eric Holder and Assistant Attorney General for Civil Rights Tom Perez, will be requested to conduct a comprehensive investigation and immediately secure and make public all data for the years 1999 through 2009. The requests will be for this data to be broken down by race, ethnicity and gender including subgroups for Asian Americans.
- The Department of Justice and the EEOC will be asked to conduct similar investigations and to make the data readily available.

Without at this time taking a position on H1-B visa policies and the potential discriminatory impact of such policies, we will be requesting an examination as to the impact of this source of foreign labor on the exclusionary policies followed by Silicon Valley.

Conclusion

On behalf of 110 million US minorities and a workforce that is now a majority of women, including a majority women college graduates including at the graduate school level, we urge that all the actions set forth above in this formal complaint, be commenced within 30 days.

Sincerely,



Len Canty³
Chairman
Black Economic Council
On behalf of

Jorge Corralejo⁴
Chairman / CEO
Latino Business Chamber of Greater LA

Faith Bautista⁵
President and CEO
Mabuhay Alliance

³ The Leading Black Voice on behalf of our nation's 43 million Blacks in California.

⁴ Serves 500,000 small Latino owned businesses in California and advocates for the rights of 14 million California Latinos.

⁵ A national pan Asian American organization has two offices in Silicon Valley as well as an office in DC.