



Consumer Federation of America

May 15, 2012

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

The Honorable James Cole
Deputy Attorney General
The U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

We applaud the recent decision of the FCC to “stop the clock” on the proposed Verizon-Comcast transaction to correct its failure to comply in a timely manner with document delivery. However, we are writing to ask the Commission to put a hold on consideration of the transaction until it addresses a more profound problem that has emerged in recent weeks.

Comcast is under a consent decree entered a little over a year ago in its merger with NBCUniversal. Comcast was at the center of the litigation in much of the activity that resulted in the Network Neutrality Order issued by the Commission, also a little more than a year ago. In both cases, Comcast’s recent behavior calls into question its willingness to abide by those Commission Orders or its acceptance of the FCC’s role in providing consumer protection and promoting the public interest under the Communications Act.

Because this merger can have the effect of diminishing the competition between the two most important providers of broadband Internet access service and multichannel video programming distribution in many large and important markets in the United States, it highlights the fundamental issues that were raised by and addressed in the Comcast-NBCU consent decree and the Network Neutrality Order. If the Commission is to effectively protect the public interest, it cannot allow such a major change in the market structure of both the broadband and wireless markets without first ensuring that the underlying rules are working effectively.

The record shows significant competitive issues raised by several aspects of the transaction. Firms that compete with and are dependent on Verizon and Comcast in the video and wireless markets have come forward to challenge the anticompetitive behavior of Comcast, as well as the transaction. It comes as no surprise that Comcast would test the limits of the new rules, and it is important that the agencies

responsible for enforcing those rules draw the lines clearly. The fact that Comcast has been at the center of so much anticompetitive concern – documented in consent decrees and complaints – makes it imperative that those with oversight have adopted an effective set of rules to prevent future abuses. Until they do so, it would be irresponsible to allow such a major structural change in the product space that they clearly set out to regulate with the prior decisions.

The FCC should stop the shot clock and deal with pending complaints and accusations about violation of its orders. The DOJ should open an investigation into the alleged violations of the consent decree.

Sincerely,

Mark Cooper

Director of Research, The Consumer Federation of America