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28 DEC 2010 RCVD

Congress of the United States
House of Representatives
Washington, DC 20515-0535

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December 20, 2010

1919

Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: 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 Chairman Genachowski,

As a Member of the U.S. House of Representatives, I write with further inquiry into the proposed Comcast-NBCU acquisition, and the standards under which the Federal Communications Commission (FCC) determines whether a merger will serve the public interest. According to the Supreme Court and the Commission's precedent, factors considered to be in the public interest include, "a deeply rooted preference for preserving and enhancing competition; promoting a diversity of license holdings, and generally managing the spectrum in the public interest."¹

While Comcast Corporation and NBC Universal (NBCU) have filed a number of memoranda of understanding (MOU) and voluntary diversity commitments they have reached with the African American, Asian American, and Latino communities, many of the proposed conditions appear to be a series of vague goals and nominal gestures – lacking specificity and binding authority on the applicants. I am further alarmed by the fact that Comcast-NBCU has not filed any of these diversity pledges as official amendments to its application. Since the Commission has had difficulty enforcing diversity conditions in previous proceedings (most recently the order requiring Sirius XM channel set asides), I believe it would have been a reasonable good faith gesture for the companies to file these pledges as amendments, signaling their genuine intent that the Commission condition the merger's approval upon the merged entity's fulfillment of these voluntary commitments. Because Comcast-NBC negotiated these diversity pledges as stand-alone agreements, there is no real assurance that the merged entity will honor them.

Although the civic organizations and community leaders who helped forge these agreements likely negotiated in good faith, absent further action by the Commission, I am afraid that these commitments will result in yet another set of broken promises between communities of color and

¹ *FCC v. RCA Communications, Inc.*, 346 US 86, 90 (1953)

large corporations. Even as these groups enter into new MOUs with Comcast-NBCU, earlier this month, the National Latino Media Council proclaimed that all of the networks (including NBC) “pretty well failed Latinos in their progress on diversity practices.” It appears that NBC Universal has not made much progress since signing an earlier MOU² with the civil rights community in 2000, and we have nothing to indicate that these new MOUs will change what has been a steady decline in diversity among all the major broadcast networks. To that end, I remain very concerned about how the Comcast-NBCU merger will further erode the Commission’s capacity to promote diverse, independent, and competing sources of information³. Therefore, as a matter of guidance for the public and Members of Congress, I urge the Commission to clearly define ‘diversity’ and the types of public interest conditions that promote “diversity of license holdings and broadcast viewpoints.” If the Commission ultimately approves the Comcast-NBCU merger, it must be conditioned upon substantive and enforceable commitments that are in conformity with the agency’s statutory standards and goals⁴.

Since the Comcast-NBCU merger was announced last year, I have participated in the Commission’s public proceeding as well as several congressional committee hearings. I have repeatedly encouraged the companies to use this unprecedented merger as a vehicle to advance credible opportunities for minorities and women in media ownership, programming, management, and advertising. Yet, at every turn, the companies have sought to proceed through the regulatory review process without having to diverge too far from their contemplated post-merger plans. For example, upon being asked by *Multichannel News* how Comcast and NBCU felt about the public interests commitments and conditions they have presented in efforts to gain federal agency approval, two key executives from within the corporations (speaking under anonymity) replied: “It was easy for us to agree [to the commitments] because it was just a way for us to make them feel better about the transaction without us giving up anything in terms of our contemplated operation of the combined Comcast-NBCU.”

Indeed, as various stakeholders and civil rights organizations have taken an interest in the merger, Comcast and NBCU have made haphazard attempts to address their diversity concerns through memoranda of understanding and other diversity proposals. However, due to the FCC’s lack of clarity on diversity, many participants within this proceeding have conflated media diversity with

² *Television Networks Fail Latinos in Diversity*, *Hispanically Speaking News*, December 3, 2010 (<http://www.hispanicallyspeakingnews.com/notitas-de-noticias/details/television-network-fail-latinos-in-diversity/3316/>). In 1999 - 2000, the Multi-Ethnic Media Coalition, a group comprised of the National Latino Media Council, the National Asian/Pacific American Media Coalition, the NAACP and the American Indians in Film and Television, signed Memoranda of Understanding with the four major television networks, ABC, CBS, FOX and NBC.

³ See *In the Matter of Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Business*, Report (<http://www.fcc.gov/Bureaus/OCBO/fcc00279.html>). The FCC has said that it is committed “to implement the spirit and mandate of Section 257 of the Communications Act to promote policies ‘favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.’”

⁴ See, e.g., *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 663 (1994) quoting *United States v. Midwest Video Corp.*, 406 U.S. 649, 668 n.27 (1972). Specifically, under the Public Interest Test, the FCC considers whether the transaction is consistent with the Commission’s policies to advance diversity. It has long been a basic tenet of national communications policy that “the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.”

charitable giving and investments in new Comcast subsidiaries. While charitable gifts serve a critical social utility, they are not a proper gauge for whether a corporation is fulfilling its commitment to the public interest, as is statutorily required of FCC license-holders. In any case, many of the provisions within these proposals are unenforceable, and recent reports of Comcast's alleged anticompetitive business conduct do little to instill confidence in their intent to fulfill these diversity commitments as filed with the Commission.

In fact, as Comcast-NBCU continues to laud its commitment to launch ten independent channels over eight years as a landmark concession (without going into detail about carriage and placement), the Commission continues to receive program access and carriage complaints from larger and more established networks and companies. I hardly believe Comcast will abruptly decide to negotiate in good faith with smaller and/or new independent channels, when networks such as the NFL Network, Wealth TV, and the Tennis Channel have had carriage complaints against the company.

Moreover, while the companies continue to commit to "improve" diversity in executive management, when incoming NBCU Chief Operating Officer Stephen Burke announced the new executive leadership on November 18th, there were no minorities announced to oversee any of Comcast-NBCU's cable, motion picture, or Internet properties. Notwithstanding the announcement's impropriety, this could have been an opportunity for Comcast to signal to the African American, Asian American, and Latino communities its expressed commitment to promote qualified minorities to high-level executive and management positions. Of the 30 new executives (some pulled from the current NBCU team) announced in the *Los Angeles Times* article⁵, there was only one African American listed (NBCU's current diversity officer will retain her position). Altogether, only four of the new Comcast-NBCU executives listed in the article are minorities. However, none of these individuals are on tap to lead the merged entity's massive cable, content, and programming operations.

During the congressional hearings on the merger, many individuals from within the creative arts community have stressed the importance of having diversity in these executive positions as they have the potential to extend opportunities to a diverse pool of writers, directors, actors, producers, and programmers. While the regulatory agencies are not in place to micromanage corporate hiring practices, the FCC is charged with promulgating policies that promote diversity of broadcast viewpoints and responsible spectrum allocation. In this regard, it is within the Commission's jurisdiction to consider whether a company's current practices further or impede those goals in analyzing the potential harm the Comcast-NBCU merger may have on the public interest. It has long been a basic tenet of national communications policy that "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public."⁶

Therefore, in addition to clarifying its definition of 'diversity', I strongly urge the Commission and the Department of Justice (DOJ) to consider public interest proposals advanced by the FCC Advisory Committee on Diversity for Communications in the Digital Age as a framework for substantive and enforceable diversity conditions. For example, the *S-License Proposal* would

⁵ Meg James, *Comcast Unveils Management Team for NBC Universal*, *Los Angeles Times* (2010).

⁶ See, e.g., *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 663 (1994) quoting *United States v. Midwest Video Corp.*, 406 U.S. 649, 668 n.27 (1972).

promote greater media ownership diversity⁷, furthering the Commission's goal to ensure efficient spectrum use and diversity in the media. This proposal would allow Comcast-NBCU to sublease or otherwise permit full-time or part-time use of portions of its multiplexed program feeds for the transmission of programming by unaffiliated entities which would be separately licensed by the Commission under its own share-time rule⁸. In voluntarily committing to this proposal, Comcast-NBCU could narrowly tailor the program to new market entrants, serving local multicultural and multilingual audiences, or simply limit the program to socially and economically disadvantaged businesses⁹. This proposal would afford diverse entrepreneurs the opportunity to enter the market in a way that closely resembles traditional broadcast ownership, and it is more substantive than Comcast-NBCU's current commitments to employ minorities in subordinate positions and create additional Comcast subsidiaries.

I commend the Justice Department and the FCC for its extensive review and ask that you take the necessary amount of time to consider the voluminous record of unprecedented public and congressional participation. I also recommend that the Commission encourage the applicants to file the MOUs they have reached with civic and professional organizations as amendments to their application. If the Commission and DOJ approve this merger, the public will heavily rely on your conditioning this acquisition upon substantive conditions that mitigate the potential harm many believe this merger will cause to our nation's media landscape. I look forward to your responses to the questions outlined above and urge you to closely examine the very serious public interest concerns that I and other Members of Congress have raised in previous correspondence. I respectfully request that you include this letter in the record, as well as the attached transcripts from the congressional hearings on the Comcast-NBCU merger and a report prepared by my office on the companies' cable and content properties. If you have any further questions, please contact Twaun Samuel, of my staff, at 202-225-2201 or via email at Twaun.Samuel@mail.house.gov.

Sincerely,



Maxine Waters
Member of Congress

cc: Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell Baker

⁷ Section 309(j) of the Communications Act of 1934 reflects the directive of Congress that the FCC further opportunities in the auction of licenses to provide spectrum-based services for small businesses and businesses owned by women and minorities.

⁸ 47 C.F.R. §73.1715

⁹ Section 257 of the Communications Act of 1934 (added as part of the Telecommunications Act of 1996) mandates that the FCC identify and eliminate market entry barriers for small telecommunications businesses.

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MEMORANDUM

TO: Members of the House Committee on the Judiciary

FROM: John Conyers, Jr.
Chairman

RE: Hearing on Competition in the Media and Entertainment Distribution Market

DATE: September 21, 2010

On Thursday, February 25, 2010, the Committee on the Judiciary held a hearing on "Competition in the Media and Entertainment Distribution Market." To ensure stenographer accuracy, please find a **verbatim** transcript of the hearing attached for your review. The Judiciary Committee's Rule III (e) pertaining to the printing of transcripts is as follows:

*The transcripts...shall be published in **verbatim form**, with the material requested for the record...as appropriate. Any requests to correct any errors, other than transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted.*

Please return the transcript edits to the Committee by October 12, 2010, to the attention of: ~~Richard Goetzl~~ at 2138 Rayburn House Office Building, Washington, DC, 20515. If you have any further questions or concerns, please contact ~~Mr. Goetzl at (202) 225-3951~~.

2402 provides vertical leverage that will affect all markets, both
2403 the content market and the distribution markets in which one
2404 or the other of the entities owns properties.

2405 Mr. COBLE. Thank you, sir. And in conclusion,
2406 Professor Hazlett, let me put this question to you, if I may.
2407 Do you have a position on whether this deal may present
2408 antitrust concerns, in particular geographic markets, A?

2409 And, B, in particular, I am thinking of circumstances
2410 where Comcast owns a regional sports network and NBC owns and
2411 operates a broadcast station. Does this present, in your
2412 opinion, any competition problems from your perspective?

2413 Mr. HAZLETT. No, I don't think it does. There are
2414 issues about access to programming that predate the merger
2415 and are ongoing, will be of interest after the merger, but
2416 the merger itself does not increase market power in any given
2417 market where that is an issue.

2418 Mr. COBLE. Thank you all again for being here. Mr.
2419 Chairman, thank you. And do I get credit for 5 minutes?

2420 Chairman CONYERS. As always.

2421 Mr. COBLE. With your cooperation. Thank you, Mr.
2422 Chairman.

2423 Chairman CONYERS. Maxine Waters?

2424 Ms. WATERS. Thank you very much, Mr. Chairman. This
2425 hearing has certainly been informational and educational, and
2426 I have learned a lot just listening to the questions and the

2427 | answers over the last half-hour so that I have been sitting
2428 | here. And I think I understand very well what has been
2429 | stated about the desire to go forward with this merger and
2430 | what does it mean to each of the companies.

2431 | But I also understand from those who are opposed to this
2432 | merger, who have questions about this merger why they have
2433 | those questions.

2434 | There are several areas of interest. The first for me
2435 | has to do with diversity. And I have been listening to the
2436 | commitments to diversity, but when I look at the boards of
2437 | directors of both Comcast and NBC, I have questions.

2438 | For example, is it possible, Mr. Roberts, that there are
2439 | no women on the board of directors of Comcast?

2440 | Mr. ROBERTS. No, that is not true. Dr. Judith Rodin of
2441 | the Rockefeller Foundation is on the board.

2442 | Ms. WATERS. How many people do you--how many directors
2443 | do you have?

2444 | Mr. ROBERTS. Like 12, I believe.

2445 | Ms. WATERS. I noted 11. That is on the Internet.

2446 | Mr. ROBERTS. Let me--

2447 | Ms. WATERS. Did she just come on?

2448 | Mr. ROBERTS. No.

2449 | Ms. WATERS. Is it a recent--why would her name not
2450 | appear on the Internet on your board of directors?

2451 | Mr. ROBERTS. I believe it does. If it doesn't, I will

2452 | check that today. She has been on the board for more than 5
2453 | years and has been on the board ever since the AT&T broadband
2454 | merger.

2455 | Ms. WATERS. Okay. So you have 12 directors, you have
2456 | one woman, and one African-American, Mr. Bacon?

2457 | Mr. ROBERTS. We have Mr. Bacon on the board. That is
2458 | correct.

2459 | Ms. WATERS. And any Latinos or Latinas?

2460 | Mr. ROBERTS. We do not, I think, at this time, but the
2461 | governance committee of the board has stated that increasing
2462 | the diversity on the board is one of its top priorities and
2463 | we are--that is an area that we would like to improve, as
2464 | well as additional diversity on the board.

2465 | Ms. WATERS. I think that is very important, because
2466 | when you are judged about your sincerity about diversity, it
2467 | really starts at the top. And when you look at the board of
2468 | directors of any organization, it tells you a lot about who
2469 | they are and what they are trying to do.

2470 | Let's take a look at NBC. We are very pleased about
2471 | Paula Madison. She is kind of a twofer. She is a woman, and
2472 | she is black, and she is connected to the community, and we
2473 | are very appreciative for being able to talk openly and
2474 | candidly with her about our concerns.

2475 | And I guess you have one other woman, Lynn Calpeter. Is
2476 | that correct? Or do you have another woman?

2477 Mr. ZUCKER. Within our executive--within the top
2478 executive ranks at NBC Universal, other than Paula, our CFO,
2479 Lynn Calpeter, is female.

2480 Ms. WATERS. I just want to deal with the board first
2481 before we go to the other offices.

2482 Mr. ZUCKER. On the board of NBC Universal.

2483 Ms. WATERS. With the board.

2484 Mr. ZUCKER. Yes, ma'am.

2485 Ms. WATERS. So you have Paula Madison, one woman, one
2486 black. Any other women? Any other blacks?

2487 Mr. ZUCKER. Lynn Calpeter, Bonnie Hammer also--Bonnie
2488 Hammer, who is the president of USA and Syfy, is also on the
2489 board of NBC Universal. I believe there is--

2490 Ms. WATERS. Bonnie Hammer?

2491 Mr. ZUCKER. Bonnie Hammer.

2492 Ms. WATERS. Not listed on the Internet. You have 19
2493 members on the board or 20?

2494 Mr. ZUCKER. I don't think that is the board of NBC
2495 Universal.

2496 Ms. WATERS. Oh, it is not?

2497 Mr. ZUCKER. Yes, I think you may be looking--I am not
2498 sure what you are looking at.

2499 Ms. WATERS. I am looking at the board where Jay
2500 Ireland, Jeff Zucker, Michael Bass, Lynn Calpeter, Steve
2501 Capus, Marc Chini, Rick Cotton, Dick Ebersol, John Eck, Jeff

2502 Gaspin, Allison Gollust, Mark Hoffman, Paula Madison, Salil
2503 Mehta, Ron Meyer, Richard Pilot, Cory Shields, Peter Smith
2504 and John Wallace. Is that not the NBC Universal board?

2505 Mr. ZUCKER. Those are the executive--I think that would
2506 be the executives of NBC Universal, the top executives of NBC
2507 Universal.

2508 Ms. WATERS. Paula Madison is on the board though,
2509 right?

2510 Mr. ZUCKER. She is one of the top executives of NBC
2511 Universal.

2512 Ms. WATERS. But she is on the board?

2513 VOICE. They don't have a board.

2514 Ms. WATERS. Is she on the board?

2515 Mr. ZUCKER. That is the directors' board, yes, yes.

2516 Ms. WATERS. So is there something different than what I
2517 just read that is the board of directors? Or is it one and
2518 the same, your top executives make up the board, plus others?
2519 How does it work?

2520 Mr. ZUCKER. NBC Universal is not a public company, so
2521 we have a--so we have a legal entity that lists all the top
2522 executives, which I think is what you are reading from.

2523 Ms. WATERS. I see. Okay.

2524 Mr. ZUCKER. So we are not a public board, and I think
2525 that is--

2526 Ms. WATERS. So this basically is the make-up of the top

2527 executives who kind of serve in a board capacity, but not
2528 legally constructed as a board?

2529 Mr. ZUCKER. That is an accurate way to look at it.

2530 Yes, ma'am.

2531 Ms. WATERS. So you have two women, is that right, or
2532 three women? How many in this 19 that I have counted? Or is
2533 it just Paula by herself?

2534 Mr. ZUCKER. Well, I think it is--Paula Madison is on
2535 there. I think Lynn Calpeter is on there. I think Bonnie
2536 Hammer is on there. I think Allison Gollust is on there.

2537 Ms. WATERS. I don't see Bonnie--what is her title?

2538 Mr. ZUCKER. Bonnie Hammer is the president of USA and
2539 Syfy networks.

2540 Ms. WATERS. And are there any more African-Americans on
2541 the board, in this executive make-up?

2542 Mr. ZUCKER. In that executive make-up, no.

2543 Ms. WATERS. Okay. Any Latinos?

2544 Mr. ZUCKER. On that board, no.

2545 Ms. WATERS. Okay. So you have got some work to do,
2546 too, right?

2547 Mr. ZUCKER. As I said before, this has been one of my
2548 key strategic priorities that I put in place when I came into
2549 this role 3 years ago. I feel we have made progress. There
2550 is no question that there is more progress to be made.

2551 Ms. WATERS. Let's talk a little bit about programming.

2552 | And I don't know what I am referring to in terms of this
2553 | season or next season, but I am told that there is no black
2554 | programming, you have no more black programming. Is that
2555 | correct?

2556 | Mr. ZUCKER. Are you talking about NBC right now?

2557 | Ms. WATERS. Yes.

2558 | Mr. ZUCKER. Yes, on NBC? There is not a program on NBC
2559 | that has an African-American-central theme to it, that is
2560 | correct.

2561 | Ms. WATERS. Why not?

2562 | Mr. ZUCKER. I think we are always looking to--you know,
2563 | diversity is incredibly important in all of our casting and
2564 | in all of our themes. We are looking for programming that
2565 | covers that--you know, that covers both the diverse casting
2566 | and diverse programming.

2567 | With regard to African-Americans, we haven't found that
2568 | program at this time. As was referenced, obviously, we have
2569 | been--we were at the forefront of that, when you go way back
2570 | into the history of NBC, when you go into the more recent
2571 | history of NBC.

2572 | Ms. WATERS. That was then, and now is now.

2573 | Mr. ZUCKER. Yes, today we don't have that program on
2574 | the air.

2575 | Ms. WATERS. So, Ms. Prewitt, do you think that they
2576 | could get some help from individual filmmakers to help them

2577 | with a little diversity so that they would not be sitting
2578 | here in 2010 with no black programming?

2579 | Ms. PREWITT. I think they could absolutely get some
2580 | help. And the day they say, "Go," I will have members who
2581 | are prepared to start filling those slots.

2582 | Ms. WATERS. But he just said, "Go." He is looking. He
2583 | really wants to.

2584 | Ms. PREWITT. Indeed. Indeed. Well, I will pick up the
2585 | phone and call my board meeting, which is convening now, to
2586 | tell them to get started.

2587 | Thank you.

2588 | Ms. WATERS. And so, Ms. Prewitt, are we talking about
2589 | them working with independent developers to--independent
2590 | filmmakers to help develop new shows? How do they get this
2591 | done? He has forgotten how to do it.

2592 | Ms. PREWITT. There are two issues.

2593 | Ms. WATERS. They used to do it a long time ago--

2594 | Ms. PREWITT. Well, they used to do it. And one looming
2595 | issue here is, who at the end of the day owns that show?
2596 | There are a number of people who may well be prepared to come
2597 | in and work with the network and have been invited to work
2598 | with the network and then turn the ownership of that show
2599 | over to the network.

2600 | The independents with whom we work wish to retain the
2601 | rights to their shows. They want to be in control of where

2602 | those shows are exploited after the initial network or cable
2603 | run.

2604 | So on that basis, people are perfectly happy to work
2605 | with the network, but the network has to be prepared to sit
2606 | on its hands as they try to grab all worldwide Internet
2607 | rights or things of that nature.

2608 | And if you look back in the--you know, the early days,
2609 | what we think of as the great days, the Bill Cosby days, what
2610 | you will find there is that that programming traveled
2611 | worldwide because the back-end rights were left with the
2612 | creator. And that is part of what we think the process is of
2613 | forcing the creator to take risk, along with the network, to
2614 | really define programming that matters. And on that basis,
2615 | there certainly is a wide community that would be happy to
2616 | work with them.

2617 | Thank you.

2618 | Ms. WATERS. Let me ask what I guess is a business
2619 | question. Is there some assumption that black programming is
2620 | not profitable? Is that why you don't have it?

2621 | Mr. ZUCKER. Not at all.

2622 | Ms. WATERS. Well, if it is profitable, don't you want
2623 | to make money?

2624 | Mr. ZUCKER. Yes, we do.

2625 | Ms. WATERS. Well, how could you not pursue those
2626 | efforts that would help to make you profitable, more

2627 | profitable? Tyler Perry does very well with black stage,
2628 | black screen, and we just love it. We love seeing ourselves
2629 | on television and in the movies.

2630 | And I think that it would be credible to argue that
2631 | black viewers deserve the kind of content that they feel good
2632 | about and that they are watching television and should have
2633 | access to this kind of programming. I don't understand why
2634 | you don't pursue it and why you don't do it.

2635 | Mr. ZUCKER. When I mentioned before that diversity was
2636 | one of my key strategic priorities for the company, we didn't
2637 | make diversity a strategic priority for the company just
2638 | because--only because it was the right thing to do. We also
2639 | made it a strategic priority because it is good business, as
2640 | well. And so I agree with what you are saying.

2641 | The fact is, we need the best programs we can find, no
2642 | matter who is the lead characters in them. The fact is, we
2643 | haven't done a very good job of finding programs at NBC
2644 | recently, and so that is on us. We need the best programs
2645 | wherever they come from, whoever stars in them, whatever
2646 | their themes are, and we need to continue to do that.

2647 | Ms. WATERS. Well, I know that you are pretty, you know,
2648 | important in this country--I mean, in this company, but do
2649 | you know Bill Duke and others who are producers of good black
2650 | programming?

2651 | Mr. ZUCKER. Well, I have--I am not involved in taking

2652 | those pitches and, obviously, hearing those ideas, but I can
2653 | assure you that we have increased our funding for diverse
2654 | scripts and diverse ideas dramatically, especially with the
2655 | help of Paula in recent years, the amount of attention that
2656 | is paid to this.

2657 | The amount of resources that are attendant to looking
2658 | for diverse themes, diverse programs and diverse scripts has
2659 | magnified dramatically in the last 2 years.

2660 | Ms. WATERS. But it has not resulted in black
2661 | programming. You don't have any.

2662 | Mr. ZUCKER. It doesn't necessarily happen immediately,
2663 | and I think what we have done and what I am proud of is the
2664 | fact that we are attuned to it, the fact that we are putting
2665 | money where our mouths are, and we are looking for that.
2666 | Whether we have had success yet or not, which we--as you have
2667 | pointed out, we don't have any of those programs on the air
2668 | today. We are--

2669 | Ms. WATERS. How long do you think it will take?

2670 | Mr. ZUCKER. I wouldn't want to put a timeline on it.
2671 | We are looking for the best programs no matter where they
2672 | come from, and we have added dramatic resources to help us
2673 | find those.

2674 | Ms. WATERS. How do you determine whether or not it is a
2675 | good program? Do you have a committee that reviews--

2676 | Mr. ZUCKER. Well, there is a team, obviously, that

2677 | picks the programs. And diversity, including diverse casting
2678 | and themes, is a significant part of what they are looking--

2679 | Ms. WATERS. So you have a team of diverse people that
2680 | includes African-Americans and Latinos and women that review
2681 | these products that are submitted to you? Is that how it
2682 | works?

2683 | Mr. ZUCKER. Yes, ma'am.

2684 | Ms. WATERS. And what are the blacks on your team saying
2685 | about the inability to find black programming? What do they
2686 | say, if you have some who actually look at this stuff?

2687 | Mr. ZUCKER. Yes, we do.

2688 | Ms. WATERS. What do they say, "not good enough"?

2689 | Mr. ZUCKER. I think we haven't found that program yet.

2690 | Ms. WATERS. Well, let me just say that it is very
2691 | difficult to accept that you cannot find the kind of program
2692 | that I am talking about. And it is unacceptable to say that
2693 | you don't know--you have no goals. You don't know when it
2694 | could happen. It may happen. It may not happen. I don't
2695 | think that black viewers would like to hear that kind of an
2696 | answer.

2697 | And I think you can do better. And it is not all on
2698 | Paula Madison. It is good to be able to, you know, deflect
2699 | when you are getting this kind of question, and I am not
2700 | doing it to be in a "gotcha" moment. I am doing it because I
2701 | am trying to be as open and honest as I can be about your

2702 black viewers.

2703 Many of us are searching, looking for black programming
2704 and having to enjoy shows that are very old, that is
2705 repeated, because we can't find any new programming that
2706 reflects us. And we think that is very important, if you are
2707 committed to diversity.

2708 And I think that all of the ethnic groups who are
2709 viewers and who are watching television--otherwise, we don't
2710 have a dog in this kind of fight. I don't know why we should
2711 care whether or not you are successful if we are not
2712 represented. I just don't know why we should be concerned.

2713 First of all, you have got a diversity problem, you have
2714 got a labor problem, and you have got an ownership problem.
2715 There is no ownership in this merger by anybody of color, any
2716 minorities. Labor's not happy with what you are doing. We
2717 think we are going to lose jobs.

2718 So I just don't--I just don't know why I should be
2719 supportive of your merger. I don't know what it does for the
2720 people, some of the people that I represent, et cetera, et
2721 cetera.

2722 So I want to kind of just make that--put that on your
2723 radar screen so that you will actually realize some success
2724 in the area that you are working so hard in. And if you need
2725 additional help, I will just call all my friends that I know
2726 in the industry. And I will get Bill Duke and all the

2727 producers that I know, and I will set up a meeting with you
2728 to make sure you have reviewed their products, that they have
2729 been submitted, take a look at your review committee that is
2730 supposed to be diverse, and see if we can't get this done.

2731 Thank you very much, Mr. Chairman. I yield back the
2732 balance of my time.

2733 Chairman CONYERS. We have a vote on. We will be in
2734 recess for this one vote which has been on. That was the
2735 second bell that rang. And we will resume shortly. Thank
2736 you.

2737 [Recess.]

2738 Chairman CONYERS. The committee will come to order.
2739 Chair recognizes Dan Lungren.

2740 Mr. LUNGREN. Thank you very much, Mr. Chairman.

2741 And I thank the witnesses for being here. As you can
2742 see, we split our duties in a day, and I have been on the
2743 floor and other things, so I haven't heard all the testimony.
2744 I think I have the gist of it, but I would like to ask a few
2745 questions.

2746 I thought it was interesting, and I think it is a
2747 serious discussion on diversity. I am almost tempted to ask
2748 about diversity of opinion, but that would suggest that I
2749 think that networks are biased, and I wouldn't suggest that
2750 at all.

2751 I do want to make sure that, no matter what you do, I

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ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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MEMORANDUM

TO: Members of the House Committee on the Judiciary

FROM: John Conyers, Jr.
Chairman

RE: Field Hearing on the Proposed Combination of Comcast and NBC-Universal

DATE: June 25, 2010

On Monday, June 7, 2010, the Committee on the Judiciary held a hearing on the proposed combination of Comcast and NBC-Universal. To ensure stenographer accuracy, please find a **verbatim** transcript of the hearing attached for your review. The Judiciary Committee's Rule III (e) pertaining to the printing of transcripts is as follows:

*The transcripts...shall be published in **verbatim form**, with the material requested for the record...as appropriate. Any requests to correct any errors, other than transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted.*

Please return the transcript edits to the Committee by July 30, 2010, to the attention of: [REDACTED] House Office Building, Washington, DC, 20515. If you have any further questions or concerns, please contact [REDACTED].

139 STATEMENT OF THE HON. MAXINE WATERS, A REPRESENTATIVE IN
140 CONGRESS FROM THE STATE OF CALIFORNIA

141 Ms. WATERS. Thank you very much, Mr. Chairman.

142 I appreciate your comments about how long we've known
143 each other. I am 100 years old and you are 125, so--

144 [Laughter.]

145 Mr. Chairman, I want to thank you for agreeing to
146 organize this field hearing on Comcast-NBC merger. I am very
147 pleased to welcome you and my colleagues to Los Angeles as we
148 do our due diligence to further investigate and understand
149 the implications of this massive merger, and what it could
150 have on our already heavily-consolidated media market.

151 Over the past couple of months, I have been active in
152 advocating for transparency and an open process in the
153 Federal Communications Commission's review of this merger.

154 I have been very pleased with the FCC's leadership in
155 response to our calls for an extension of the initial comment
156 period and public hearings.

157 Similarly, I hope the Department of Justice is
158 conducting a labor-intensive review, considering the impact
159 this merger stands to have on competition and consumers.

160 While I am not opposed to this merger, necessarily, I
161 have long maintained that the Comcast-NBC merger raises
162 serious questions and should not be rushed through an

163 expedited review process.

164 I also want to thank our witnesses for agreeing to
165 testify today. As some will note, there are a few people who
166 are missing from the panel, who were previously scheduled to
167 attend. It is somewhat troublesome, that many independent and
168 minority programmers, producers, writers, and directors, have
169 been afraid to voice their concerns for fear of blacklisting,
170 or other forms of retaliation within their industries.

171 Indeed, due to the deregulation, and federal agencies
172 rubberstamped approval of media mergers today, only five
173 companies own the major broadcast networks. Ninety percent of
174 the top 50 cable networks produce three-quarters of all
175 primetime programming, and control 70 percent of the
176 primetime television market share.

177 In 2007, minorities owned just 3.2 percent of the U.S.
178 television stations, and 7 percent of the nation's
179 full-powered radio stations, despite comprising more than 34
180 percent of the population. Today, Comcast Corporation has
181 acquired massive reach and influence on its path to becoming
182 the nation's largest cable company, whose first quarter
183 profits this year reached \$9.2 billion.

184 In 2008, the company collected over \$40.3 billion in
185 revenue. Comcast owns cable franchises in 39 states. It has
186 23.9 million customers, 15.3 million high-speed Internet
187 customers, and 7 million voice customers.

188 Under the merger agreement, Comcast Corporation stands
189 to gain majority ownership and control of NBC Universal's two
190 broadcast television networks, NBC and Telemundo, its 26
191 local owned-and-operated broadcast television stations,
192 several national cable programming networks, a motion picture
193 studio, an international theme park business, and NBC's
194 online content business.

195 While both the FCC and DOJ have the statutory authority
196 to review media mergers under our federal antitrust laws, the
197 FCC's process allows for a more comprehensive public interest
198 analysis.

199 Factors considered to be in the public interest may
200 include a deeply rooted preference for preserving and
201 enhancing competition, accelerating private deployment of
202 advanced services, promoting diversity of license holdings.
203 Let me say that again. Diversity of license holdings, and
204 generally managing the spectrum in the public interest.

205 The FCC's process incorporates the antitrust concerns
206 that the DOJ must follow. Under the Clayton Act, the DOJ
207 will evaluate whether the merger will substantially lessen
208 competition or create a monopoly. Accordingly, Comcast has
209 advanced various public interest commitment, pledging its
210 dedication to preserve competition and improve minorities,
211 and underserved populations, in all aspects of media
212 programming, production and distribution.

213 As I understand today, both Comcast and NBC have
214 released a joint statement outlining their plans for
215 corporate diversity and inclusion. While this may be a
216 positive first step, I am anxious to learn more about the
217 proposed plan and how it proposes to meaningfully involve and
218 create opportunities for women and minorities in executive
219 leadership, management, advertising and programming.

220 Therefore, Mr. Chairman, I look forward to hearing from
221 our panel of witnesses, so that they can help this committee
222 understand the scope of this merger. Their diverse views and
223 perspectives will shed light on the type of considerations
224 the DOJ must take into account while reviewing this merger.

225 It is my hope that the parties to this merger can find
226 ways to mitigate the potential harm this deal could have on
227 customers, competition, and minority communities' access to
228 quality and affordable broadband service.

229 Mr. Chairman, let me just close by saying this has been
230 an interesting experience. In opening up and expanding the
231 comment period, and calling for public hearings, we have been
232 deluged with nonprofit organizations, churches, civil rights
233 organizations, all talking about their donations from
234 Comcast.

235 And while we take this opportunity to say to Comcast, we
236 appreciate the donations to the nonprofit organizations, that
237 has nothing to do with this competition and ownership that we

238 | are talking about today. So they should continue to give the
239 | 50 cents to the Boy Scouts. But we are talking about
240 | competition and ownership.

241 | So if there is anybody here today who want to talk about
242 | how much money you have given to the NAACP, the Urban League,
243 | to Al Sharpton, to anybody else, this is not the place to do
244 | it. Thank you very much.

245 | [The statement of Ms. Waters follows:]

246 | ***** INSERT *****

1303 STATEMENT OF ALLEN HAMMOND

1304 Mr. HAMMOND. Thank you. Thank you, Mr. Chairman,
1305 Congresswoman Waters, and distinguished committee members. I
1306 am going to talk, very briefly, about this merger. As you
1307 know, the FCC is considering the merger of Comcast and NBC,
1308 and I think there are potential dangers for minority
1309 ownership. I would like to identify those.

1310 Studies have shown that minority ownership of broadcast
1311 stations has enhanced diversity of news and public affairs
1312 programming provided to ethnic, minority and majority
1313 communities. Despite this fact, the FCC--

1314 Ms. WATERS. Excuse me. Would you pull the microphone a
1315 little bit closer.

1316 Mr. HAMMOND. A little closer.

1317 Ms. WATERS. And speak a little bit louder. Yes.

1318 Mr. HAMMOND. Thank you. I am sorry about that.

1319 Despite this fact, the FCC has too often failed to take
1320 this valuable contribution into account when formulating its
1321 multiple and cross-ownership policies.

1322 For instance, the Third Circuit Court, in issuing its
1323 stay of the commission's ownership rules, in its decision,
1324 Prometheus Radio Project v. FCC, recognized that the
1325 commission had failed to account for the impact of its
1326 policies on minority ownership.

1452 Ms. WATERS. Mr. Chairman, before you move to the next
1453 witness, we have Mr. Mike Davis, assemblyman, that is in the
1454 audience today, and I want to make sure I announce the
1455 correct caucus that you are chairing. It is the Entertainment
1456 and Sports Caucus of the California state assembly. Welcome,
1457 Mr. Davis. We are in your district. Thank you.

1458 Chairman CONYERS. Our next witness is the Emmy award
1459 winning television producer Alex Nogales, who is president of
1460 the National Hispanic Media Coalition and has been tireless
1461 in promoting and advocating on behalf of the
1462 under-represented voices in the industry. Welcome.

1904 Ms. WATERS. I would like to thank the chairman for
1905 giving me the opportunity to introduce a woman I greatly
1906 admire. Ms. Suzanne de Passe, the CEO of the de Passe Jones
1907 Entertainment, and the first female African American to be
1908 nominated for an Academy Award for screen writing. Ms. de
1909 Passe was a force that signed, developed, and coached the
1910 Jackson Five, among other leading Motown recording artists.

1911 She was also the executive producer for various
1912 ministries, including Lonesome Dove, Buffalo Girls, Streets
1913 of Laredo, and Dead Man's Walk. Ms. de Passe's production of
1914 Motown 25, and Motown Returns To The Apollo, both won her
1915 Emmy awards. Additionally, in 1990, Ms. de Passe was
1916 inducted into the Black Film Makers Hall of Fame.

1917 Additionally, Ms. de Passe and her partner, Madison
1918 Jones, are producing a feature length film on Dr. Martin
1919 Luther King with Dreamworks and Steven Spielberg. I wish I
1920 could go into all of her credits. I cannot possibly do that.
1921 We don't have enough time. Let me just conclude by saying she
1922 is one of the most respected, the most honored, in this
1923 business, and we are so delighted that she joins us today
1924 with testimony. Welcome, Suzanne de Passe.

2636 | hear the different responses. I appreciate your patience.

2637 | Chairman CONYERS. Thank you. I want to turn, now, to our
2638 | marvelous host, Maxine Waters. Give her a round of applause,
2639 | please.

2640 | [Applause.]

2641 | Ms. WATERS. Thank you, Mr. Chairman. Before I get
2642 | started, let me thank Mr. Gohmert for being here. I would
2643 | also like to thank you for the way that you have come with an
2644 | open mind, raising relevant questions, and not assuming
2645 | anything but trying to get answers. And why do I do this?

2646 | Mr. Gohmert is from the opposite side of the aisle and
2647 | we find ourselves in quite different positions.

2648 | Philosophically, we often come from different places. Mr.
2649 | Gohmert does not always, most of the time doesn't even agree
2650 | with the chairman. He is very articulate. He is extremely
2651 | bright, well-read, with a lot of experience, and for him to
2652 | come here, in this manner today, really does speak to the
2653 | need to understand this merger and what it is all about.
2654 | Thank you. Give him a big round of applause.

2655 | [Applause.]

2656 | Ms. WATERS. And I would certainly like to thank the
2657 | chairman. You know, John Conyers is an international icon. He
2658 | talked about how long we have known each other. But this is a
2659 | man whose life has been dedicated to civil rights and social
2660 | justice.

2661 This is a man who has put himself on the line for all of
2662 the major issues relative to not only this kind of merger,
2663 and dealing with FCC, but he is constantly dealing with
2664 issues in the Justice Department. He is constantly dealing
2665 with issues about intellectual property. He is constantly
2666 dealing with the tough issues of our time, and he talks about
2667 applauding me.

2668 This man should have a standing ovation for the work
2669 that he has done over the years, and I am going to stand.

2670 [Applause.]

2671 Chairman CONYERS. The check is in the mail.

2672 Ms. WATERS. Now I want you to know that what we are
2673 doing today is not normally how we do these hearings in
2674 Washington, D.C., but because the chairman is in charge, he
2675 gets to do what he thinks needs to be done.

2676 The kind of interaction that you just heard, the back
2677 and forth conversations, you don't get this in Washington,
2678 D.C. I am so pleased about this. I was enjoying, so much, the
2679 exchange, that I wanted it to go on even longer but I guess
2680 we can't be here all day. But thank you, Mr. Chairman, for
2681 your generosity.

2682 Let me start with a little bit of background. Let me
2683 just say to Ms. Madison and others in the room, you are in a
2684 complex in what is viewed as South Los Angeles. This is a
2685 complex that I know an awful lot about because I served in

2686 | the California state legislature with what is known as
2687 | Subcommittee 4. There have been attempts to dismantle this
2688 | complex. They wanted to turn the famous rose garden into a
2689 | parking lot. They wanted to get rid of all of the minority
2690 | security guards when the Olympics was here in Los Angeles,
2691 | and they wanted to choke this existence by denying it the
2692 | resources and the funds that were needed.

2693 | Because I was chair of Sub 4, this was in my
2694 | jurisdiction, I didn't let any of that happen. We fought
2695 | them--

2696 | [Applause.]

2697 | Ms. WATERS. --and under my direction, we started the
2698 | reorganizing and the revamping of this entire complex. It is
2699 | such an important complex, in the middle of this community,
2700 | where our school children come, where we have the opportunity
2701 | to have open space and events, and all of that. So we had to
2702 | fight very hard in order to maintain this important complex.

2703 | And I am just delighted that you are here today. Why do
2704 | I give you that background? I give you that background
2705 | because some of us are in the constant struggle for justice
2706 | and equality in everything that we do. Most people don't have
2707 | a clue about what it is we do constantly and what we have
2708 | done in our careers.

2709 | Even today, for this complex, we make sure that Mr.
2710 | Jeffrey Rudolph, when he comes to Washington, D.C., who's run

2711 | this complex for many years, gets access to the earmarks that
2712 | we have in order to keep the expansion going and the
2713 | development.

2714 | Now having said that, just as one example, we are doing
2715 | this in many ways, with many issues all over this country.
2716 | Serving on the Financial Services Committee and the Judiciary
2717 | Committee, I am oftentimes in touch with and contacted by
2718 | various entities in this country, where I hear about all of
2719 | the problems.

2720 | Ebony magazine is in trouble. We may lose it. And we are
2721 | contacted. What can you help us do to save Ebony magazine?
2722 | Inner City Broadcasting almost got shut down. GE and Goldman
2723 | Sachs were calling in the loans.

2724 | I can't tell you all what all happened to save it,
2725 | because again, they will want to investigate me.

2726 | But we saved Inner City Broadcasting when GE and Goldman
2727 | Sachs wanted to call in those loans, and it has worked out.

2728 | But let me tell you, all of NABOB, our minority radio
2729 | stations, all of NNPA, our black newspapers, our minority
2730 | banks, our automobile dealers--we have lost 50 percent of
2731 | them, just in the past few years. Our minority banks cannot
2732 | get capital investment in order to basically stay in
2733 | compliance with the requirements to be able to operate.

2734 | I got a call, just a few weeks ago, that they were
2735 | calling in the loan on Dr. J's golf course down in the

2736 Atlanta area. And it goes on and on and on. And while I am
2737 telling you about much of this which is basically African
2738 American, the same thing is happening with Latinos.

2739 As a matter of fact, many of the Latino organizations
2740 had not reached the level of participation of African
2741 American organizations, and yet their opportunities are being
2742 denied, and it is systemic exclusion.

2743 You understand what I'm saying? Systemic exclusion. When
2744 I first got involved in this Comcast issue, it was because
2745 some organization said we are trying to get the FCC to extend
2746 the comment period, and they said no, they won't listen to
2747 us. And so I had to develop a piece of legislation that I
2748 filed, immediately, got John Conyers and everybody, 46 other
2749 people to join with me, and send it over to the FCC. And of
2750 course when you file it, it is a piece of formal legislation
2751 and you have a significant number of members who will agree
2752 with you, they stop and they listen, and they opened up the
2753 comment period for another 45 days, and that gives us an
2754 opportunity.

2755 [Applause.]

2756 Ms. WATERS. And we thought, well, you know, that is just
2757 part of it. We need some more hearings. And so now, we are at
2758 the point where not only are they talking about hearings, and
2759 John, we had better take a look at what shape and form those
2760 hearings will take. But the chairman of this committee is

2761 | saying, in addition to that, we are going to continue these
2762 | hearings, and we will perhaps have to go into New York and we
2763 | have to go--maybe we will go right into Pennsylvania, the
2764 | backyard of Comcast, and do some of these hearings.

2765 | But we are going to continue to go. So I appreciate all
2766 | of those who are here today. And let me just say, to some of
2767 | you who are here today, and you are representing Comcast or
2768 | NBC, and that may be your job, or you may have gotten some
2769 | advantage from it--let me tell you, you are going to do
2770 | better because we are doing what we are doing. Do you
2771 | understand?

2772 | [Applause.]

2773 | Ms. WATERS. I have understood, all of my career, that
2774 | oftentimes, when people were taking the opposite position
2775 | from me, because of what I was doing, I was creating their
2776 | opportunity to get more respect in the industries that they
2777 | were defending. Okay?

2778 | [Applause.]

2779 | Ms. WATERS. So do what you have to do, but know and
2780 | understand, because of what we are doing, NBC and Comcast are
2781 | talking about what they now would like to do. Would they be
2782 | doing this, if we weren't doing this? What we are doing? I
2783 | don't think so. We didn't hear from them prior to the
2784 | expansion of the comment period, that they were thinking
2785 | about opening up opportunities, that they had a plan, and

2786 | they asked, one of them asked a question, Why are you just
2787 | doing this to us? Why don't you look at some of these other
2788 | media giants? You are before us, asking for a merger now. You
2789 | give us an opportunity to raise these questions. And that is
2790 | why.

2791 | Because you want the FCC and the Department of Justice
2792 | to rule in your favor, and so you give us the opportunity to
2793 | raise a lot of questions about who you are, and what you do.

2794 | Now having said that, because the chairman is so
2795 | generous with the time, I want to take your attention to a
2796 | recent study by Brandeis University. I kind of alluded to
2797 | some of those organizations and businesses that are
2798 | contacting us about their problems.

2799 | What is the Brandeis study all about? Let me tell you
2800 | what the headline reads.

2801 | Study shows blacks will never gain wealth parity with
2802 | whites under the current system. The other headline says--I
2803 | will find it here in a moment.

2804 | A \$95,000 question: Why are whites five times richer
2805 | than blacks in the United States?

2806 | The conclusion is basically this. The gap between black
2807 | and white household wealth quadrupled from 1984 to 2007,
2808 | totally discrediting the conventional wisdom that the U.S. is
2809 | slowly and fitfully moving towards racial equality, or some
2810 | rough economic parity between the races.

2811 | Like most American myths, it is a direct opposite of the
2812 | truth. When measured, over decades, blacks are being
2813 | propelled economically downward relative to whites, at
2814 | quickening speed, according to a new study by Brandeis
2815 | University. The gap between black and white households
2816 | ballooned during the 23 year study period, as white families
2817 | went from a median of about 22,000 in wealth to 100,000, a
2818 | gain of 78,000 in the same period.

2819 | Black house wealth inched up from a base of 2000 per
2820 | family to only five thousand dollars. The sweat and toil of
2821 | an entire generation had netted black families only \$3,000
2822 | additional dollars, while white families emerge from the
2823 | period with a net worth of 100 grand, that can be used to
2824 | send a couple of kids to college, make investments, help out
2825 | other family members, or continue to the larger white
2826 | community.

2827 | The typical black family has no such options. The
2828 | Brandeis study conducted by the university's Institute on
2829 | Assets and Social Policy shows that upper-income blacks fell
2830 | even further behind their white peers than lower-income
2831 | blacks.

2832 | During the survey period, higher-income blacks saw their
2833 | wealth drop from 25,000 to just 18,000, while their white
2834 | counterparts' wealth soared to \$240,000.

2835 | And what is happening? Whites are both collectively

2836 | privileged and capable of bestowing an endless system of
2837 | privileges on each other, while blacks are deliberately
2838 | positioned outside of the stream, and are preyed upon, as a
2839 | group, by powerful financial sources that profit from the
2840 | wealth differential.

2841 | I will not go any further with that, because that says
2842 | it all. That talks about why we are here today. That talks
2843 | about the fact that we have a potential merger, a huge
2844 | merger, perhaps the biggest media merger in the history of
2845 | this country, with the potential to deal with this economic
2846 | exclusion that we all can agree to.

2847 | There is no way that anybody can sit here and think it
2848 | is all right for there to be one African American-owned
2849 | network, in essence, by Comcast.

2850 | [Applause.]

2851 | Ms. WATERS. So when I was contacted after I got involved
2852 | in this, I got a call from somebody at Comcast, and they
2853 | said, What do you want? I certainly didn't know enough about
2854 | the industry to start to talk about what the response should
2855 | be. But I started to think about it, and I said, well, one of
2856 | the things we have discovered is that the programming is such
2857 | that blacks are really excluded from having the kinds of
2858 | shows and programming that Ms. de Passe alluded to or talked
2859 | about.

2860 | So I started to talk, well, why don't you do this. I

2861 know all of these directors and producers, and African
2862 American and Latino. Why don't you set up a situation where
2863 at least they can come and present their treatments, and you
2864 have credible people inside the industry who would listen,
2865 and say, well, here's some good stuff. And I wanted to do
2866 that because NBC, in the hearing, had said we just can't find
2867 any good product. We can't find any good programming.

2868 We had Jeff Zucker in front of our committee. I said,
2869 well, let me help you find some good programming.

2870 But the fact of the matter is this. Not only do we have
2871 the systematic exclusion, and now we have an opportunity to
2872 do something about it. We have to make this work, or the
2873 Brandeis study will continue to be worse.

2874 So when they called me and asked me what I wanted, I
2875 started to talk about doing that kind of thing, and the
2876 representative said no, I am talking about what do you want.

2877 And I want you to know that it is easy for members of
2878 Congress to have those kind of conversations about What do
2879 you want? But is just so happens that John Conyers and I, and
2880 Gohmert, and perhaps everybody on this panel, have lived long
2881 enough to understand--it is not about taking care of me or
2882 us. It is about taking care, of being fair to everybody. It
2883 is about opening up opportunities. Look. I have some friends
2884 on this panel. Cathy Hughes is one of my dearest friends in
2885 life.

2886 But this is not about Cathy. She is rich. She is going
2887 to be all right. This is not about Suzanne. Suzanne is a
2888 talented woman, and even if she gets turned down, she is so
2889 brilliant, until finally, you know, she is going to have to
2890 work hard, perhaps at it, but they are going to have to let
2891 her in. And on and on and on. This is about generations now,
2892 and generations to come. This is about a Brandeis study, and
2893 if we are so selfish to be concerned about ourselves, we
2894 aren't worth our soul.

2895 [Applause.]

2896 Ms. WATERS. And let me just say this. Again, we have
2897 worked long enough at this, we have enough self-confidence to
2898 look Comcast in the eye, NBC in the eye, and say Not this
2899 time. Not this time.

2900 And this goes for all of the institutions of our society
2901 that are responsible for this kind of exclusion. Much of
2902 this can be solved through public policy. Much of what we
2903 have to do means utilizing our power and our authority to
2904 break up this exclusion. I respect all of those who represent
2905 the companies. I respect those who have the designations of
2906 diversity.

2907 I don't know what you think it means. I don't understand
2908 how, quite, you see your positions. If you can't tell me how
2909 many dollars are being spent with minorities in contracting,
2910 and every aspect of the business, if you can't tell me how

2911 | many major executives making crucial decisions you have, then
2912 | I don't know what you are talking about.

2913 | If you are telling me how many janitors you are hiring,
2914 | how many clerks you are hiring, that is not good enough. We
2915 | know that we can always get some numbers at that lower level.

2916 | So having said that, let's just understand each other.
2917 | This is about ownership. This is about programming. This is
2918 | about executive management. This is about advertising.

2919 | [Applause.]

2920 | Ms. WATERS. And again, let me reiterate, it is not about
2921 | donations to the NAACP, the Urban League. Who else is, who
2922 | else is, who else? It is good. Keep on donating. They need
2923 | the money. But that does not do what we need to have done in
2924 | opening up these opportunities where there is systemic
2925 | exclusion, which keeps our communities and our people poor,
2926 | and keep them from being able to gather the kind of wealth
2927 | that they should be able to accumulate in America.

2928 | Having said that, one or two questions, cause I have
2929 | used my time, and more than my time, to give you my take on
2930 | all of this.

2931 | NBC, how many of the executive producers for your 2010
2932 | fall line-up are minorities?

2933 | Ms. MADISON. Congresswoman Waters, we have, in the 2010
2934 | line-up, for scripted shows, five out of 18 shows, Law &
2935 | Order LA, Law & Order SVU, Love Bites, The Office, and

2936 | Outlaw, have seven diverse co-executive producers.

2937 | Ms. WATERS. How many of the executive producers for your

2938 | 2010 fall line-up are minorities? I want to ask you again so

2939 | we will be on the same wavelength about what I am asking.

2940 | Ms. MADISON. There are seven.

2941 | Ms. WATERS. You have seven executive producers. Is that

2942 | what you are telling me?

2943 | Ms. MADISON. These are diverse co-executive producers.

2944 | Ms. WATERS. No. Well, okay. Explain it again.

2945 | Ms. MADISON. Okay. Five of the 18 shows, and the

2946 | leadership roles in the television, in these television

2947 | series are executive producers, co-executive producers. Of

2948 | the 18 shows we have, five of them, Law & Order LA, Law &

2949 | Order SVU, Love Bites, The Office, and Outlaw, have, among

2950 | them, seven diverse co-executive producers. So five of 18

2951 | shows has seven co's. And then on our reality shows--

2952 | Ms. WATERS. Yes.

2953 | Ms. MADISON. That's scripted. On our reality shows--I'm

2954 | sorry. On our cable shows, there are four diverse executive

2955 | producers and co-executive producers on USA and SciFi.

2956 | Ms. WATERS. All right. Let's see if we are on the same

2957 | wavelength here. The Event. You have two minorities in

2958 | supporting roles, no executive producers. Is that right?

2959 | Ms. MADISON. The Event, we have Blair Underwood as the

2960 | president of--

2961 Ms. WATERS. As an executive producer?
2962 Ms. MADISON. No.
2963 Ms. WATERS. Okay.
2964 Ms. MADISON. I am sorry.
2965 Ms. WATERS. If you would, please, if you call a name, I
2966 know Blair Underwood is in The Event.
2967 Ms. MADISON. He is a lead on The Event.
2968 Ms. WATERS. Okay.
2969 Ms. MADISON. He plays the president of the United
2970 States.
2971 Ms. WATERS. Okay. Do you have an executive producer on
2972 The Event?
2973 Ms. MADISON. We do not have an executive--but we are
2974 still staffing the shows. We do not--
2975 Ms. WATERS. So you are looking for an African American
2976 or Latino executive producer?
2977 Ms. MADISON. We are still--
2978 [Laughter.]
2979 Ms. WATERS. Are there any African American executive
2980 producers types in the audience? Are there any Latino
2981 executive producers in the audience? Do you know of any
2982 African American and Latino or Asian executive producers?
2983 Ms. MADISON. Congresswoman, we know of some, and the
2984 ones who are on the shows, we--
2985 Ms. WATERS. No, no, no. No, no, no. No, no, no.

2986 Ms. MADISON. We hired them on those shows.

2987 Ms. WATERS. But you don't have them on this one. I want
2988 to know whether or not you can get the word out and help
2989 them.

2990 AUDIENCE MEMBER. [Speaking from un-miked location.]

2991 Ms. WATERS. I can't hear. Stand up.

2992 Ms. MADISON. He's an executive vice president at NBC.

2993 Ms. WATERS. Okay.

2994 AUDIENCE MEMBER. We do have Jim Wong, Jay Wong. He's a
2995 very experienced--I have to admit, I don't know, exactly, his
2996 titles.

2997 Ms. WATERS. Okay.

2998 AUDIENCE MEMBER. A senior role.

2999 Ms. WATERS. You all get the word out that they are
3000 looking.

3001 AUDIENCE MEMBER. [Speaking from un-miked location.]

3002 Ms. WATERS. Yes. Now I am told, because my staff really
3003 had to get involved in a lot of research, they say that
3004 co-executive producers are not show-runners. What does that
3005 mean, Suzanne?

3006 Ms. DE PASSE. Well, a show-runner is the person who is
3007 actually most senior on the production and is chartered with
3008 the responsibility of delivering the show every week, you
3009 know, with their team. But they are the most senior of all
3010 of the producers, and just by way of information, very often,

3011 | the co-executive producer, producer, supervising producer,
3012 | there are lots of designated titles on a series, scripted
3013 | show, that are accorded to writers, who also perform in some
3014 | level of production. But it is like a bonus credit for
3015 | writers to gain, because they are in training to become
3016 | show-runners.

3017 | And so the truth is that you start as a story editor,
3018 | you start in the writer's room, and you work your way up and
3019 | you work your way up, and it is a very difficult level to
3020 | achieve, to become a show-runner, and the notion that the
3021 | co-executive producer role is as senior as the show-runner is
3022 | just not true.

3023 | Ms. WATERS. Okay. All right.

3024 | Ms. MADISON. The show-runner is largely responsible for
3025 | the budget. The show-runner is an executive producer but not
3026 | all executive producers are show-runners, Congresswoman.

3027 | Ms. DE PASSE. Correct.

3028 | Ms. WATERS. Okay. You have another show, Chase, where
3029 | you have one minority in a supporting role and no executive
3030 | producers.

3031 | AUDIENCE MEMBER. We have two. Sorry. We have two
3032 | minorities that play such a role.

3033 | Ms. WATERS. Okay. So you have two. No executive
3034 | producers; is that right?

3035 | Ms. MADISON. There is no executive producer but--

3036 Ms. WATERS. Okay. Then you have Undercovers. You have
3037 two minorities in a lead role, and no executive producers; is
3038 that right?

3039 Ms. MADISON. In Undercovers, which again is still being
3040 staffed--

3041 Ms. WATERS. But the fact of--

3042 Ms. MADISON. Boris Kodjoe and Gugu Mbatha-Raw are the
3043 stars of the show. Two black people are the stars, and a
3044 co-star, who portrays her sister, is also black.

3045 Ms. WATERS. And Undercovers--I want to make sure what I
3046 am saying is correct. There are two minorities in lead roles
3047 and no executive producers. Is that a correct statement?

3048 Ms. MADISON. That is correct, presently.

3049 Ms. WATERS. Okay. You have Outsource where you have
3050 three minorities in supporting roles and no executive
3051 producers; is that correct?

3052 Ms. MADISON. I believe we have five minorities in the
3053 ensemble, in the cast, and I don't believe there are any
3054 executive producers. Oh. I'm sorry.

3055 AUDIENCE MEMBER. [Speaking from un-miked location.]

3056 Ms. WATERS. I am sorry. I can't hear you.

3057 AUDIENCE MEMBER. [Speaking from un-miked location.]

3058 Ms. MADISON. That is Grace Wu. She is the head of
3059 Casting.

3060 Ms. WATERS. Suzanne, they have three minorities in

3061 supporting roles, ensemble cast. Are we talking about the
3062 same thing?

3063 Ms. DE PASSE. Yes. I mean, listen, as hard as it is to
3064 get a job today doing anything, this is not a bad thing for
3065 them to be having diverse cast members. This is good; you
3066 know?

3067 Ms. WATERS. Okay.

3068 Ms. DE PASSE. This is very good.

3069 Ms. WATERS. Okay.

3070 Ms. DE PASSE. But I think the thing that we are trying
3071 to figure out is, when we say minority, for purposes of where
3072 I think you are going, it would be great to know how diverse.

3073 In other words--

3074 Ms. MADISON. They are racial minorities. We are not
3075 counting women.

3076 Ms. DE PASSE. Pardon me?

3077 Ms. MADISON. They are racial minorities. We are not
3078 counting women.

3079 Ms. WATERS. But what she is asking is, would you tell us
3080 what those racial minorities are.

3081 AUDIENCE MEMBER. Mostly South Asian.

3082 Ms. WATERS. I can't hear you.

3083 AUDIENCE MEMBER. They are South Asian actors.

3084 Ms. WATERS. South Asian. Okay.

3085 AUDIENCE MEMBER. [Speaking from un-miked location.]

3086 Ms. WATERS. That is an outsource. All South Asian?
3087 AUDIENCE MEMBER. Yes.
3088 Ms. WATERS. Okay. And executive producers, none. Is that
3089 right?
3090 AUDIENCE MEMBER. That is correct.
3091 Ms. WATERS. Okay. That is correct. Let's move on. Love
3092 Bites. No minority leads, one Asian American in a supporting
3093 role and no executive producers. Is that right?
3094 Ms. MADISON. That's--
3095 AUDIENCE MEMBER. It's--I'm sorry. I'm sorry.
3096 Ms. WATERS. Who are you?
3097 [Laughter.]
3098 Ms. WATERS. You keep jumping up.
3099 Ms. MADISON. He is an executive vice president.
3100 Mr. SANDERS. My name is Bernie Sanders. I am the
3101 executive vice president of Current Programming. I recently
3102 was in Development at NBC as a senior role.
3103 Ms. WATERS. Okay.
3104 Mr. SANDERS. Love Bites, just for clarification, is a
3105 show much like Love American Style. So there is a guest cast
3106 coming in and out. The more we talk about the guest cast that
3107 was invited into that pilot episode, it is highly diverse.
3108 But in terms of series regulars, you are correct. We only
3109 have two series regular roles and both--neither of those
3110 roles are diverse.

3111 Ms. WATERS. And you have no executive producer?

3112 Mr. SANDERS. Correct.

3113 Ms. WATERS. Okay. Let's move on. School Pride. Two
3114 minorities in ensemble supporting roles, no executive
3115 producers; is that correct? Come on. You jumped up on
3116 everything else.

3117 [Laughter.]

3118 Ms. WATERS. Is that right?

3119 Mr. SANDERS. I cover scripted shows so I--

3120 Ms. WATERS. I just thought you knew everything. Okay.
3121 All right. Okay. Paula, is that correct?

3122 Ms. MADISON. That is a reality show, and it is a
3123 make-over of inner city schools. There are two co-hosts, and
3124 coming in and out of the co-host role, I believe there are,
3125 there is diversity. It was designed that way, so that there
3126 is diversity, depending upon which school we are looking at
3127 and when.

3128 Ms. WATERS. You have two minorities in ensemble
3129 supporting roles and no executive producers. Is that a
3130 correct statement?

3131 Ms. MADISON. That could be in the pilot--

3132 Ms. WATERS. Okay. All right.

3133 Ms. MADISON. --but not necessarily in the series.

3134 Ms. WATERS. Outlaw. One minority lead and no executive
3135 producers. Is that right? Jimmy Smits and no executive

3136 producers; right?

3137 Ms. MADISON. Outlaw has a co-executive producer who is
3138 diverse.

3139 AUDIENCE MEMBER. And then we also have a co-lead, David
3140 Ramsey, who is African American, who's Jimmy Smits' partner
3141 on the show.

3142 Ms. MADISON. Jimmy Smits is the lead.

3143 T3

3144 Ms. WATERS. Is that considered a lead role?

3145 Ms. MADISON. Yes. He plays a Supreme Court justice, just
3146 retired.

3147 Ms. WATERS. So you have one Latino and one black, and no
3148 executive producer. But you have something called
3149 co-executive producer; is that correct?

3150 Ms. MADISON. Yes.

3151 Ms. WATERS. How many people are in the show? Describe to
3152 me what would be the total numbers--

3153 AUDIENCE MEMBER. Of the series?

3154 Ms. WATERS. Yes.

3155 AUDIENCE MEMBER. There are five series regulars on the
3156 show.

3157 Ms. WATERS. Five regulars?

3158 AUDIENCE MEMBER. Five regulars, and two of them are
3159 diverse.

3160 Ms. WATERS. And?

3161 AUDIENCE MEMBER. Pardon me?

3162 Ms. WATERS. How many, totally, in all of the shows? How
3163 many people?

3164 AUDIENCE MEMBER. --cast members?

3165 Ms. WATERS. I can't hear you.

3166 AUDIENCE MEMBER. I'm sorry. I guess I'm not clear what
3167 the question was.

3168 Ms. WATERS. Okay, and I'm not clear either, except to
3169 say that you are casting five consistent roles but you are
3170 also casting, what do they call them? walk-ons and others who
3171 participate in this series. Is that right? How many, totally,
3172 including the ones who may be doing one show, two show,
3173 walk-on, one time, whatever. How many altogether?

3174 AUDIENCE MEMBER. It varies. I can say for a show like
3175 Love Bites, which we will be casting, mostly guest cast every
3176 week, there'll probably be up to six to eight guest leads per
3177 episode, once we start production on that.

3178 For a show like Outlaw, in the pilot there were
3179 probably--well, there were--

3180 Ms. MADISON. Five.

3181 AUDIENCE MEMBER. There were actually two guest leads,
3182 actually, both of them African American actors. It took place
3183 in Philadelphia. So--

3184 Ms. WATERS. Okay. I think I get the picture.

3185 The Cape. Two minorities in supporting roles; no

3186 executive producers.

3187 Ms. MADISON. That sounds correct.

3188 Ms. WATERS. Okay. Friends With Benefits. One person of
3189 color; no executive producers. Is that correct?

3190 AUDIENCE MEMBER. We are, just to speak on the casting
3191 front, we are in process of--there are five series regulars.
3192 One is diverse. We'll be casting two of the actors and one of
3193 them will absolutely be diverse. So the number of diverse
3194 actors will be increased in the series.

3195 Ms. WATERS. Okay. But for right now, what we know about
3196 it is one person of color and no executive producers. Is that
3197 right?

3198 Ms. MADISON. Yes.

3199 Ms. WATERS. All right. And Perfect Couples. Of course no
3200 couples of color.

3201 AUDIENCE MEMBER. There is one.

3202 Ms. WATERS. One. What ethnic group?

3203 AUDIENCE MEMBER. She's Asian American.

3204 Ms. WATERS. African American. Okay.

3205 AUDIENCE MEMBER. Asian American.

3206 Ms. WATERS. Asian American. Okay. All right. Harry's
3207 Law. One minority in a supporting role; is that correct?

3208 AUDIENCE MEMBER. In the pilot, yes, but we are recasting
3209 the show, so we'll have more of an update--

3210 Ms. WATERS. They are recasting you all.

3211 The Paul Reiser Show. Three minorities in supporting
3212 roles. I just wanted to go through that, so that we could
3213 just get kind of an understanding of what is happening.

3214 When Ms. de Passe alluded to the Bill Cosby Show,
3215 Moesha, Girlfriends-we don't have any of that anymore, do we?

3216 Chairman CONYERS. No.

3217 Ms. WATERS. We don't have any of that; right?

3218 Chairman CONYERS. No.

3219 AUDIENCE MEMBER. No.

3220 AUDIENCE MEMBER. No.

3221 AUDIENCE MEMBER. No.

3222 Ms. WATERS. I take personal offense to that. I really
3223 liked Girlfriends.

3224 [Applause.]

3225 Ms. WATERS. Okay. And let me just ask a bottom-line
3226 question. Are there any black or Latino show-runners in NBC
3227 primetime? Where is that gentleman that knows so much?

3228 AUDIENCE MEMBER. The answer to your question is no.

3229 Ms. WATERS. That is all you have to say? You don't have
3230 any. Thank you. All right. Thank you very much. Thank you
3231 very much. I had lots more questions for Comcast, but maybe
3232 in the discussion that you and others will lead us in, some
3233 of those will come up. I really appreciate you for your
3234 generosity and time. Okay.

3235 Chairman CONYERS. Give Maxine Waters a round of

3236 | applause, please.

3237 | [Applause.]

3238 | Chairman CONYERS. I am now pleased to introduce to you,
3239 | but many of you know her already because she is from the LA
3240 | area as congresswoman, the first Chinese American woman in
3241 | Congress in history. Judy Chu.

3242 | [Applause.]

3243 | Ms. CHU. Thank you for that gracious introduction. I
3244 | wanted to follow up on the responses. This is a very large
3245 | document, a very detailed document called Responses of
3246 | Comcast Corporation and NBC Universal to Questions Submitted
3247 | by Several Members of the United States House of
3248 | Representatives.

3249 | And first, I wanted to address the issue of diversity
3250 | and ethnic cable packages, and programming. You talk about
3251 | the fact that Comcast supports African American, Hispanic and
3252 | API, Asian Pacific Island programming. And I have a concern
3253 | about whether this diverse programming will primarily be in
3254 | premium packages, premium packages that cost more, and
3255 | whether that is exclusionary of many people in our community.

3256 | Like, for instance, you refer to a Hispanic cable
3257 | package in your response. How much more does that cost?

3258 | Ms. MADISON. Congresswoman Chu, the question
3259 | specifically about Comcast cable packaging, the price
3260 | packaging, I would have to take back to Comcast for answers.

3261 I was primarily here to talk about the new NBC Universal.

3262 Ms. CHU. So nobody is here from Comcast to talk about
3263 any of these very important diverse--

3264 Ms. MADISON. There are people here from Comcast. They
3265 weren't prepared to testify, however.

3266 Ms. CHU. Well--

3267 Ms. WATERS. I'm sorry.

3268 Ms. MADISON. We can get those answers for you.

3269 Ms. WATERS. If the gentlewoman would yield one more
3270 time. You did ask if there was anybody here responding to a
3271 request from this committee, from Comcast, to testify. I want
3272 the record to be clear. Is that what you asked?

3273 Ms. CHU. Yes.

3274 Ms. WATERS. And what response did you get?

3275 Ms. CHU. Nobody is here to testify on this, even though
3276 there is a very, very thick document that is supposedly the
3277 response to us on these issues that we raise pertaining to
3278 diversity and this whole merger issue.

3279 Ms. MADISON. So if I could answer it this way. When your
3280 committee had the hearings in February, in Washington, the
3281 question specifically around Comcast, Brian Roberts, we
3282 thought, was the witness, the appropriate witness at the
3283 time.

3284 Then there were a number of questions that were put to
3285 Comcast and NBC Universal by the FCC, which were just

3286 | submitted, the answers to which were just submitted, in
3287 | writing.

3288 | To the extent that there are more questions about
3289 | Comcast pricing, I would be more than happy to take those
3290 | questions back to Mr. Roberts, but he did address those in
3291 | the committee hearing in February.

3292 | Ms. CHU. I don't think they were addressed, because the
3293 | responses here raise more questions.

3294 | Ms. MADISON. Then, for the record, I will be happy to
3295 | take your questions back and get responses from Comcast.

3296 | Ms. WATERS. May I ask the chairman. Mr. Chairman, you
3297 | said we would have more questions. Ms. Chu, if you don't
3298 | mind. Is it possible that you have the power to subpoena
3299 | responses from anyone that is unresponsive? Do you have that
3300 | power?

3301 | Chairman CONYERS. Who? Me?

3302 | Ms. WATERS. Yes. Is it possible that, at some point in
3303 | time, you could make a decision--

3304 | Chairman CONYERS. Well, we would never consider anything
3305 | like that; no.

3306 | Mr. BROWN. Mr. Chairman, if I may.

3307 | Chairman CONYERS. Yes, sir. Who are you?

3308 | Mr. BROWN. My name is Payne Brown. I am vice president
3309 | of Comcast. While we did not have somebody on the panel,
3310 | we're certainly here, not hiding. With regard the

3311 | Congresswoman's specific question, I am happy to get back to
3312 | you the pricing of those packages.

3313 | Ms. CHU. Well, then I am going to make a statement, and
3314 | basically say what my concern is. Basically, in your response
3315 | to us, you refer to these cable packages, but we know that
3316 | certain packages that you have actually cost different
3317 | community members more.

3318 | For instance, the Asian American On Demand package, like
3319 | their Bollywood package, costs 12.99 a month, and the
3320 | Filipino package costs 7.99 a month. So I have great concern
3321 | that these packages, what you call diverse programming, are
3322 | actually going to cost the community more. And there is a
3323 | situation here where Comcast operated a network called AZN,
3324 | which offered a diverse array of programming for Asian
3325 | communities.

3326 | Then Comcast stated that AZN was unsustainable and that
3327 | there wasn't sufficient demand. But considering the fact that
3328 | there are 5 million Asian Americans in California, you would
3329 | think that there would be sufficient demand.

3330 | So the question was availability. Was AZN only offered
3331 | with premium cable packages? And we already know that it
3332 | costs a lot to have a premium package, in some areas, \$127,
3333 | and it is really a luxury. And so if that is what is going to
3334 | be the definition of diverse programming, that is not
3335 | acceptable.

3611 financing and the ownership, at a 100 percent, to come in and
3612 operate and run these channels, if in a free market
3613 environment they are being treated and allowed to operate
3614 freely.

3615 Mr. LIGGINS. Congressman, I just want to add, cause I
3616 think this is where African Americans, in general, do
3617 themselves a disservice. The misnomer, that you can have a
3618 100 percent ownership of any large company, is just that.

3619 Mr. COHEN. Right.

3620 Mr. LIGGINS. It is not economically possible. It costs
3621 us \$75 million a year to run TV One. Seventy-five. And it is
3622 good quality programming. If you want to spend \$7 million a
3623 year, you are not going to be proud of what is on the screen.
3624 So we need to get away from this thing, that if it is not a
3625 100 percent African American-owned, or 80 percent African
3626 American-owned, that it doesn't qualify as African
3627 American-owned, cause then you will never come up with any
3628 true quality African American-owned companies.

3629 And I mentioned it before. Nobody doubts that Bill Gates
3630 owns Microsoft, or Rupert Murdoch owns Fox. Or Sumner
3631 Redstone owns Viacom. So why should that fall back on African
3632 Americans in terms of their value--

3633 Ms. WATERS. Will the gentleman yield for one second,
3634 please, before you--

3635 Mr. COHEN. Surely. Yield.

3636 Ms. WATERS. Let me just say that I attempted to talk
3637 about our role and our responsibility in trying to open up
3638 opportunities in all sectors of our society, and I want you
3639 to know, to that end, we are concerned about Wall Street, and
3640 whether or not Wall Street is investing in these
3641 opportunities. I heard the discussion about Bill Cosby and
3642 Bill called me, and I talked to him about the fact that he
3643 wanted very much to acquire NBC, but Goldman Sachs and the
3644 rest of them said no. They would not help to finance him,
3645 despite the fact he was really making NBC at the time.

3646 So to that end, on the Financial Services Committee, in
3647 the Wall Street reform legislation that will be in conference
3648 starting next week, we have some amendments that I put in,
3649 that would create the Offices of Minority Inclusion in all of
3650 our financial services offices, including, you know, FDIC,
3651 the Treasury, SEC, everywhere, so that we can begin to
3652 address these issues of institutional exclusion, and get our
3653 Government not only organized to take a look at what is going
3654 on but be able to do public policy that would help to correct
3655 it.

3656 So we recognize what you are saying, Mr. Washington, but
3657 we also recognize that equity investment is extremely
3658 important to the way we do business in this society, and that
3659 it is very difficult to do it without it. Even though we do
3660 have a few rich people, they don't usually put their total

3711 | with is one that allows and facilitates the marketplace, as
3712 | opposed to trying to apply some sort of rigid approach that,
3713 | in my experience, when that has been done, it causes things,
3714 | in many cases, that really are counterproductive, so--

3715 | Mr. COHEN. The gentleman back here that Congressman
3716 | Waters said knew all the answers. Could you answer a
3717 | question. I don't watch a lot of television, really. I watch
3718 | sports, and I watch, I try to watch Rachel Maddow and Keith
3719 | Olbermann, but Comcast put them on 81 instead of 48, so it is
3720 | harder to find it. Kind of like taking Radio Free Europe out
3721 | of the Soviet Union.

3722 | [Laughter.]

3723 | Mr. COHEN. What is Friends With Benefits about?

3724 | [Laughter.]

3725 | Mr. SANDERS. It is about what it sounds like.

3726 | Mr. COHEN. I have got to watch that show.

3727 | Thank you. I yield back the balance of my time.

3728 | Ms. WATERS. Thank you all very, very much. First, I
3729 | would like to again thank my chairman, and the members of the
3730 | Judiciary Committee who showed up today, to be a part of this
3731 | most important discussion.

3732 | Secondly, I would like to thank all of the panelists for
3733 | your contribution. I would like to say for those panelists
3734 | who have ideas about how we could do some corrections in this
3735 | industry, don't wait until we find you, call us, and help us

3736 | to be able to create good public policy, based on your
3737 | knowledge and your experience. That is how we get good public
3738 | policy.

3739 | If we are left to do it as best we can, we are going to
3740 | do what we know how to do. You may not like what we do. So if
3741 | you want us to do what you think makes a lot of sense, you
3742 | have got to call us and help us out. I want to thank some of
3743 | the people who have been in this struggle for so long,
3744 | whether we are talking about organized labor or we are
3745 | talking about greenlining, or these other panelists who are
3746 | here today representing the intellectual point of view, based
3747 | on the work that they do.

3748 | We really are appreciative for your participation. My
3749 | chairman not only asked me to thank all of you but to let you
3750 | know that we shall continue in our efforts to learn more
3751 | about this merger and to make sure that we dissect the
3752 | commitments that are being made, and we will also have the
3753 | opportunity to forge what we think are legitimate responses
3754 | based on the information that we are learning.

3755 | So Mr. Chairman, I think with that, I will give you the
3756 | microphone to adjourn this committee, and once again, we
3757 | thank you all for your participation today.

3758 | This committee is adjourned.

3759 | [Whereupon, at 12:55 p.m., the committee was adjourned,
3760 | subject to the call of the chair.]

Opening Statement of

The Honorable Maxine Waters

**House Energy and Commerce Subcommittee on Communications,
Technology, and the Internet Field Hearing on**

“Comcast and NBC Universal: Who Benefits?”

Everett Dirksen Federal Building

Room 2525

219 S. Dearborn St.

Chicago, IL

July 8, 2010

9:00 a.m.

Thank you, Mr. Chairman, for organizing this field hearing and allowing me the opportunity to participate. Over the past couple of months, I have been active in advocating for a thorough and transparent process in the Federal Communications Commission’s (FCC) review of the Comcast-NBC merger. The opportunities for minority writers, producers, directors, actors, programmers have been constrained as a result of deregulatory policies, lax media ownership rules, and media consolidations. This has concentrated our media industry into the control of a mere handful of corporations, constraining opportunities for minority ownership of media licenses. While I am not presently opposed to the Comcast-NBC merger, I do recognize it as a critical opportunity for both companies to implement a plan of action to address their shortcomings with respect to minority inclusion within their programming, management, ownership, and advertising activities (advertising – marketing with minority-owned newspapers, radio stations, and online publications).

Ultimately, these diversity considerations are taken into account within the FCC’s review proceedings. While both the FCC and DOJ have the statutory authority to review media mergers under our federal antitrust laws and their impact on competition, the FCC’s process allows for a more comprehensive public interest analysis including: “a deeply rooted preference for preserving and enhancing competition...and generally managing the spectrum in the public trust.” Therefore, my concerns about this merger are based on the potential impact on diversity, competition, and whether consumers will enjoy diverse and alternative sources of news and entertainment. The following information represents information that was obtained from the companies’ websites and various news and press releases from media and telecom news publications. None of the information was easy to compile, but from what we have gathered, both Comcast and NBC have a lot of work to do.

NBC Universal (NBCU) has 18 corporate executives. While 2 of the 18 executives are minorities (Paula Madison and Salil Mehta [sa-leel me-ta]), ***their primary responsibilities do not include managing networks and producing content.*** Despite Paula Madison's efforts to work with the key executives to promote diversity throughout NBC Universal, the company continues to fall short in extending significant media ownership, management, programming, and advertising (spending money in its **marketing** with African American newspapers, radio stations, etc.)

NBCU does not have any African American show-runners over its primetime, daytime, or late night programming. This means, African Americans are not in positions where they oversee budgets and the hiring of actors, writers, co-producers, and technical employees. While show-runners are commonly referred to as 'executive producers,' not all executive producers are show-runners. Therefore, it is important to have diversity in these **management** positions because they create employment opportunities for other producers, writers, directors, and actors.

Similarly, NBC's Universal Studios do not employ African Americans with the authority to "greenlight" films. This means that there are no minorities in positions to decide which film projects are ultimately given the necessary support to make it to the big screen. The President and COO of NBC Universal Studios (which oversees Universal Pictures and Focus Features) is a white male. The presidents and chairmen of Universal Pictures and Focus Features are also white. The overwhelming majority of NBC TV content is produced by white individuals and/or white-owned production companies. Of the 21 films NBC Universal Pictures released in 2009, only two had minority leads.

The presidents of all 12 of the NBC Cable Networks are white (MSNBC, CNBC, SyFy, Bravo, USA Network, NBC Sports, Oxygen, Weather Channel, Chiller, Sleuth, Shop NBC, Universal HD). Ultimately, these individuals oversee the network's programming and production activities. They are an influential voice in deciding what show-runners are hired to produce the television shows that will air on these networks. Each show that a network produces has the potential to employ hundreds of individuals. Thus, it is important to have sufficient minority representation in **programming** to ensure diversity in content the network produces.

Comcast Corporation also has problems with diversity and inclusion. Today, the company has acquired massive reach and influence on its path to becoming the nation's largest cable company, whose ***first quarter profits this year reached \$9.2 billion*** (In 2008, the company collected over \$34.3 billion in revenue). Comcast owns multiple ***cable franchises in 39 states***; it has ***23.9 million customers***; 15 million high-speed Internet customers, and 7 million voice customers. In context, Comcast has more customers than the number 2 and 3 U.S. cable operators combined: ***Time Warner has only 13.2 million customers*** and ***Cox Communications has 5.4 million customers***. Essentially, for a network or new cable channel to be competitive and viable, it must do business with Comcast because of the number of homes the company reaches. Under the merger agreement, Comcast stands to gain majority ownership and control of NBC Universal's two broadcast television networks (NBC and Telemundo), its 26 local owned-and-operated broadcast television stations, several national cable programming networks, a motion picture studio, an international theme park business, and NBC's online content businesses.

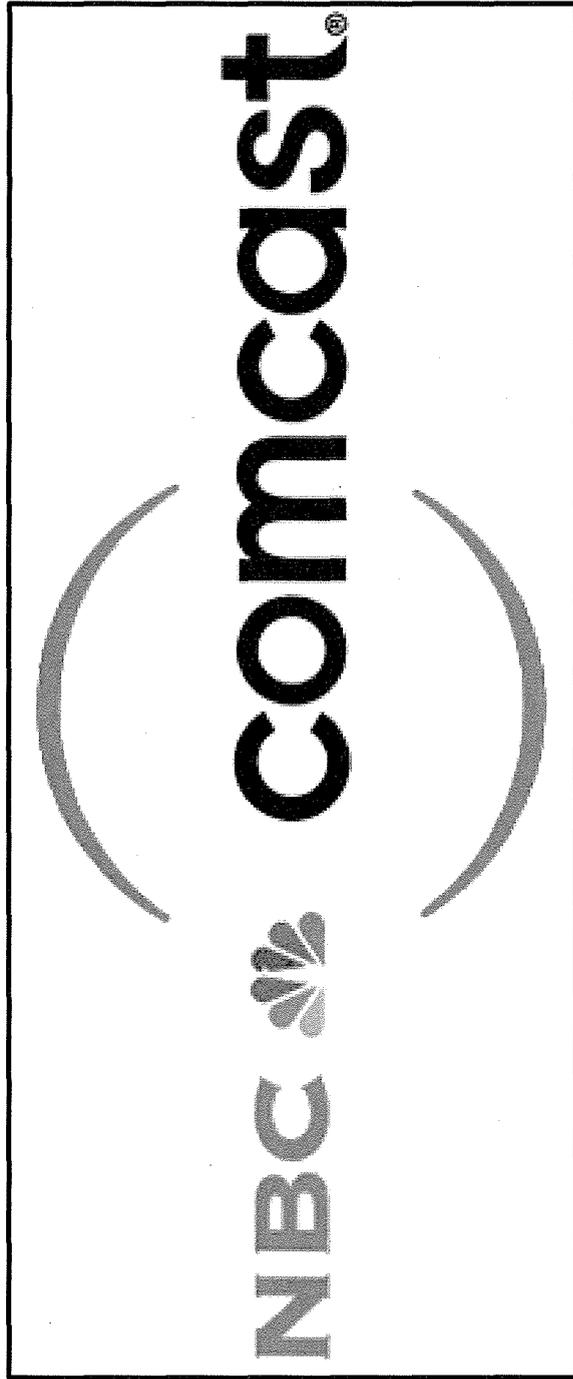
Comcast has 13 members on its Board of Directors. Only one is African American (Kenneth Bacon). Comcast has 28 corporate executives. Only two of their corporate executives are African American. Comcast has 33 Division Executives. While 3 of these executives are minorities, *there are no African American division executives listed on Comcast's website who head Comcast's Programming Group. When broken down further by each of Comcast's individual cable networks, only one has an African American president – the Style Network.* There is one Latino executive. However, he is responsible for advertising sales, not programming.

The barriers to **ownership** for minorities and women have been studied by various universities and nonprofit organizations. Currently, TV One is the only U.S. cable network with significant black ownership. Radio One (Alfred Liggins, President and CEO) owns 37% of TV One. While Comcast carries the network on its most widely distributed tier, it is worth noting that Comcast owns a 33% stake in TV One.

In 2007, minorities owned just 3.2 percent of the U.S. television stations and 7 percent of the nation's full power radio stations, despite comprising more than 34 percent of the population. Ironically, while the National Urban League and its chapters were among the first of our nation's civil rights groups to support the merger, it too released a study in 2005 detailing the broadcast networks' failure to have diverse guests on their Sunday morning news programs. Among other findings, the study concluded that 60 percent of the Sunday morning talk shows featured no black guests at all, either as interview subjects or roundtable participants and that 78 percent of the broadcasts contained no interviews with a black guest. The National Association for the Advancement of Colored People (NAACP) and National Action Network (NAN) are also on record in their advocacy for increased minority representation in broadcast. Despite their letters of support for the merger, both organizations have conducted public forums and written letters to the FCC, calling on the Commission to adopt policies that take into account the lack of diversity on television, online, and on-screen, both in-front and behind the camera.

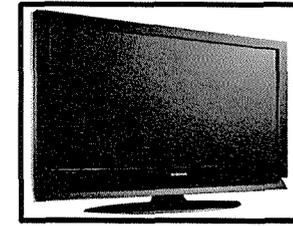
Therefore, when we discuss NBCU or Comcast's lack of diversity, it is not merely isolated or defined as the absence of minorities in front of the camera. Credible involvement of minorities starts at the top and trickles down through every job or position that is necessary to produce and distribute a television program or motion picture. Extending ownership, management, programming, and advertising opportunities to minorities will ensure diversity in our media and telecommunications industry. Moreover, more minorities in leadership positions will yield more minorities hired to: write a television series/film, produce a television program/film, direct a television program/film, cast a diverse cast for a television program/film, and score the music for a television program/film. Therefore, it is imperative that NBC Universal and Comcast show its commitment to diversity in presenting a substantive plan that incorporates minorities in all aspects of media programming and distribution activities. This begins with a strategy to extend opportunities for minorities in media ownership, management, programming, and advertising.

Thank you, Mr. Chairman, and I yield back the balance of my time.

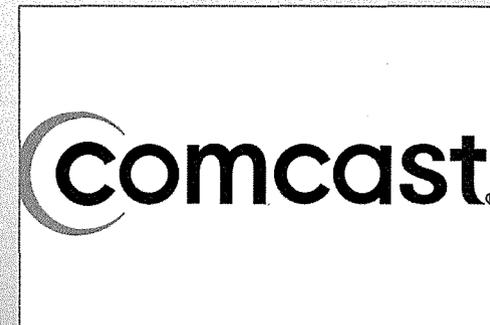
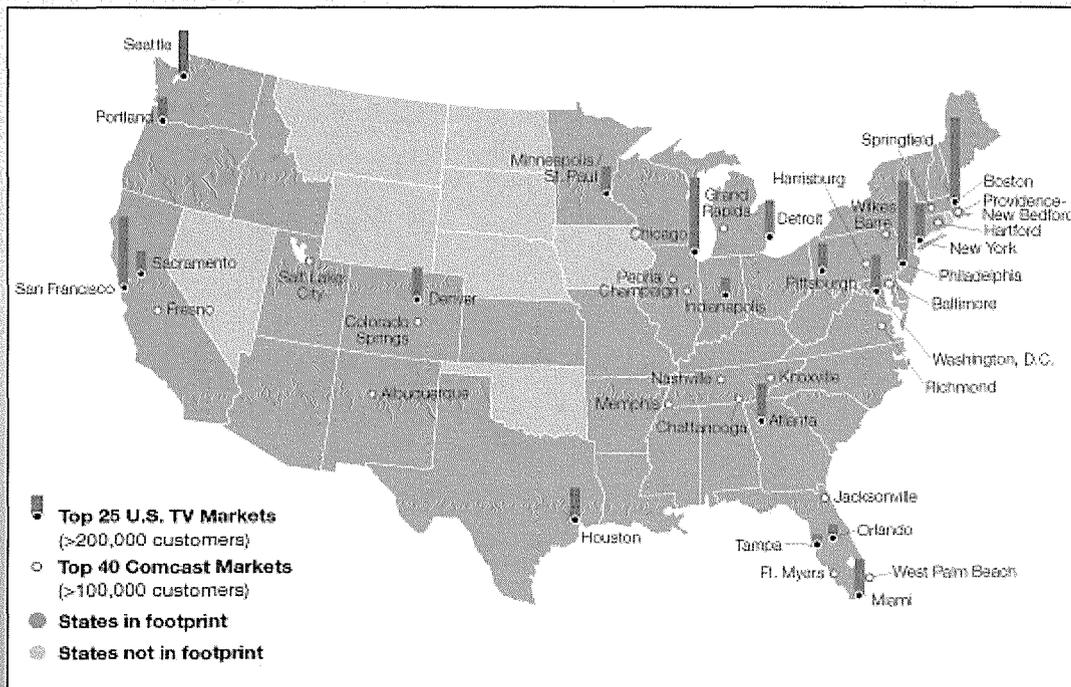


**PREPARED BY THE OFFICE OF
CONGRESSWOMAN MAXINE WATERS (CA-35)
JULY 13, 2010**

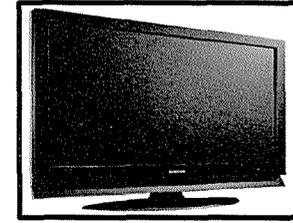
COMCAST CORPORATION



- Owns multiple cable franchises in 39 States
- 24 million cable customers
- 15.3 million high speed Internet Customers
- 7.0 million voice customers



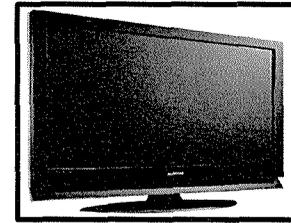
COMCAST CORPORATION



•Cable Network Properties:

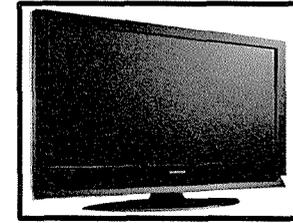
- Golf Channel
- Style Network
- Versus
- E!
- G4 Network
- Comcast Sports Southeast (partial)
- Current TV (partial)
- NHL Network (partial)
- Pittsburgh Cable New Channel (partial)
- MLB Network
- PBS Kids Sprout (partial)
- TV One (partial)
- 11 Sports Networks

COMCAST CORPORATION



Cable Network	Comcast Owns	Subscribers
E!	100 %	96 million
Style Network	100%	59 million
G4	100%	65.2 million
Golf Channel	100%	81.6 million
Versus	100%	74.1 million
PBS Sprout	40%	44.7 million
TV One	33%	31.7 million
Exercise TV	65%	29 million

NBC UNIVERSAL



•Broadcast Properties:

- 27 Broadcast TV Stations (many of them NBC and Telemundo affiliates)

•Cable Network Properties:

- CNBC, MSNBC, NBC Sports, Bravo, Oxygen, SyFy Channel, USA Network, Weather Channel (partial), Chiller, Sleuth, Universal HD, ShopNBC, A&E Network (partial), The Biography Channel (partial), History Channel (partial), Lifetime Network (partial)

•Other Content Properties

- NBC Television Network – Universal Media Studios
- Universal Pictures
- Focus Features
- Hulu

Merger Facts

Serving Size: 1 Mega-Merger

Amount Per Serving*

Saturated Media Ownership: 2 giant companies

Comcast reaches 1 out of every 4 cable subscribers.

NBC owns 27 local TV stations, and the NBC network reaches 99% of U.S. homes with TVs.

Fat Profits: Over \$50 Billion in Revenue

Comcast 2008 revenues: \$34.3 billion

NBC/Universal 2008 revenues: \$16.9 billion

Total Control: 1 out of every 5 viewing hours in the U.S.

Comcast 22 cable channels including E!, Style, G4, Comcast Sports Net, the Golf Channel, PBS Kids

NBC 30 cable channels including NBC, Telemundo, MSNBC, Bravo, USA, CNBC & part of Hulu

Level of Healthy Competition: Nearing 0%

Comcast would charge competitors more for NBC shows. Comcast would control even more of the ad market.

Cost to Consumers: Big Bucks

Comcast already hikes its rates 8% every year. With less competition, they'll jack up prices even more.

Cable rates for customers nationwide will increase when Comcast starts charging its competitors more for NBC programs.

Diversity of Viewpoints Even Fewer

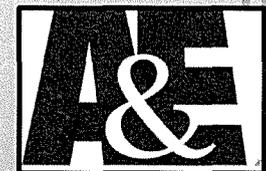
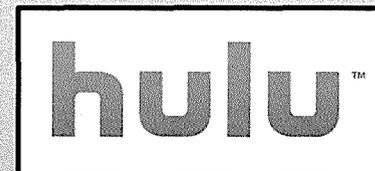
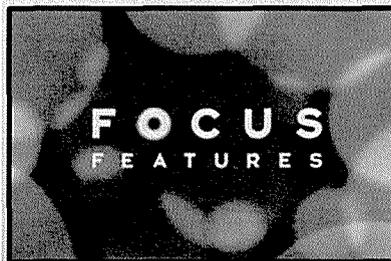
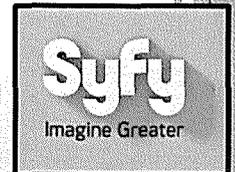
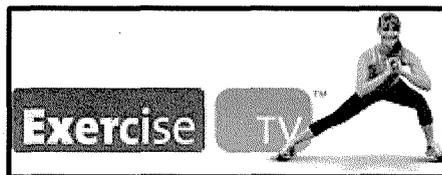
One company will control more news & information.

Comcast will prioritize NBC programs instead of local & independent voices.

**Based on a healthy media diet, enriched by diverse & independent viewpoints & quality journalism.*

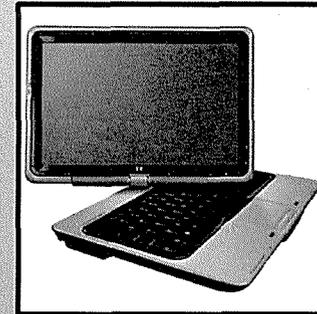
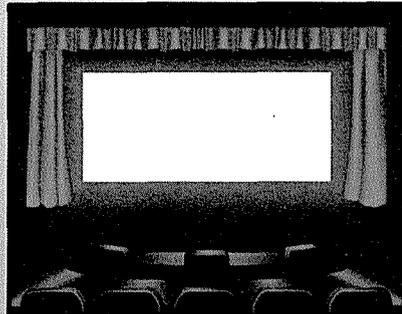
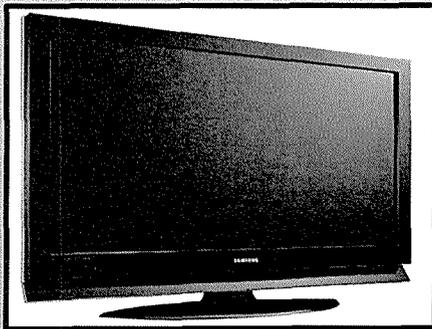
WARNING: This merger could be hazardous to the health of our democracy.

freepress.net/comcast



FEDERAL REGULATION AND OVERSIGHT

- FCC/DOJ Merger Review
 - Department of Justice (DOJ) – Antitrust
 - DOJ will evaluate whether the merger will substantially lessen competition or create a monopoly.
 - Federal Communications Commission (FCC) – Public Interest
 - FCC’s process allows for a more comprehensive public interest analysis including: “a deeply rooted preference for preserving and enhancing competition... promoting diversity of license holdings and generally managing the spectrum in the public trust.”



CHARITABLE DONATIONS = DIVERSITY?

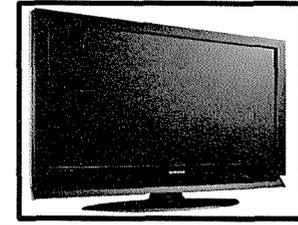


COMCAST CABLE EXECUTIVES - DIVERSITY



**Who Controls Programming?
Who Makes Decisions?**

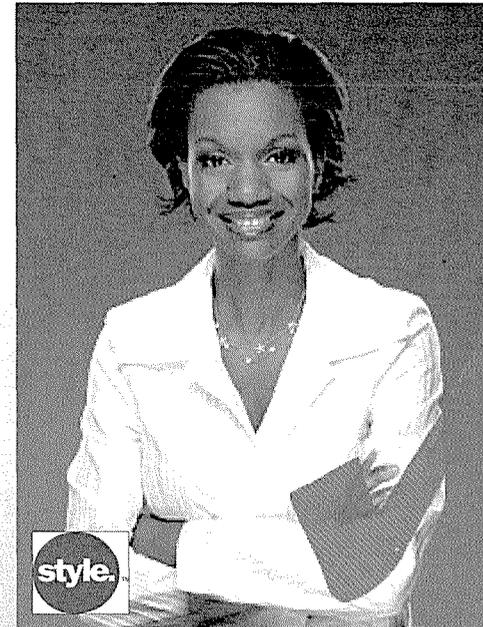
COMCAST CORPORATE DIVERSITY



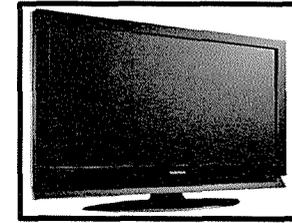
- Comcast has 13 members on its Board of Directors. Only one is African American – Kenneth Bacon.
- Comcast has 28 corporate executives. Only two of their corporate executives are African American.
- Comcast has 33 Division Executives distinguished by “Comcast Cable,” “Comcast Programming Group,” and Comcast Interactive Media. Only 2 of Comcast’s 22 Cable Division executives are black.
- No minority executives in Comcast Programming Group
- Only one black president – Style Network

PRESIDENTS OF COMCAST NETWORKS

- **Golf Channel:** Page Thompson
- **Style Network:** Salaam Coleman Smith
(African American, woman)
- **Versus:** Jamie Davis
- **Big Ten Network:** Mark Silverman
- **E!:** Ted Harbert
- **Comcast Entertainment Group:** Ted Harbert
- **G4:** Neal Tils
- **Sprout:** Sandy Wax



COMCAST PROGRAMMING GROUP



Jeff Shell
President
Comcast Programming
Group



Sandy Wax
President and General
Manager
PBS KIDS Sprout



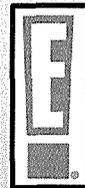
Joseph M. Donnelly
Chief Financial Officer
Comcast Programming
Group



Page Thompson
President
The Golf Channel



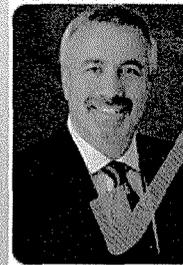
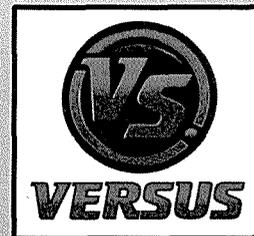
Ted Harbert
President & CEO
Comcast
Entertainment Group



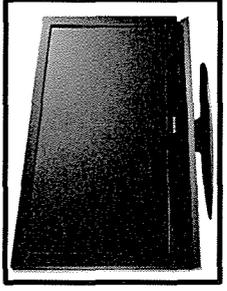
Diane L. Robina
President, Emerging
Networks
Comcast Programming
Group



Jamie Davis
President
VERSUS



David T. Cassaro
President, Comcast Network
Advertising Sales
Comcast Content
(not programming)



NBC UNIVERSAL EXECUTIVES



Who Controls Programming? Who Makes Decisions?

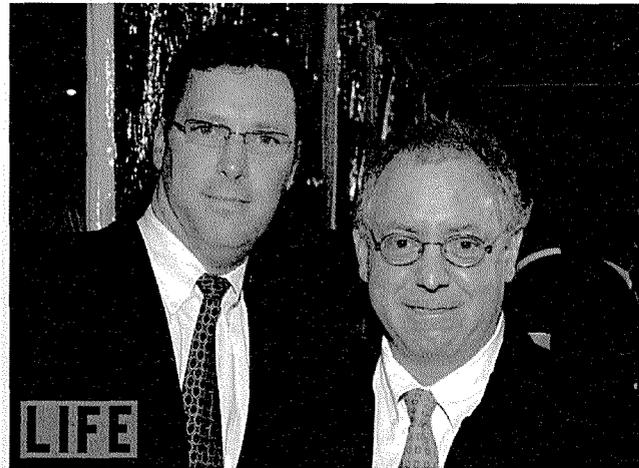
NBC UNIVERSAL STUDIOS



Ronald Meyer (left)
President / Chief Operating Officer
NBC Universal Studios
(Oversees Universal Pictures, Focus
Features, USA Network, and SyFy
Network)

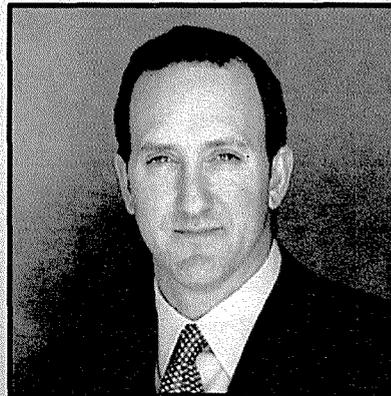
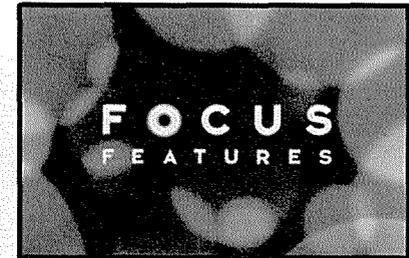
(Actor Edward Norton in the middle)

Adam Fogelson (right)
Chairman
Universal Pictures



James Schamus (right)
CEO, Focus Features

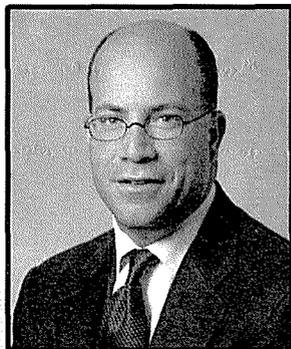
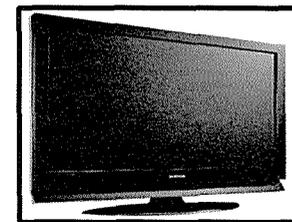
Andrew Karpen (left)
President, Focus Features



Jimmy Horowitz
President, Universal
Pictures



NBC NEWS



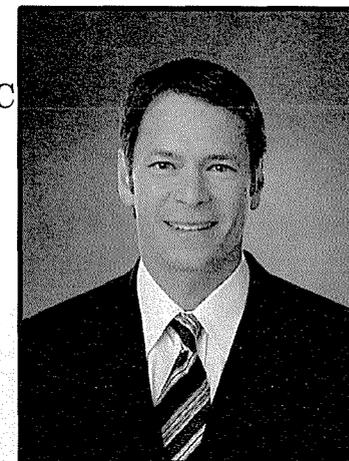
JEFF ZUCKER
President and Chief
Executive Officer,
NBC Universal



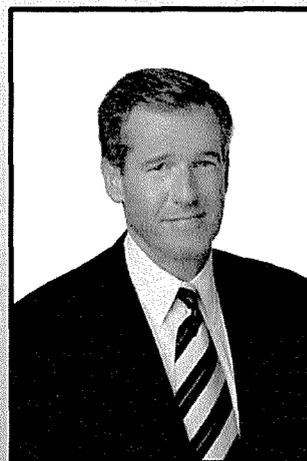
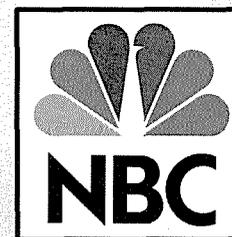
STEVE CAPUS
President, NBC News



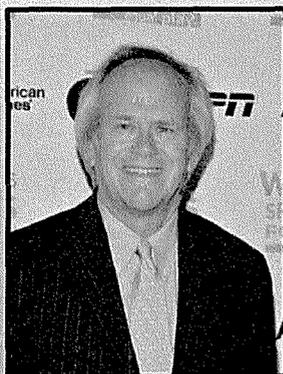
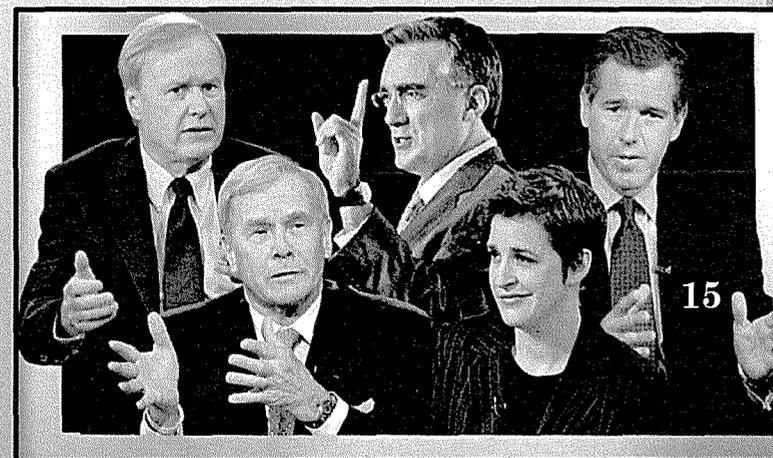
PHIL GRIFFIN
President, MSNBC
News



JEFF GASPIN
Chairman, NBC
Universal Television
Entertainment

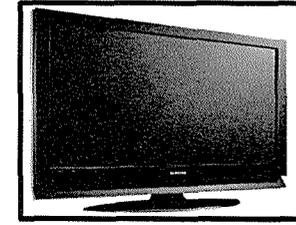


BRIAN WILLIAMS
NBC News, Chief
Anchor



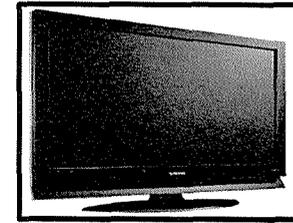
DICK EBERSOL
Chairman, NBC
Universal Sports &
Olympics

DIVERSITY IN MEDIA



- In 2007, minorities owned just 3.2 percent of the U.S. television stations and 7 percent of the nation's full power radio stations, despite comprising more than 34 percent of the population.
- National Urban League 2005 Study detailing the broadcast networks' failure to have diverse guests on their Sunday morning news programs.
 - Study concluded that 60 percent of the Sunday morning talk shows featured no black guests at all, either as interview subjects or roundtable participants
 - 78 percent of the broadcasts contained no interviews with a black guest.
- Only one majority black-owned network in the U.S.: TV One

NBC UNIVERSAL DIVERSITY



•NBC Universal (NBCU) has 18 corporate executives. While 2 of the 18 executives are minorities, *they are not heads of divisions or departments responsible for managing networks and producing content.*

•*None of NBCU's cable networks have minority presidents (who oversee network programming).*

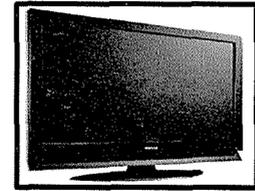
•NBCU also owns NBC Television Network – Universal Media Studios (which produces many NBC programs), Universal Pictures (produces and distributes about twenty films a year), Focus Features (a division of Universal Pictures producing several “art house” films a year like “Burn After Reading,” “Milk,” and “Traffic”). *None of these divisions are headed by minorities.*

•*Of the 21 films NBC Universal Pictures released in 2009, only two of the films had minority leads:* one African American starring lead in “The Soloist,” one Hispanic, and one biracial actor, both a part of the ensemble cast of “Fast & Furious.”

•The 2010 NBC Fall Line-up *does not have any African American show-runners in primetime, daytime, or late-night.*

•*No minorities anchor MSNBC News primetime programming*

•According to the Writers Guild of America's (West) 2009 Hollywood Writers Report, in 2007, *only 6.6 percent of its television writers were minorities and only 5.5 percent of its writers on motion pictures were minorities.*

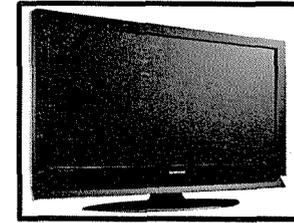


NEW COMCAST-NBCU LEADERSHIP: MORE DIVERSE?



- On November 18, 2010, incoming NBCU CEO Stephen Burke unveiled the company's prospective executive and top-level management team.
- Of the 30 new executives announced (some pulled from the current NBCU team), there is only one African American listed – NBCU's current diversity officer, Paula Madison, will retain her position.
- Altogether, only 4 of Comcast-NBCU's 30 new executives are minorities. However, none of these individuals are on tap to lead any of the merged entity's massive cable, content, and programming operations.

COMCAST DIVERSITY



- Comcast has 13 members on its Board of Directors. Only one is African American.
- Only 2 of Comcast 's 28 corporate executives are African American.
- Comcast has 33 Division Executives distinguished by “Comcast Cable,” “Comcast Programming Group,” and Comcast Interactive Media. Only 2 of Comcast’s 22 Cable Division executives are black. There are no minority division executives listed as a part of the Comcast Programming Group.
- Only one of Comcast’s cable networks has a minority president (Style Network).
- Comcast has a 33% stake in TV One. Comcast carries the network on its most widely distributed tier. Radio One (Alfred Liggins, President and CEO) owns 37% of TV One. TV One is the only U.S. cable network with significant black ownership.