

**FRED UPTON**

6TH DISTRICT, MICHIGAN

**COMMITTEE ON ENERGY AND COMMERCE**

**SUBCOMMITTEES:**

ENERGY AND ENVIRONMENT  
RANKING REPUBLICAN MEMBER  
COMMUNICATIONS, TECHNOLOGY,  
AND THE INTERNET



**Congress of the United States**  
**House of Representatives**

December 10, 2010

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

Dear Chairman Genachowski:

When you testified before the Senate Commerce Committee in March, you explained that the Commission was committed to reviewing the proposed Comcast-NBC Universal transaction as quickly and efficiently as possible. And on several occasions, you have publicly stated that the Commission is committed to a "fact-based and data driven" decision-making process. I am writing to seek assurances that you are still committed to both of those goals.

As you enter the final stage of your review of the Comcast-NBCU transaction, I urge you to maintain control over the process. This is a time when parties come out of the woodwork seeking leverage. Do not let opportunistic competitors or special interest groups undermine your regulatory process by using the transaction review as a vehicle to implement their industry-wide policy wish lists or unwarranted conditions. Failing to remain focused on issues directly related to this transaction would create uncertainty for future business transactions, and harm investment and innovation.

Comcast and NBCU have argued that, separately, they do not have market power in their respective distribution and content markets and that there is little overlap in their transaction. They further argue that means they will still not have market power in either of those markets if vertically integrated. If that is true, no conditions are justified. If it is not true, then only transaction-specific remedies to address transaction-specific issues backed by specific findings that they have the ability and incentive to exercise market power in a harmful way are warranted. I will be troubled if it appears that the Commission is using this transaction to accomplish broader, partisan objectives that it does not have the policy support to impose industry-wide, that it might not have the authority to pursue were it not presented with a license transaction, and that the parties cannot object to without risking their proposed endeavor.

Last month, the American people sent a clear message to the federal government: they want to see the national economy turned around, they want to see investment and innovation, and they do not support interventionist government policies. I sincerely hope that you are undertaking a thorough and fair review of the proposed Comcast-NBCU Joint Venture, and urge you to rule on this transaction before the end of this calendar year. It is in the interest of all American

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businesses that you effectively administer the laws with which you are charged and contribute to a more favorable and predictable environment for American businesses to thrive.

As you come before this Committee in the months ahead, I will look forward to learning what your handling of this transaction says about your commitment to efficient, pro-growth government policies.

Sincerely,



Fred Upton  
Member of Congress

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