

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)

**ASIAN AMERICAN RESPONSE TO COMCAST "JOINT OPPOSITION TO REQUEST TO STOP MERGER
PROCEEDINGS (BY MABUHAY ALLIANCE)"**

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ASIAN AMERICAN RESPONSE TO COMCAST “JOINT OPPOSITION TO REQUEST TO STOP MERGER PROCEEDINGS (BY MABUHAY ALLIANCE)”

On March 25th, three major law firms led by Willkie Farr & Gallagher, LLP with approximately 654 attorneys, filed a “joint opposition to stop merger proceedings *by Mabuhay Alliance.*”¹

Using extreme hyperbole and exaggerating the adverse consequences, this legal army contends that public hearings would “disrupt the Commission’s transaction review process and grind it to a halt.” Comcast contends that its lawyers “are aware of no Commission precedent in at least the past ten years granting such an extraordinary request to stay the transaction review process prior to the initial pleading cycle...” The legal team contends that “public hearings at *any* stage of a transaction review are exceedingly rare.”

Our response is as follows:

Firstly, public hearings, transparency and comprehensive public participation are a virtue, not a danger to this proceeding.

Secondly, it is a rather grand exaggeration to contend that public hearings “disrupt the Commission’s transaction review process.”

Thirdly, the statement that public hearing would “grind it (the proceedings) to a halt” fails to take into account the 1,800 personnel at the FCC and the ease with which public hearings could be held.

Should there be any question about the FCC’s ability to provide effective public notice and secure effective participation and public hearings, Mabuhay Alliance is prepared to expeditiously procure public venues either at local city halls and/or federal courthouses for these proceedings and will do so pro bono.

Further, to avoid “disrupting the Commission’s process” and to prevent it from “grinding to a halt,” Mabuhay Alliance is prepared to work with Comcast, NBC Universal (“NBCU”) and General Electric Company (“GE”) to publicly disseminate sufficient information necessary to ensure comprehensive public participation.

For the record, Mabuhay Alliance has participated in many public hearings, including a number with the California Public Utilities Commission. This includes 2005 public hearings in San Diego that led to the AT&T commitment of 45 million dollars to broadband for underserved communities, a doubling of its philanthropy to underserved communities, and an estimated half a billion dollars in additional contracts for minority and women owned businesses (SBC/AT&T merger proceedings).

¹ This Commission should also note that similar opposition was submitted by Comcast as to the Media Access Project’s request for a 45 day extension. (“Joint Opposition to Request for Extension of Time,” March 25, 2010.) Although the FCC rejected Media Access Project’s request for an extension, it should be noted that the request is fundamentally consistent with the FCC’s new emphasis on greater public participation.

Comcast lawyers contend that they “are aware of no Commission precedent in at least the past ten years granting such an extraordinary request...” Our response is that this Commission has a relatively short history, has often modified its precedents and holding public hearings are hardly “an extraordinary request.”

Comcast also contends that a “public hearing at any stage of a transaction review are exceedingly rare.” This may be, but this is a reflection on past FCC failures and not binding on an FCC that intends to help lead the technology revolution in America, and, perhaps, globally. It could also have been said that for the first 140 years in American history it was extremely rare for a president to directly communicate with the electorate but FDR, who created the FCC, reversed this by his weekly fireside chats.

Mabuhay Alliance is also perplexed as to why Comcast believes that the appointment of a Special Master would constitute “dilatory and obstructionist tactics” since the appointment of a Special Master could actually expedite the proceeding, particularly if Comcast would cooperate.

Lastly, Comcast contends that “the Mabuhay Request simply ignores Applicants’ substantial participation in various public *fora* concerning the transaction.” Congressional hearings, which Comcast appears to be referring to, were not exactly suggested or encouraged by Comcast and were not intended by the chairs of any of the congressional committees to be a substitute for encouraging the FCC to ensure full public participation. We invite the FCC and Comcast to join us in making an inquiry of the congressional committee as to whether their intent to holding four separate congressional hearings was to preempt or discourage effective public participation or hearings.

Irony of Comcast Refusal to Support Public Hearings

Comcast had within its control the ability to have expedited the application filed with the FCC on January 29th and posted on March 5th. The FCC is in a position to determine that this application was delayed by inefficiencies within the Comcast/GE/NBCU deal making process. Had these three companies operated expeditiously and efficiently, it is quite possible that this application could have been filed in late 2009 rather than in the third month of 2010. (See Wall Street Journal article of October 2, 2009 entitled, “Comcast Takes a Gamble on Media Content.”) Therefore, Comcast desires to truncate this proceeding and minimize public participation should be given little credence.

In summary, the surprising use of hyperbole by hundreds of well-trained and well-paid Ivy League lawyers is not a substitute for effective research on the important role of public hearings. See, for example, Comcast’s dismissive conclusionary remarks: “but the dilatory and obstructionist tactics proposed here should be rejected.”

The FCC should consider in the unequal battle between underfunded nonprofits and the Comcast/GE/NBCU legal and lobbying teams, that Comcast is likely to expend more on legal fees alone in this proceeding than its: total of philanthropy over the last 20 years to underserved Asian American communities; and far more than its total in 2009 to all underserved communities. Estimated legal fees not including lobbying fees could equal to 50 million to 100 million dollars.²

Respectfully submitted,

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March 29, 2010

² Lead lawyers for Comcast and NBCU receive between nine hundred to a thousand dollars per hour and are generally earning between two to five million dollars, if not more.