

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

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

**REPLY COMMENTS
OF
THE NATIONAL ASSOCIATION OF BLACK OWNED BROADCASTERS, INC.**

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TABLE OF CONTENTS

	<u>Page</u>
I. SUMMARY.....	1
II. INTRODUCTION.....	2
III. COMCAST SHOULD COMMIT TO SELL SOME OF ITS CABLE TELEVISION SYSTEMS TO AFRICAN AMERICAN OWNED COMPANIES.....	4
IV. THE APPLICANTS SHOULD COMMIT TO SPEND A MEANINGFUL AMOUNT OF THEIR ADVERTISING BUDGETS WITH AFRICAN AMERICAN OWNED MEDIA.....	6
V. CONCLUSION.....	7

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The National Association of Black Owned Broadcasters, Inc. (“NABOB”), by its attorneys, hereby submits its Reply Comments in the above-captioned proceeding regarding the application of Comcast Corporation (“Comcast”), General Electric Company (“GE”), and NBC Universal (“NBCU”) (collectively referred to as the “Applicants”) to assign and transfer control of Commission licenses (the “Application”).

I. SUMMARY

NABOB submits these Reply Comments to lend its support to the numerous comments and petitions filed in this proceeding seeking to ensure that, if the proposed merger is approved by the Commission, meaningful commitments are obtained from the Applicants to promote ownership

opportunities in the telecommunications industry for minority owned companies, and that the Applicants commit to doing meaningful amounts of business with minority owned companies.

Specifically, NABOB submits that, if the transaction is approved: (1) Comcast should commit to selling a significant number of cable television systems to African American owned companies such that African American communities will have cable television companies capable of being infrastructure providers similar to Comcast, able to control the bottleneck facilities through which content received by the American public is provided and controlled. (2) The Applicants should commit to spending a substantial portion of their \$1.5 billion dollar advertising budget on African American owned radio and television stations.

II. INTRODUCTION

NABOB is the only trade association representing the interests of the 240 African American owned radio stations and 6 African American owned television stations in the United States. Founded in 1976, one of NABOB's principal objectives has been to promote minority ownership of telecommunications facilities. Promotion of diversity of ownership in the telecommunications industry has been an important Commission policy for decades.¹ The policy is based upon the recognition that the control of the airwaves should be distributed among many different voices so that the voices of all segments of society, including those of racial minorities, can be heard.²

¹ *Promoting Diversification of Ownership In the Broadcasting Services, 2006 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, 23 FCC Rcd 5922,

¶ 2.

Since the passage of the Telecommunications Act of 1996, the diversity of ownership of telecommunications properties has fallen precipitously. The number of African American companies owning broadcast properties has fallen by over 40%. In particular, the number of African American owned television stations has fallen from a high of 22 to 6. During this time, a small number of large companies have consolidated their ownership of the broadcast industry.

Also, in recent years, the convergence of technologies has broadened the telecommunications platforms from which the public receives the expression of ideas and information. As a result, Congress and the Commission have broadened their efforts to expand minority ownership opportunities to all telecommunications services.³ Cable and other broadband technologies are increasingly becoming important to the American public. In recognition of this fact, Congress directed the Commission to develop a national broadband policy.⁴ It is clear that among the broadband technologies, cable television has become a “gatekeeper” controlling the flow of news, information and entertainment to the American public. As a majority of Americans receive their television programming and internet access from cable television systems, the ability of those cable television systems to control the news and information received by the American public has grown significantly.

Unfortunately, the ownership of cable television systems has been consolidated into the hands of a small number of companies, and among those companies, Comcast is by far the largest, with approximately 24 million subscribers. Comcast owns hundreds of cable television systems in

² *Id.*

³ *See*, 47 USC §§257, 309(i)(3) and 309(j)(3)(B).

⁴ *Connecting America: The National Broadband Plan*, released March 16, 2010.

39 states covering many of the largest cities in which African Americans are a significant portion of the population. Comcast generated approximately \$36 billion in revenues in 2009, and African American consumers provided approximately \$9 billion of that revenue directly through the payment of monthly cable television, internet service and telephone service charges.

While the African American community spends billions with Comcast, Comcast spends very little with us. For example, of the \$1.5 billion Comcast and NBCU spent together on advertising last year, only \$6.3 million was spent on advertising with Black-targeted media – less than ½ of 1 %. And of that tiny percentage, almost none was spent with Black owned media.

III. COMCAST SHOULD COMMIT TO SELL SOME CABLE TELEVISION SYSTEMS TO AFRICAN AMERICAN OWNED COMPANIES

In response to concerns raised by numerous minority organizations, the Applicants have made some voluntary commitments to promote diversity. Some of the commitments will take many years to implement and have been correctly criticized by several commenters as being virtually impossible to monitor or enforce by the Commission.⁵ This suggests that many of these commitments will never be met. Clear evidence of such an unfulfilled commitment is NBC's commitment to sell one of its three television stations in Los Angeles, a commitment that has been unfulfilled for seven years.⁶ Similarly, the commitment of XM and Sirius to provide programming

⁵ Joint Petition to Deny of Consumer Federation of America, Consumers Union, Free Press and Media Access Project ("Consumers") at 55.

⁶ Consumers at 59 -61, citing *In the Matter of Telemundo Communications Group, Inc.*, 17 FCC Rcd 6958 (2002).

channels to minority owned companies has not been fulfilled.⁷

Moreover, none of the Applicants' proposed commitments get to the core of the problem besetting the African American community, which is that we do not own and control the means of distribution of news, information, entertainment and internet access. If the Applicants are going to make a meaningful commitment to promote diversity in this industry, Comcast must commit to selling some of its cable television systems to African American owned companies.

Comcast has demonstrated through its huge growth over the past two decades that control of cable television facilities is the most effective means of controlling content in the telecommunications and broadcast industries today. As the owner and operator of cable television facilities, Comcast is able to have a great deal of influence and control over what television stations and cable channels get carried and what internet content is received by its customers. Therefore, unless some of the cable television systems serving the African American community are owned by African Americans, we will never control the news, information, entertainment programming and internet access that is delivered to our communities.

Comcast therefore should list among its commitments to diversity a commitment to sell some of its cable television systems to companies owned and controlled by African Americans. This then raises the question of what would be a meaningful commitment for such spinoff of systems. It is difficult to propose the precise amount of systems that should be spun off or the locations where such systems should be located. However two things are clear, most of Comcast's African American

⁷ *Applications for Consent to the Transfer of Control of Licenses from XM Satellite Radio Holdings, Inc. to Sirius Satellite Radio, Inc.*, 23 FCC Rcd 12348, ¶ 141 (2008).

customers reside in the largest urban areas. Therefore, systems in some large urban areas should be spun off. Given that Comcast serves over 24 million subscribers and approximately 25% of Comcast's revenues come from African American consumers, the size of the systems should be significant also.

NABOB submits that, at a minimum, Comcast should commit to spinoff systems serving at least 1 million subscribers. This is only 4% of Comcast's total subscribers, and it would be a meaningful increase from the almost total lack of African American ownership of cable television systems. This would provide a foothold for African American owned companies in the cable television industry and allow the African American community to participate in the all important broadband deployment. It is not clear where broadband deployment will take the content that is delivered to the American public, but it is clear that wherever the broadband deployment is going, the companies that own the cable television facilities will be taking us there. If America is going to preserve its democracy, all segments of our society must participate in the broadband deployment. Some of these companies must be owned by African Americans.

IV. THE APPLICANTS SHOULD COMMIT TO SPEND A MEANINGFUL AMOUNT OF THEIR ADVERTISING BUDGETS WITH AFRICAN AMERICAN OWNED MEDIA

NABOB has demonstrated above that the Applicants have a serious imbalance of trade with the African American community. This imbalance is particularly evident in the advertising practices of Comcast and NBCU, which together spent approximately \$1.5 billion on advertising in 2009. Of that, only \$6.3 million was spent with companies targeting African American consumers, and

virtually none was spent with African American owned media. Given that African Americans spent approximately \$9 billion with Comcast last year, this is a huge imbalance of trade which must be corrected.

The first step in correcting that imbalance of trade is for the Applicants to commit to spend a meaningful portion of their advertising budget with African American owned media, particularly radio and television. Given the \$1.5 billion budget, a meaningful portion would be 10%, \$150 million. While this is a much smaller percentage than the 25% of Comcast's revenues represented by African American subscribers, this would be a good first step toward improving the imbalance of trade.

V. CONCLUSION

The Commission has a formidable job deciding whether the proposed transaction is in the public interest. As has been demonstrated by numerous petitioners and commenters, the proposed transaction could have a very negative impact on the Commission's goals of promoting competition, localism and diversity. NABOB submits that, if the Commission decides to grant the Application, the Commission should impose many of the conditions proposed by other parties to this proceeding. In addition, to help promote ownership among African American owned companies, the Commission should require that Comcast commit to sell a significant number of cable television systems to African American owned companies, and commit to advertising with African American owned radio and television stations.

Respectfully submitted,

**THE NATIONAL ASSOCIATION OF BLACK
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