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August 26, 2010

**EX PARTE PRESENTATION**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: *Ex Parte Presentation in MB Docket No. 10-56, Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses or Transfer Control of Licensees***

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, DISH Network ("DISH") submits the attached slides distributed at two separate meetings yesterday with several Commission staffers regarding the proposed acquisition by Comcast Corporation ("Comcast") of NBC Universal ("NBCU"). The first meeting was with John Flynn and the slides distributed for that meeting are enclosed as Attachment A. The second meeting included John Flynn, as well as the following Commission staff: James Bird, Virginia Metallo, and Joel Rabinovitz of the Office of General Counsel; Deborah Broderson, Marcia Glauberman, Judith Herman and Julie Salovaara of the Media Bureau; Chuck Needy of the Office of Strategic Planning and Policy Analysis; and Stacy Jordan, Nicole McGinnis, and Erin McGrath of the Wireless Telecommunications Bureau. The slides distributed for the second meeting are enclosed as Attachment B. Present at the meetings on behalf of DISH were Jeff Blum, Dave Shull, Alison Minea, and David Goodfriend.

During the meetings, we discussed potential harms to traditional and online video competition that would result from the combination of Comcast and NBCU. In particular, we emphasized that Comcast-NBCU's reply in the above-referenced proceeding fails to rebut adequately the fact that online video is a necessary complement to today's multichannel video programming distributors' ("MVPDs") products. As an example, we briefed the staff on the recent launch of DishOnline, which integrates authenticated video content, free Web video, and the ability to place-shift live and stored TV from a DISH customer's home set-top box. Post-transaction, Comcast-NBCU will have a heightened incentive and ability to harm online video offerings of MVPD competitors by either (1) degrading or blocking online video content traveling on Comcast's High Speed Internet

(“HSI”) facilities, or (2) denying access to affiliated programming, including NBC and Universal Studios content, for online distribution, or only offering inferior quality versions of such programming. These same propensities also pose grave harm to innovation and competition by stifling the near-future emergence of online video programming distributors that will compete directly with traditional MVPDs. To address these potential harms, we reviewed with the staff DISH’s proposed open Internet, broadband, and program access conditions.

Respectfully submitted,

/s/ Alison Minea

Alison Minea

cc: John Flynn  
James Bird  
Deborah Broderson  
Marcia Glauberman  
Judith Herman  
Stacy Jordan  
Nicole McGinnis  
Erin McGrath  
Virginia Metallo  
Chuck Needy  
Joel Rabinovitz  
Julie Salovaara

Enclosures

# **ATTACHMENT A**



dish  
NETWORK™

NETWORK  
dish

# DISH Facts

-  Offspring of Echostar Satellite LLC, founded in 1980 by Charlie Ergen
  - ☞ Charlie remains DISH's CEO and takes an active role in the company's day-to-day activities
-  DISH is the third largest pay-TV provider in the US
  - ☞ 14.3 Million Subs
  - ☞ Over 200 HD channels
  - ☞ Only distributor to offer local channels in all 210 DMAs
  - ☞ Ranked number 1 in customer satisfaction among all cable and satellite providers (ACSI)

# DISH Facts

 DISH was the first MVPD to provide HD programming at no extra charge

**HD  
FREE  
FOR LIFE**

 DISH is also the only MVPD to provide local programming in all 210 DMAs



# DishOnline.com

 DishOnline, launched this week, is the newest service in DISH's business model

- ☞ The site offers a mixture of free and authenticated content
  - Video clips are available for free while feature-length films and TV shows are available to DISH subscribers
- ☞ There are currently over 150,000 movies, TV shows, clips and trailers available with more planned

 TV Everywhere

- ☞ Customers can log in to DishOnline and use their laptop, iPad or mobile device to watch a movie, program their DVR at home
- ☞ DISH's new Sling-loaded 922 set-top box allows subscribers to watch live TV or content saved to their DVR across a variety of platforms



# Interconnected Services

Dish Cinema integrates pay-per-view offerings with DishOnline, giving customers access to an unprecedented amount of content.



Sling products allow users to “place-shift” their TV experience.



DishOnline gives subscribers access to over 5000 titles over the Internet.

Google TV integrates traditional pay-TV with the web. Using their Google TV box, customers can search for the content they want across live TV, the Internet and their DVRs.

# Merger Harms

- 1.) In vesting Comcast with the substantial wealth of “must have” and marquee content currently owned by NBCU, Comcast will be able and willing to withhold such content from other MVPDs and OVPDs, harming competitors that want to offer a robust and competitive online video product and causing anti-competitive horizontal effects.
- 2.) Because the transaction will expand Comcast’s online video market power, Comcast will have heightened incentives to block or degrade access to competitive third-party online video sources when that content rides on top of Comcast’s High Speed Internet (“HSI”) service, such as in the case of the DBS subscriber.
- 3.) The transaction will amalgamate two large online video distributors and combine their programming assets and distribution platforms, thus reducing competition among online video distributors and perhaps eliminating a disruptive innovator from the market.

# Contact Information

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Dave Shull, SVP Programming

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# **ATTACHMENT B**



# **Comcast-NBCU Proposed Merger**

**August 25, 2010**

# Defining the Market

Online video is an *essential* component of any competitive multichannel video package and OVPDs will compete directly with traditional MVPDs in the near future.

## Contemporary Market

Cable

DBS

Telcos  
providing pay-TV

Online Video

## Near-Future Market

Cable

DBS

Telcos  
providing pay-TV

OVPDs?

Online Video

Video Delivered over the Internet

Linear TV

# Comcast's "Pipeline" Control



The diagram below demonstrates "choke points" where Comcast could potentially block or degrade Internet-delivered content for DISH subscribers



Sling loaded ViP  
922 STB

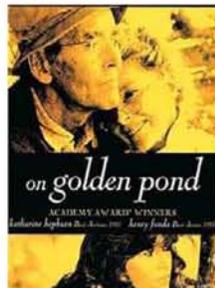
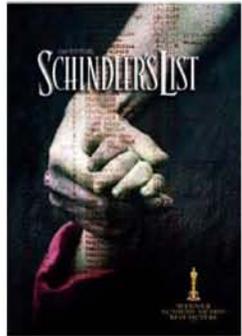


# Universal Studios and Telemundo

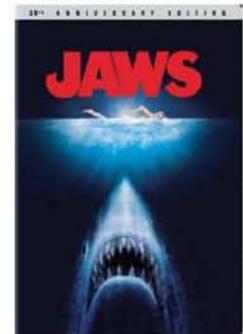
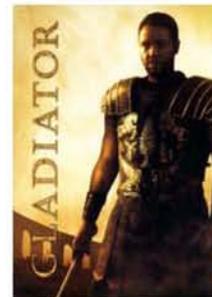


Comcast's acquisition of Universal Studios and Telemundo represents a serious competitive threat

- ☞ Universal Studios films have won 116 Oscars
- ☞ Telemundo is the 2<sup>nd</sup> largest Spanish-language content producer in the world
- ☞ Comcast could offer exclusive or prioritized access to this content for subscribers to its bundled services
  - Universal Movies On-Demand
  - TV Everywhere pay-wall for NBC/Telemundo/Universal Studios' Content



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# Merger Harms

- 1.) In vesting Comcast with the substantial wealth of “must have” and marquee content currently owned by NBCU, Comcast will be able and willing to withhold such content from other MVPDs and OVPDs, harming competitors that want to offer a robust and competitive online video product and causing anti-competitive horizontal effects.
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