

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

*Re: Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc.,
For Consent to Assign Licenses and Transfer Control of Licenses, MB Docket 10-56, FCC 11-4*

Since the news first broke about the proposed Comcast/NBCU transaction, I have had no shortage of people warning me about the potential downsides of media consolidation on this scale. Hearing the concerns of many whom I trust and respect, I decided to go head-to-head with the Applicants on the aspects of the Joint Venture about which I feel strongly.

Although I recognize that the companies have made an unprecedented number of commitments which have since been amplified through agreements with numerous third parties, my office's inquiry did not end there. We met with many of the interested parties, some of them multiple times, and listened closely to ensure that their concerns were fully taken into account as the Commission drafted this decision.

The process shifted back and forth between collaboration and debate, but in the end, we managed to agree on many crucial aspects. I was pleased to see that the Order approving this transaction imposes additional conditions on the Applicants in a number of areas, including: increasing the number of years that the Joint Venture is required to expand the amount of local programming at NBCU and Telemundo Owned and Operated Stations; promoting the availability of the Joint Venture's programming to small cable operators; and preventing retaliation against any entities who seek to exercise rights in this Order or participated in this proceeding. For these reasons and others, I am willing to find that this transaction serves the public interest.

This Commission has conducted one of the most rigorous reviews of a transaction ever. There have been opportunities for public participation through an extensive pleading cycle, in an open forum outside Washington, and through numerous meetings. I am pleased that extraordinary numbers of interested people and organizations have made their voices heard on a wide variety of topics. As a result of our analysis as the expert agency, the Commission has adopted an array of conditions to promote localism, competition, and diversity that are based on the record and ensure that this transaction not only prevents anticompetitive conduct, but delivers public interest benefits.

I pressed Comcast and NBC on myriad concerns, and the Order includes a number of strong conditions to address the potential harms that the Joint Venture could cause. In addition to those mentioned above, there is robust and thoroughly vetted language that will safeguard journalistic independence, competition in the MVPD and OVD markets, availability of video programming to small MVPDs, children's programming and public access, educational and/or governmental programming, and discrimination against unaffiliated video programming.

The breadth of the applicants' voluntary commitments is not insignificant. The parties will be taking steps to improve diversity of viewpoint and programming, preserving an open Internet through conditions and an enforceable agreement, and other unprecedented initiatives that will benefit consumers. Additionally, the numerous Memoranda of Understanding agreed to by the Applicants and interested parties will serve to keep the new entity honest in promoting diversity at every level of its businesses, and I will be watching closely with my large megaphone in hand should these agreements be ignored.

The adoption commitment in the Order is groundbreaking and will hopefully serve to chip away at the barriers that keep low-income and minority citizens from accessing the Internet. Having spoken to many students and parents during my time as a Commissioner, I have come to the conclusion that basic

word processing skills, computer literacy, and general Internet know-how are all best realized and attained via early broadband adoption. Children with access to competent hardware and up-to-date software are far less likely to fall into the steep and perilous crevasse we know as the digital divide, a lonely place in which too many lower-income and minority children are currently stuck.

With that in mind, I urged Comcast and NBCU to break new ground, to really and truly reach out and touch America's children through an adoption program that is bold, proactive, and realistic with regard to affordability. I sought and obtained assurances that the companies would not embark on a child-directed program just for the sake of doing so, and not to simply check the adoption box in launching a weakly-targeted and poorly-constructed outreach effort that is doomed to produce poor results even before it begins.

The adoption initiative that is detailed in the Order is well-crafted, ambitious, and has enormous potential. By offering the possibility of affordable, high-speed broadband to families included in the Department of Education's School Lunch Program, not only will school-age children be able to explore the infinite worlds of the web, but the others in their homes will be able to join them. Many of these individuals think of a home computer with Internet access as an unattainable luxury, and the broadband adoption program will bring these students and their families as close to household Internet access as they have ever been.

I am also optimistic about the anti-retaliation language that the Order solidifies, as for the first time this Commission has addressed the nascent online video marketplace in a way that allows innovation and investment to flourish while preventing anti-competitive conduct. Up until now, online video distributors have lived in fear of having Comcast refuse to carry their programming if they offered it online. But now, if a content provider licenses its programming to an online video distributor, like Netflix, it will be protected from retaliatory discrimination. The language in the Order will also protect companies if they flag any possible discriminatory actions to the FCC, enabling OVDs to be silent no more should they feel the heavy hand of an Internet giant pushing them aside for no other reason than to avoid basic competition.

It was of vital importance to me that our anti-retaliation provisions protect the numerous actors, writers, and companies that were willing to come forward and describe the difficulties they have faced in the film and television industries, and this Order ensures their freedom to speak openly.

I also focused on the availability of the Joint Venture's programming to small cable operators. I wanted to be sure that the small businesses serving consumers in rural areas would be able to obtain the Joint Venture's programming at reasonable prices. By allowing those small cable operators who serve 1.5 million subscribers or fewer to use a bargaining agent and baseball-style arbitration, I believe we have provided a means for them to obtain programming at reasonable rates. Likewise, for those operators with 600,000 or fewer subscribers, we addressed their ability to go to arbitration on an individual basis by providing that the arbitration costs of the Joint Venture are indeed borne by the Joint Venture whether it wins or loses.

There were a number of parties who urged me to vote to deny this license transfer application because the Applicants did not voluntarily commit to making sufficient and measurable, improvements in the areas of diversity of viewpoint and diversity of programming. Some also argued that without sufficient measurable improvements, the Applicants were simply making empty promises to promote diversity of viewpoint and programming. I carefully considered these arguments.

On the other hand, I also weighed the number of voluntary commitments the Applicants initially made to substantially improve the amount of local programming. For example, the Applicants agreed, for three years from the closing of this transaction, the NBC Owned and Operated Stations will collectively

produce an additional 1,000 hours per year of local news and information programming. In addition, after further discussions, the Applicants agreed to commit to increased opportunities for participation by journalists and programming creators from the local communities. The Applicants also agreed that, when soliciting cooperative arrangements with Online News Partners, to provide information stating that it is committed to enhancing diversity of viewpoint and programming and that the diversity of backgrounds in the individuals that comprise these non-profit news organizations is a relevant factor in determining if its Online News Partners can promote a diversity of voices. I was pleased to see that, at my request, this Order requires the Applicants to extend to five years their commitments to increased local programming.

After considering these additional voluntary commitments from the Applicants, I determined that their resolve to improve diversity of view point and programming is credible and they deserve discretion in taking steps they feel are necessary to make additional tangible improvements in those areas.

I encourage people to speak out should they see the slightest bit of programming discrimination or any other type of questionable behavior from the soon-to-be-formed entity. My door will remain open and I will be perpetually available to field any and all future concerns in this regard.

Thus, it is with far more comfortable optimism than fearful skepticism that I vote to affirm the joint venture between Comcast and NBC Universal. My staff and I collectively spent hundreds of hours dissecting the order and debating new language, envisioning how the potential harms could quickly become sad realities, and ways in which we could safely prevent them. At all times, at the front of my mind, was whether or not this transaction is in the best interest of the public, and if it would end up doing more damage than good. I stressed over the thought of looking back at this, many years from now, and wishing that I could rescind my vote due to all of the negative effects that resulted from the merger of these two companies. But after all of my hesitation, soul-searching, and long hours of review, I am confident that, if the parties live up to the terms of the voluntary commitments from the applicants and the conditions that we have imposed on them, this transaction will result in more benefits to consumers than harms.

I expect the parties to live up to the letter and spirit of their commitments. I, and the American people, will be watching.