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November 23, 2010

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

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

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's rules, I, Elan Feldman ("Feldman"), hereby submit this Notice regarding an ex parte communication 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, MB Docket No. 10-56.***

On November 22, 2010, I, as a member of the public and small business owner in Miami, Florida, along with legal counsel, James Saunders III, Esq., met with staff members of Commissioner Mignon Clyburn's office: David Grimaldi, Chief of Staff, Angela Kronenberg, and Louis Peraertz. During the meeting, we discussed the Commission's pending review of the Comcast/NBCU merger applications, and reviewed my Petition to Deny Comcast's Application, Comcast's limited Opposition and my Reply to Comcast's Opposition. The discussion included data and arguments already reflected in my other filings in this proceeding and included the following:

- ❖ The Commissioner's Staff confirmed the Federal Communications Commission's unquestionable authority to review matters involving a transfer applicant's character and lack of candor, particularly, but not limited to a demonstration of misrepresentation or felonious conduct.
- ❖ Comcast had admitted in writing that it trespassed and acted inconsistently with its cable operator obligations under Section 621 ("Once again, I want make [sic] clear that Comcast agrees that they owe you money for damage to your building caused by Comcast's cable," Feldman Reply at p. 2 and n. 2). But in its merger proceeding Opposition, Comcast described its misconduct as "alleged" and sought to cover it up by referring to the lawsuit which Comcast itself encouraged Feldman to file. Notably, Comcast has not denied the misconduct detailed by Feldman in the record of Docket No. 10-56, nor has it disputed its obligations under Section 621. Instead it sought to characterize the Feldman claims as a mere "property dispute" outside FCC jurisdiction. Moreover, Feldman provided documents, attached hereto, evidencing that Comcast

suggested that Feldman file a civil action due to the approaching statute of limitations deadline. This shows a lack of candor in omitting key facts from its representations to the FCC about Feldman's documented descriptions of Comcast's violations of Section 621.

- ❖ The Commissioner's Staff asked, and we discussed, what FCC-related character issues are raised by Comcast's behavior toward Feldman and other suggested patterns of abuse. Commission character policy includes the concept of patterns of abuse. In Feldman's case, Comcast's repeated abuse is evident in its five (5) year long unabashed violation of Section 621 of the Act as described in the record of Docket No. 10-56. Similarly, the merger proceeding record contains numerous other instances of Comcast misfeasance and poor treatment of consumers and other members of the public. Combined with the Feldman filings, these records show a pattern of abuse of the public interest that the FCC is charged by statute to protect. This pattern of past behavior is predictive of future abusive behavior by Comcast if granted control of NBCU and its legion of FCC licenses.
- ❖ Feldman has been rebuffed by several local and state governmental entities including the City of Miami, Miami Dade County and others, each disclaiming authority to prevent Comcast's continued abuses. Documents containing these disclaimers have been made a part of the record. The Commissioner's staff reiterated that the Commission's actions do not preempt any civil or criminal proceeding. However, it was acknowledged that many local and state authorities unknowingly abdicated their role believing such areas are preempted and that Comcast has shown a willingness to violate the law and a lack of intention to correct their abuse.
- ❖ Clearly, Section 621 is a mechanism for the Commission's enforcement. However, Section 621 is devoid of clear directives for enforcement against violating cable operators. This prompts possible FCC consideration for future rulemaking clarification of consumer protection procedures and enforcement methods to enforce Section 621. Unfortunately, those attending the meeting recognized that such a rulemaking in the midst of the merger proceeding would be counterproductive and require extensive resources unavailable at this time. Feldman has asked that any approval of the merger be conditioned on Comcast compliance with Sect. 621 with respect to him.
- ❖ While the news media is replete with Comcast's overt actions in light of the anticipated approval of the merger, Staff acknowledged that the Commission may protect the interest of unwary consumers by placing conditions on the merger approval. In that connection Feldman was asked about monetary compensation to him for damages by Comcast. Feldman explained that the compensation is not the purpose of his participation in the FCC merger proceeding. Rather, Feldman seeks to raise issues of Comcast's character and Comcast's fitness to be granted the many additional FCC authorizations for which it has made application, and to bring to the Commission's attention that Comcast's past misconduct toward Feldman is predictive of Comcast's future treatment of members of the public, if the merger were approved. In addition Feldman expressed his wishes to curtail Comcast's unfettered and destructive actions detrimental to consumers and others such as himself, and to establish a mechanism by which members of the public may register their grievances and receive redress against Comcast, including but not limited to

conditioning any approval of the merger on Comcast's certification by a date certain after approval that it has complied with Section 621 with respect to Feldman and will comply in the future in any other instances involving Section 621 and anyone aggrieved by Comcast under that law.

- ❖ Feldman and Mr. Saunders expressed to the Commissioner's Staff that Comcast's misconduct was and is so egregious, arrogant and outrageous as to shock the conscience and evoke almost universal disapprobation.
- ❖ Mr. Saunders and Feldman requested further assistance in speaking with other Commissioners and their staff, to which the Commissioner's staff offered to discuss same with Commissioner Clyburn.

Attached to this ex parte filing are copies of materials provided during the November 22, 2010 meeting that were not previously filed in the docket record evidencing Comcast's admission of violating Section 621, specifically, damaging Feldman by failing to secure authorization for the installation, operation and removal of the subject cable system facilities and properly performing same.

In accordance with the Commission's rules, this ex part Notice is being filed electronically in the above referenced docket. If you have any questions, regarding this filing,, please do not hesitate to contact me.

Respectfully,

/s/ Elan Feldman

Elan Feldman