

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

**COMMENTS OF
THE GREATER METRO TELECOMMUNICATIONS CONSORTIUM
(DENVER, COLORADO)**

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I. INTRODUCTION

The Greater Metro Telecommunications Consortium (“GMTC”) respectfully submits these comments to the Federal Communications Commission (“Commission”) in response to the Commission’s Public Notice, DA 10-457, released March 18, 2010 (the “Notice”) regarding the joint transfer applications submitted by Comcast Corporation, Inc. (“Comcast”), General Electric Company (“GE”), and NBC-Universal (“NBCU”) (collectively “Applicants”). GMTC believes that the Commission should require the Applicants to provide more detailed commitments to the preservation of Public, Educational, and Government (“PEG”) channel before the Commission addresses any other merger issues.

II. BACKGROUND

GMTC is an intergovernmental agency, formed pursuant to Colorado statutes, comprised of thirty-three local government entities in Colorado.¹ GMTC represents a collective population of 2.4 million people, and approximately 459,000 cable subscribers – the vast majority of whom are served by Comcast.

On January 28, 2010, the Applicants filed license transfer applications with the Commission necessary to effect a merger giving Comcast a controlling stake in NBCU, which it would acquire from GE. The Commission has requested comment on issues related to this transfer. GMTC has reviewed the Comments filed in this proceeding by the National Association of Telecommunications Officers and Advisors (“NATOA”). We are generally in agreement with, and supportive of the NATOA Comments.

In the Applicants’ Applications and Public Interest Statement (“Application”), filed on January 28, 2010 with the Commission, Comcast has made two public interest “commitments” to reassure communities that PEG channels will not be negatively impacted by the merger or other Comcast actions. The commitments made are as follows:

“Commitment # 11. With respect to PEG channels, Comcast will not migrate PEG channels to digital delivery on any Comcast cable system until the system has converted to all-digital distribution (i.e., until all analog channels have been eliminated), or until a community otherwise agrees to digital PEG channels, whichever comes first.”²

¹ Adams County, Arapahoe County, Arvada, Aurora, Brighton, Broomfield, Castle Rock, Centennial, Cherry Hills Village, Columbine Valley, Commerce City, Dacono, Denver, Durango, Edgewater, Englewood, Erie, Federal Heights, Frederick, Glendale, Golden, Greenwood Village, Jefferson County, Lakewood, Littleton, Lone Tree, Louisville, Northglenn, Parker, Sheridan, Thornton, Westminster, Wheat Ridge.

² Applications and Public Interest Statement at 68.

“Commitment # 12. To enhance localism and strengthen educational and government access programming. Comcast will also develop a platform to host PEG content On Demand and On Demand Online within three years of closing.”³

Like NATOA, while GMTC supports these commitments, we believe that additional clarification of Comcast’s plans for PEG channels is necessary.

III. PEG CHANNELS SERVE A VITAL ROLE IN OUR NATION’S COMMUNITIES.

As NATOA has noted, PEG Channels provide significant benefits to local communities. PEG Channels are local and non-commercial, as such, they serve the public interest by providing local and diverse noncommercial video content. PEG channels foster transparency in local government by cable-casting public meetings and events. Over the past two years in GMTC communities, government access channels have provided both community specific, and regional programming related to (among many other topics) the 2010 Census, public health issues in our communities (Forum for a Healthier Colorado, West Nile virus and H1N1 flu pandemic planning), regional cultural centers and available activities, local and state government candidates’ forums and ballot issue discussions (many of which get *no* coverage from traditional local media), clean energy and sustainability options, water conservation and xeriscape information, ending domestic violence and programming addressing the local economy and services available to help job seekers, citizens and small businesses in tough economic times. In addition, public access programming provides a valuable asset in our communities. The primary provider of public access in metro Denver communities is Denver Open Media. Through a contract with the Colorado Channel Authority, Denver Open Media broadcasts live proceedings

³ *Id* at 69.

of the Colorado Senate and House of Representatives. It also provides a wide range of programming relating to a variety of community interests.⁴

IV. THE FCC SHOULD REQUEST CLARIFICATION FROM COMCAST ON ITS PEG COMMITMENTS BEFORE APPROVING THE MERGER.

A. Comcast Should Clarify its Commitment to Not Move PEG Channels to a Digital Tier Against the Wishes of a Community Unless All Analog Channels are Moved to a Digital Technology.

In Commitment # 11, discussed above, Comcast stated that it would not move PEG channels to “digital delivery” unless (1) the community agreed or (2) the Comcast cable system at issue moved all channels to a digital technology.⁵ Footnote 118 of the Application on page 68, states that “[t]his commitment is consistent with the *proposed Consent Order* that has been agreed to by all parties in the pending proceeding in Michigan.” The commitment does not specify that Comcast will agree to keep all PEG programming available on the Basic Tier of service both prior to and after the channel lineup is converted to a digital format. Many lower income subscribers only take the Basic Tier of service. When Comcast recovers its costs of providing PEG support, it imposes a charge to all cable subscribers. GMTC is aware of recent franchise negotiations in Colorado where LFAs have asked Comcast to make a commitment to keep all PEG programming available to subscribers on the Basic Tier of service. Comcast’s position has been that while it has no plans to move PEG programming off of the Basic Tier *at present*, it will not commit that this will always be the case.

It is only fair that all subscribers, including those that may only subscribe to the Basic Tier of service, will always have PEG programming available from Comcast. The Commission should ask Comcast to clarify that in Commitment # 11 of the Application means that Comcast will continue to transmit PEG channels on the analog Basic Tier of service until such time as the

⁴ See, www.denveropenmedia.org (last viewed June 17, 2010).

⁵ Applications and Public Interest Statement at 68.

entire Basic Tier (including commercial broadcast stations) are transmitted using digital technology. Furthermore, Comcast should clarify that once the entire Basic Tier is transmitted using digital technology, PEG channels will continue to be transmitted on the Basic Tier in the same manner as commercial broadcast stations.

B. Comcast Should Make the Same Commitment to PEG Channel Placement as it made in the Michigan Consent Order.

The Application contains no guarantee regarding PEG channel placement. NATOA's Comments reference the Michigan *Consent Order*, where Comcast agreed that it would not change the channel placement of PEG channels until at least the expiration date of the local franchises.⁶ Further, in the Michigan *Settlement Agreement*, Comcast agreed that, for a period of two years from the date of the settlement, it would not change the channel placement of PEG channels without the consent of the local communities regardless of the local franchise agreement specifics.

GMTC believes that the Commission should require the clarifications regarding channel placement suggested by NATOA, including a commitment that PEG channel placement will not be changed at any time without the LFA's consent. Channel placement is critically important to PEG channels. Like commercial channels, PEG channel programmers take a variety of actions and incur costs in order to brand themselves with their channel numbers. Long term, regular viewers of PEG programming must be able to know where PEG programming can be found on the channel lineup.

C. Comcast Should Agree to Reimburse PEG Channels for their Costs in Moving to a Digital Distribution.

Comcast should be required to cover a PEG channel operator's reasonable costs in dealing with the digital conversion and any required channel relocations. Comcast explains on

⁶ NATOA Comments at 5.

its website that one of the benefits of its “Digital Now” (digital conversion) program is that the switch to all-digital carriage frees up space for valuable and profitable services, such as increased Video on Demand, faster internet, and enhanced telephone services. In other words, this conversion will result in increased revenue for Comcast, and potentially increased costs for local governments and other PEG operators, who are already short of funding. Comcast should clarify whether it plans to reimburse PEG providers for the costs of converting to a digital distribution. The digital conversion will cause numerous costs even if the channel location does not change. For example, PEG operators may be required to obtain new equipment and technology to properly produce and transmit digital programming. Since the most obvious beneficiary of this conversion is Comcast, we believe that it should agree to reimburse all reasonable expenses the conversion will entail for PEG providers, including costs that may be incurred as a result of changing channel locations.

D. Comcast Should Confirm that It Will Preserve Existing PEG Channels.

In Commitment # 12 of the Application, Comcast states that “[t]o enhance localism and strengthen educational and governmental access programming, Comcast will also develop a platform to host PEG content On Demand and On Demand Online within three years of closing.”⁷

Like NATOA, GMTC asks Comcast to confirm that this commitment to develop a “platform to host PEG content” is in addition maintaining traditional PEG channels and not in lieu of them. We ask Comcast to confirm that in the future, they will not be touting this On Demand platform as a rationale for replacing traditional linear PEG channels. On Demand availability is valuable and serves the public interest as an *additional* platform for PEG content,

⁷ Application at 68.

but it is not an adequate substitute for traditional PEG channels which will remain valuable and necessary into the foreseeable future.

E. Comcast has not Explained Why it Needs Three Years to Pursue “Trial Sites” in Five Communities Before Rolling Out Video on Demand for PEG, since it is Already Providing VOD for PEG in Multiple Jurisdictions.

GMTC is aware that in recent franchise negotiations with Comcast in Colorado, Comcast has been asked to provide VOD for PEG programming. Comcast has acknowledged that it is already providing VOD for PEG programming in a number of communities nationwide, but it would not agree to provide VOD for PEG in other communities. It explained that it was evaluating how VOD for PEG programming is working, and how and when it might be able to be made available to a wider range of Comcast communities.

Comcast’s commitment in the Application states that “Comcast plans to select five locations in Comcast’s service area to serve as trial sites [to develop the On Demand platform].”⁸ This suggests that Comcast has not yet begun testing how VOD for PEG can work – which is clearly not the case. For example, VOD for PEG has been available in Seattle, Washington since 2007, and in the six communities of the Mt. Hood Cable Regulatory Commission⁹ since 2006. GMTC believes that Comcast already has the information it needs to begin rolling out VOD for PEG on a national basis. At a minimum, Comcast has not provided any information to the Commission demonstrating why it needs to take three years for five new “test” sites, when it has already been providing the service in multiple communities for a number of years. Because VOD for PEG programming will serve the public interest and provide a benefit for subscribers in our communities, GMTC is not convinced that Comcast needs to begin five additional test sites, and take at least three more years before making this service available on a wider scale. The

⁸ *Id*

⁹ Farview, Gresham, Portland, Troutdale, Wood Village and Multnomah County, Oregon.

Commission should not approve the Application until it has more information, and depending upon that information, the Commission should consider conditioning approval on a commitment to provide VOD for PEG programming to all Comcast communities significantly sooner than three years.

GMTC is also concerned with the statement in the Application that “Comcast will consult with leaders in the trial communities to determine what programming – public, educational and/or governmental – would most benefit local residents by being place on VOD and online.”¹⁰ The decision as to what PEG programming benefits local residents should be made by PEG programmers, not by Comcast. Comcast currently has no role in determining what PEG programming will most benefit local subscribers on the PEG cable channels, and it likewise has no role in determining what PEG programming should be accessed on line or through VOD. Comcast certainly has no role in “consulting” with private sector content providers to determine what other programmers’ content should be available on line or through VOD. It should have no such role in determining what PEG content is made available in this manner either.

F. Comcast Should Commit to Make Frequent Public Reports on Both PEG Commitments.

GMTC agrees with NATOA’s position that annual reports may not be often enough. The Commission should require that Comcast provide at least semi-annual reports. The reporting requirement should apply to both Commitment #s 11 and 12. And like NATOA, GMTC requests that the Commission require that these documents be filed publically so that all interested parties can monitor the progress of Comcast’s commitments.

¹⁰ Application at 68.

V. CONCLUSION

The Commission should require that Comcast address the issues discussed above before approving its Application. The Commission should ensure that PEG channels are protected during this transaction. PEG channels are vital to our nation's communities and we must ensure their continued success in providing local citizens with issues of local interest.

CERTIFICATION PURSUANT TO 47 C.F.R. § 76.6(a)(4)

The undersigned signatory has read the foregoing Comments of the Greater Metro Communications Consortium and to the best of my knowledge, information and belief formed after reasonable inquiry, they are well grounded in fact and are warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and are not interposed for any improper purpose.

Respectfully submitted,

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