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May 6, 2011

VIA ELECTRONIC FILING

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

Re: *In the Matter of Applications of Comcast Corporation, General Electric Company and NBC Universal Inc. for Consent to Assign Licenses and Transfer Control of Licenses, MB Docket No. 10-56*

Dear Ms. Dortch:

Ironically, earlier this week, on the same day that NBCUniversal announced the launch of new “Nonstop” channels that will significantly expand its provision of local news and public affairs programming, Free Press filed a report¹ criticizing NBCUniversal’s carriage of local news, as well as certain aspects of the local news and information programming report Comcast-NBCUniversal filed with the Commission on April 11, 2011.² Free Press’ “report” misses the forest for the trees, ignoring the company’s ongoing leadership in and commitment to news and information programming and the great strides it has made in furtherance of that commitment, as illustrated by the “Nonstop” announcement.

Consistent with NBCUniversal’s history as the preeminent provider of television news programming and Comcast’s promise to protect and enhance NBCUniversal’s commitment to local news, NBCUniversal announced on May 2, 2011 the launch of three new “Nonstop” channels that will air round-the-clock local news and information programming on the digital multicast channels of five NBC owned-and-operated stations (“O&Os”) in Dallas, Miami, and

¹ Corie Wright, Free Press, *No News Is Bad News: An Analysis of Comcast-NBCU Compliance with FCC Localism Conditions*, MB Docket No. 10-56 (May 2, 2011) (“Free Press Report”).

² Letter from Lynn R. Charytan, Vice President, Legal Regulatory Affairs, Comcast Corporation, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 10-56 (Apr. 11, 2011) (“April 11 Report”).

California (the Bay Area, Los Angeles, and San Diego).³ After this launch, nine NBCUniversal markets will feature “Nonstop” channels.

The new “Nonstop” channels will feature a unique 24-hour line-up of local news, information, and public affairs programming, including a nightly newscast designed to complement and expand the existing news coverage on the stations’ primary channels. Programming will be focused on issues of interest to local viewers in each station’s market, and will include a mix of shows produced by the local NBCUniversal O&O and programs produced by NBC Local Media. Additional local programming will be added over time. “Nonstop” channels can be viewed over-the-air on each station’s multicast stream and on major multichannel video programming distributors in each market.

As John Wallace, President of NBC Local Media, said, “These new offerings continue our ongoing effort to expand our local news and information programming in our ten O&O markets. . . . [W]e’re excited about building on our already significant contributions to local television journalism, and we’re very proud to be able to deliver this important service to our viewers.”⁴

In the wake of this announcement, Free Press’ “report” rings hollow. It is entirely backward looking, and it trades almost entirely in arguments Free Press has tried before, during the transaction review proceeding, and which the Commission declined to adopt in the Order approving the transaction.⁵ For example, Free Press has recycled here its stale criticisms of Telemundo stations’ broadcasting of news programming and its belief that an expansive news condition should be imposed on those stations.⁶ But the Commission has already rejected Free Press’ arguments on that score. Moreover, NBCUniversal will be vastly expanding news carriage by at least six Telemundo O&Os over the coming year, by adding at least 1,000 more hours of new news programming. In fact, this week’s release regarding the “Nonstop” channels specifically noted that plans for Telemundo’s news expansion would be announced in the

³ Press Release, NBC Local Media, *NBC Owned-and-Operated Stations to Expand New, Locally-Produced News, Information and Public Affairs Programming Across Key Markets* (May 2, 2011), available at <http://www.nbcuniversal.presscentre.com>.

⁴ *Id.* Industry observers have recognized the significance of this announcement. See, e.g., “Three California NBC Stations Launch ‘California Nonstop,’” Radio Business Report/Television Business Report, May 3, 2011 (“These hyper-local multicast channels allow NBC stations to super-serve their local audiences and create a variety of content and revenue opportunities as well – we’re not talking infomercials here. In a way, it allows television to get back to its roots while covering the entire market, not just those who are hooked up to stream video.”).

⁵ *In the Matter of Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses and Transfer Control of Licensees*, Memorandum Opinion and Order, MB Docket No. 10-56, FCC 11-4 (rel. Jan. 20, 2011) (“NBCUniversal Order” or “Order”).

⁶ See, e.g., Letter from Corie Wright, Policy Counsel, Free Press, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 10-56, at 2 (Jan. 13, 2011).

coming months. It is thus unclear what Free Press hopes to gain by pointing to what is, literally, “yesterday’s news.”

Free Press’ assertions about the April 11 Report are similarly irrelevant – and also inaccurate. As a preliminary matter, the report is not designed, as Free Press seems to believe, to allow Free Press to decide whether it agrees with NBCUniversal’s selection and identification of news and information programming choices – an issue that would raise significant First Amendment concerns. The report simply serves to track the current and future levels of news and information programming. Next quarter, the report will reflect the significant increase in news programming that has just been announced, and it will thus serve its purpose.

In contrast, Free Press’ desire to obtain extensive descriptions of NBCUniversal’s news and information programming would serve *no* purpose under the Order. To be sure, the NBCUniversal Order seeks a “short description” of each program, but the April 11 Report provides this. Comcast created a separate “localism” report (Exhibit B) that isolated news and information programming from Independent Programming (included in the same report as Exhibit A), and Comcast clearly and prominently labeled each page of this localism portion of the report as “News and Information Programming”⁷ – a term the Commission already has defined to mean “local and regional content, including general interest news and public affairs programming, weather, traffic and other informational programming.”⁸ That description fits all of the programs listed in Exhibit B. Indeed, together with the program titles, that descriptor provides as meaningful a picture of the relevant shows as possible. How else, for example, could one usefully “describe” News4 at 11 PM? Free Press’ suggestion that the descriptions must be significantly more detailed is impracticable in light of the many thousands of hours of diverse news programming that must be reported each quarter, and it would in no way enhance the report’s value in tracking news programming hours. And as Free Press itself concedes, the Commission rejected calls for “the FCC to require C-NBCU to submit local programming information via a reporting mechanism such as FCC Form 355,” which would have required “more and better defined categories of program information, including what portions of programming address electoral affairs, arts and cultural programming, and programming directed at underserved communities.”⁹

Free Press’ argument that NBCUniversal must refile the April 11 Report to exclude “interstitial commercials” is equally unfounded. It is well-established industry practice to describe a program’s length based on the amount of time it occupies on a programming schedule, notwithstanding commercials, opening and closing credits, emergency alerts, public service announcements and the like. For example, the Commission’s rules generally require broadcasters to air three hours per week of educational and informational programming (“E/I”)

⁷ See April 11 Report, Exhibit B.

⁸ NBCUniversal Order, Appendix A § XI.3.

⁹ Free Press Report at 11.

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for children¹⁰ – and that is universally understood to mean three hours *including commercials*. Broadcast television is, after all, an advertising-supported medium. Free Press’ preferred approach would require minute-by-minute or even second-by-second parsing of each and every program to identify and count towards Comcast and NBCUniversal’s localism obligations only those portions it deemed to qualify as “news and information” programming. Notably, even Free Press cannot suggest that the Order imposes any such onerous requirement.¹¹

In short, Free Press’ complaints are simply a distraction from what should rightfully be the essential focus here: To the significant benefit of the public, NBCUniversal has moved swiftly and aggressively to enhance its already leading news and information programming offerings long before the 12-month deadline established by the Order. And the company will continue to make strides in this direction as it meets the Telemundo 1,000 hours requirement and its other important local news commitments.

Please do not hesitate to contact me should you have any questions.

Respectfully submitted,

Lynn R. Charytan

Lynn R. Charytan
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¹⁰ The Commission’s rules state that a licensee is deemed to have satisfied its children’s programming requirements if it “has aired at least three hours per week of Core Programming.” “Core Programming” is defined as a program that, among other things, “is at least 30 minutes in length.” 47 C.F.R. § 73.671(c)-(d).

¹¹ Further, contrary to Free Press’ insinuation, the Order appropriately defers to NBCUniversal’s editorial and business judgment to determine how to meet the 1,000-hour commitment (which applies collectively to NBC’s O&Os, and not, as Free Press suggests, to each and every O&O). The Order does not invite Free Press to second guess NBCUniversal’s selection of programming or its selection of the markets in which to air that programming.