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January 12, 2011

***Via Electronic Delivery***

Ms. Marlene H. Dortch  
Federal Communications Commission  
The Portals, TW-A325  
445 12th Street SW  
Washington, DC 20554

Re: Ex Parte Presentation – MB Dkt. 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:

The proposed merger increases the likelihood that Comcast will raise the price for standalone broadband services, even if it means some lower-income consumers may go without broadband. The transaction also threatens the development of robust and competitive video services for all Americans, including from online, over-the-top video.

With respect to broadband pricing, data and experience prove that broadband competition brings prices down, improves customer service, and better satisfies consumer needs. In the few geographic areas where EarthLink has access to wholesale high-speed broadband inputs from Comcast pursuant to its limited wholesale arrangement, consumers can order broadband service from EarthLink for only \$45.95 per month at a speed (typically) of 15 Mbps, making EarthLink's offering a more affordable and faster option for consumers than the proposed \$49.95/month retail standalone 6 Mbps broadband service from Comcast. Moreover, unlike Comcast who scarcely advertises its standalone services today, EarthLink and other independent providers have strong incentives to ensure that consumers know about and can secure such services. Indeed, as the FCC and consumers learned from previous mergers, it is unlikely – and unreasonable to expect – that a standalone service compelled as a condition of a merger will be marketed at all.

A wholesale standalone broadband option also helps promote video competition, since consumers will be able to “cut the cord” and “break the bundle” and select their preferred video provider, including online video. Unlike a price-regulated retail standalone broadband condition that ultimately is still subject to the full control of Comcast, a wholesale-based competitive broadband option offers a proven, easy-to-implement mechanism that aligns incentives to the benefit of consumers, including by exerting commercial pressure on Comcast to improve its broadband options, customer service and pricing. EarthLink, for example, with its outstanding direct end-user

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customer relationships, is in a superior position to advertise and market competitive video offerings, including emerging online options. In stark contrast to Comcast, who has every incentive to marginalize online video and video competitors, EarthLink and other wholesale-based providers can use such competitive possibilities to win customers.

At a time when data confirms that the U.S. is on the wrong track for consumer broadband pricing (with prices falling up to 40% in other developed countries versus no such occurrence in the U.S.),<sup>1</sup> the FCC should seize this opportunity to address the merger-specific harms to broadband and online video and offer affected Americans the benefits of competition.<sup>2</sup>

Pursuant to Section 1.1206 of the Commission's rules, one copy of this letter is being filed electronically in the above-referenced docket for inclusion in the public record. Please do not hesitate to contact me directly if you have any questions.

Respectfully submitted,



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Mark J. O'Connor  
Jennifer P. Bagg  
*Counsel for EarthLink, Inc.*

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<sup>1</sup> According to a December 2010 study, broadband rates in most OECD countries have dropped by as much as 40%, and triple-play broadband offerings in the U.S. are among the most expensive when compared with rates in OECD countries. See S. Wallsten and J. Riso, "Residential and Business Broadband Prices Part 2: International Comparisons" (Dec. 2010) at <http://techpolicyinstitute.org/files/residential%20and%20business%20broadband%20prices%20pt%202.pdf>.

<sup>2</sup> This competition is especially needed if consumers are to enjoy the full benefits of emerging broadband networks. The FCC found just weeks ago that at higher speeds, such as 10 Mbps downstream, "nearly 60 percent of households lived in census tracts served by only one wireline or fixed wireless provider. . . ." *In the Matter of Preserving the Open Internet, Broadband Industry Practices, Report and Order*, FCC 10-201, ¶ 32 (rel. Dec. 23, 2010).