



words & images matter

July 20, 2010

The Hon. Julius Genachowski, Chairman  
Commissioner Michael J. Copps  
Commissioner Robert McDowell  
Commissioner Mignon Clyburn  
Commissioner Meredith Atwell Baker  
Federal Communications Commission  
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RE: General Electric, NBC Universal and Comcast Corporation  
Application for Consent to Transfer Control of Licenses (Docket No. 10-56)

Dear Chairman Genachowski and Commissioners:

I write in my capacity as the president of the Gay & Lesbian Alliance Against Defamation ("GLAAD"). GLAAD is dedicated to promoting and ensuring fair, accurate and inclusive representation of lesbian, gay, bisexual and transgender people in the media as a means of eliminating homophobia and discrimination based on gender identity and sexual orientation.

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On January 28, Comcast, NBC Universal ("NBCU") and General Electric ("GE") (together, the "Parties") jointly filed a merger application/public interest statement ("the Application") with the Federal Communications Commission (the "FCC"). In the Application, the Parties describe their proposed transaction to "transfer ownership and control of NBCU from GE, a company with a very diverse portfolio of interest, to Comcast, a company with an exclusive focus on, and a commitment to investing in, the enhancement of its media and communications assets."

You will balance many issues and interests in your review of the Parties' proposed merger. Among the more important elements of your examination will be an assessment of how the merger would impact programming diversity and the ability of affected broadcast licensees to satisfy their statutory public interest programming obligations.

I accordingly submit these comments for your specific consideration of the Parties' proposed merger and its likely effects on programming responsive to and reflective of the needs of the lesbian, gay, bisexual and transgender (LGBT) viewing and listening audiences. We strongly recommend that the FCC view this merger with a critical eye, asking NBCU to identify how it will improve on its recent challenges in meeting its responsibility to show the full diversity of the community it serves in its primetime

programming.

## **Lesbian, Gay, Bisexual and Transgender Community & the Public Interest**

Just 25 years ago, before the formation of GLAAD, representations of lesbians and gay men tended to fall into one of two categories: defamatory or non-existent. Since its inception, GLAAD's impact on our community's visibility has been far-reaching. GLAAD staff and volunteers have changed the ways that lesbian, gay, bisexual and transgender (LGBT) people are portrayed on the screen and in the news. We are a leading provider of resources and information for entertainment and news media decision makers. *Entertainment Weekly* named GLAAD as "one of Hollywood's most powerful entities," and the *Los Angeles Times* described GLAAD as "possibly the most successful organization lobbying the media for inclusion."

When the FCC began its diversity analysis in earlier years, the LGBT community was not understood as a community of interest in these decisions. Now the LGBT community is widely recognized and understood as a part of the diverse fabric of American life. Yale Professor of US and Gay and Lesbian History, George Chauncey, eloquently sums up that evolution in attitudes toward LGBT people, saying: "The place of lesbians and gay men in American society has dramatically changed in the last half century. The change has been so profound that the harsh discrimination once faced by gay people has virtually disappeared from popular memory...Fifty years ago, there was no *Will & Grace* or *Ellen*, no *Queer Eye for the Straight Guy*, no *Philadelphia* or *The Hours*, no annual Lesbian, Gay, Bisexual, and Transgender (LGBT) film festival. In fact, Hollywood films were *prohibited* from including lesbian or gay characters, discussing gay themes, or even inferring the existence of homosexuality..."

As public recognition of the LGBT community has increased in recent decades, numerous municipal and state jurisdictions have recognized this community through legislation. As they have understood the barriers LGBT Americans face, nearly 150 cities and towns have extended ordinances that protect and recognize this community; 20 states and the District of Columbia explicitly protect against forms of workplace discrimination.

Recognition of the unequal treatment faced by LGBT Americans has also been accorded by federal agencies. In June of 2009, President Obama issued a memorandum extending limited protections to the same-sex partners and families of federal employees. In July 2009, the U.S. Commerce Department announced that the U.S. Census Bureau would report married same-sex couples in the 2010 census. In October 2009, U.S. Housing and Urban Development Secretary, Shaun Donovan, announced a series of proposals to ensure that HUD's core housing programs are open to all, regardless of sexual orientation or gender identity. In addition, Health & Human Services Secretary Kathleen Sebelius announced plans to establish the nation's first national resource center to assist communities across the country in their efforts to provide services and supports for older LGBT individuals. Also in October 2009, President Obama signed the Matthew Shepard/James Byrd Hate Crimes Act which extended federal jurisdiction in the

prosecution of “hate crimes” for certain categories of citizens, including LGBT people. In January 2010, the Obama Administration modernized the federal jobs website by explicitly banning employment discrimination based on gender identity.

Gay and lesbian individuals have been recognized for their heroic contributions to the advancement of LGBT Americans. In 2009 President Obama awarded Presidential Medals of Freedom to the late Harvey Milk, a pioneering LGBT activist, and tennis great Billie Jean King, an out lesbian. The award is the nation's highest civilian honor and is bestowed upon individuals who make an especially meritorious contribution to the security or national interests of the United States, world peace, cultural or other significant public or private endeavors.

A 2008 Harris Interactive survey commissioned by GLAAD showed that nearly 20 percent of people said their attitudes about gay and lesbian people had become more favorable over the last five years. Two of the highest contributing factors to that shift in attitudes were seeing gay and lesbian people in news reports and seeing gay and lesbian people on TV and in movies. The survey results clearly indicate the significant impact of LGBT visibility on public opinion. In straightforward terms, this poll of the American public confirms what is common sense to many: a community's acceptance and well-being in society is profoundly connected to the media's inclusion of fair and accurate stories about it. There is nothing less important at stake in this merger to gay Americans than this—our full equality as Americans who happen to be gay, lesbian, bisexual or transgender.

Given the weight and significance of the Comcast/NBCU merger, GLAAD urges the FCC to ensure that the community of lesbian, gay, bisexual and transgender Americans are not forgotten in its calculus of diversity, and that the stories and visibility of LGBT people and their families are held up as part of the valued diversity in its discussions, analysis and recommendations in this merger.

### **NBC Universal's Representation of the Lesbian, Gay, Bisexual and Transgender Community**

We urge the FCC's review of the Parties' proposed merger to focus on NBCU's history of poor performance at including LGBT stories and people in its programming.

GLAAD produces annually a Network Responsibility Index (the “NRI”). The NRI is an evaluation of the quantity, quality and diversity of LGBT people on television, intended to serve as a road map to help networks move toward fair, accurate and inclusive LGBT media representations. For the report, GLAAD monitors 365 days of original primetime programming and grades broadcast and cable networks. Networks are assigned a grade of “excellent,” “good,” “adequate,” or “failing” based upon several major factors: the ratio of LGBT-inclusive programming to total programming; the diversity of the LGBT images; and the quality of the LGBT images. The NRI is distributed to the presidents of each network as an accountability tool and a basis for discussing the network's inclusion of the LGBT community, and are available to the public at [www.glaad.org/nri](http://www.glaad.org/nri).

In 2008, Ben Silverman, former Co-Chairman of NBC Entertainment and NBC Universal, when asked about the lack of gay characters on NBC and pledged, “[t]hat will change under my watch.” However, the 2008-2009 season brought no significant changes in NBC’s representation of LGBT images. For the 2007-2008 and 2008-2009 seasons, NBC, the network subsidiary of NBCU responsible for network programming content, received a failing grade on the NRI, with only 7% of its programming dedicated to LGBT images in 2008-2009. For these years, NBC ranked second to last among all networks. While NBC continues to rank second to last, in the current season it has shown some improvement. As we submit this letter today, the 2009-2010 Network Responsibility Index is going to press. It shows an increased grade for NBC from “failing” to “adequate” due to an increase in programming with LGBT characters, bringing the percentage up to 13%.

Since GLAAD began tracking programming for the NRI, other networks have improved their representation of LGBT images far more dramatically. Disney’s ABC, which began as the leader among broadcast networks, improved its ratio of LGBT hours to total programming from 15% in 2007-2008 to 24% in 2008-2009 and 26% in 2009-2010. In two years, Fox’s ratio improved from 6% in 2007-2008 to 11% in 2008-2009, and up to 30% in 2009-2010. Finally, the CW improved from 12% in 2007-2008 to 20% in 2008-2009, and this year jumps to 35%. In network ranking, NBC is trailed only by CBS, a network that had zero LGBT representation in 2008-2009 in its scripted programming.

In April 2010, I met with NBC General Manager, Paula Madison, to discuss our constituency’s concerns about the proposed merger and its impact on programming. Ms. Madison understood these concerns and shared the company’s commitment to diversity. It is our hope that the stakeholders of NBCU mirror the pledges made to us by Ms. Madison.

Also included in the 2008-2009 NRI was an analysis of the NBCU-owned property, USA network. That year, USA had no original programming featuring a regular or recurring LGBT character, and received a failing grade. Once again in 2009-2010 USA received a failing grade with only 4.5% of programming hours inclusive of LGBT people.

Additionally GLAAD has received a number of reports from our members in recent years criticizing some NBC and affiliate programs for offensive and sensationalistic material targeting LGBT people. NBC’s *The Tonight Show with Conan O’Brien* depicted LGBT people as frightening and disturbing on several occasions. This has a direct impact on the public’s understanding of the LGBT people who are often the targets of bias-motivated violence. Comedian Jay Leno appeared to kiss Adam Lambert in a skit on his show and his musical director cringed at the suggestion of two men kissing.

*Saturday Night Live* cruelly mocked South African runner Caster Semenya, a young athlete who was placed on suicide watch after she was unfairly maligned in various media as reports surfaced questioning her gender. The SNL joke ended with: “She’s

suffering from an enlarged penis.” USA Network’s television broadcast of motion picture, *Gone Baby Gone*, edited out explicit words and slurs but failed to edit the word “f\*g” from the film.

GLAAD also met with NBC over problematic 2008 Olympic coverage. The network failed to show the family of openly gay Australian diver, Matthew Mitcham, after he won the gold medal. Showing the family of winners is a routine practice for straight athletes.

Bravo is the sole brand with the NBCU networks to consistently feature the LGBT community in its programming. The network is credited by many with building its identity on programming successes like *Queer Eye for the Straight Guy* which launched a new wave of reality programming that reflected how LGBT culture influences mainstream culture. However, NBCU cannot solely rely on Bravo for its LGBT cultural imprint.

Finally, as the FCC reviews and considers the Comcast/NBC Universal merger, we ask that the commission pay close attention to how Comcast plans to improve NBCU’s capacity to serve diverse populations. In a February 4, 2010 written statement to the United States House of Representatives Committee on Energy and Commerce Subcommittee on Communications, Technology and the Internet, Brian L. Roberts, Chairman and CEO of the Comcast Corporation, and Jeff Zucker, President and CEO of NBC Universal said in a joint statement that, “[t]hrough expanded access to outlets, increased investment in outlets, and lower costs, the new venture will be able to increase the amount, quality, variety, and availability of content more than either company could on its own, thus promoting diversity. *This includes content of specific interest to minority groups, children and families, women, and other key audience segments.* The new venture will also be able to provide more and better local programming, including local news and information programming, thereby advancing localism.” [emphasis added] We are encouraged by this statement, but concerned that the FCC make clear that this expressed intent be realized through the programming decisions of NBC Universal, and benefit the millions of LGBT Americans who have so far consistently failed to find positive and accurate images of themselves on NBC Universal channels.

GLAAD is encouraged that Comcast comes to the NBC merger with a history of involvement in promoting LGBT images and storylines, most notably, with in-kind support of the GLAAD’s “Be an Ally, Be a Friend” campaign by airing certain Public Service Announcements (“PSAs”). This campaign worked to raise awareness of social stigma and barriers faced by LGBT people in the United States, and included notable celebrities, including Ellen DeGeneres, Sally Field, T.R. Knight and Sophia Vergara. Comcast donated the broadcast of these PSAs on its cable platforms in a number of major media markets. Moreover, Comcast currently distributes the 24 hour-per-day, 7 day-per-week service known as Logo—a channel dedicated to LGBT content—to over 90% of its systems, as well as the Video On Demand service here!, featuring LGBT movies and other entertainment. Finally, Comcast has indicated that, as part of the merger, it plans to create a Joint Diversity Council to meet with and advise senior Comcast executives on diverse programmatic content, as well as to participate directly in enhanced diversity

initiatives. Comcast has committed to including LGBT community representation on this council, an appropriate decision for which we applaud them.

We ask that the FCC ensure this merger will result in more accurate, inclusive and meaningful programming service to NBCU's LGBT audience, as well as to Americans in general whose viewing of inclusive images and storylines of LGBT people has the result of promoting greater understanding of our barriers, aspirations and fundamental humanity. A more inclusive program schedule ensures, thereby, programming content that does not marginalize, defame and disparage us, but instead depicts our lives and our families accurately, informs us, and engages us as contributing members of the local licensees' communities.

Sincerely,

A handwritten signature in black ink, appearing to read "Jarrett T. Barrios".

Jarrett T. Barrios, Esq.  
President, Gay & Lesbian Alliance Against Defamation