



**Testimony of Stanley E. Washington,
President and Chief Executive Officer
National Coalition of African American Owned Media**

**Before the U.S. House of Representatives,
Committee on the Judiciary
Hearing on
“The Proposed Combination of Comcast and NBC-Universal”**

June 7, 2010

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Good morning Chairman Conyers and Members of the Judiciary Committee. Thank you for holding this important hearing on the proposed merger between Comcast and NBC Universal here in Los Angeles, where so many creative minds, companies and workers stand to be affected if this merger is approved. I am pleased that you have come here to understand how this merger will impact issues such as the lack of 100% African American owned cable networks on the Comcast platform. I want to especially thank my Congresswoman, Maxine Waters, for her leadership and devotion to this issue. I look forward to discussing the effects that this merger will have on African American owned media.

About the National Coalition of African American Owned Media (NCAAOM)

NCAAOM was founded to represent the interests of African American media owners. We work to ensure that African American owned media companies are given the same opportunities as their non-African American counterparts to own and distribute cable networks and flourish in today's integrated media landscape. While other African American groups, including many of our historic civil rights organizations have taken up the fight regarding the lack of African American jobs, senior management, television show runners, suppliers and board members within the industry, we believe that the single greatest impact on African American owned media is the non-existence of 100%

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African American ownership of cable networks. The ability for African Americans to own and compete fairly within the media industry will have a far greater impact on the creation of jobs, procurement and talent development – as well as the overall economic viability of the African American community. Moreover, research studies continue to show the negative social impact on African Americans when our images are not controlled by African Americans and are negatively seen in the media and on television - this has a significant affect on the world's perception of African Americans. An increased ability by African Americans to own content and major channels of distribution will further build positive perceptions and strong economic impact for our community.

NCAAOM's goals are to: 1) Protect and increase African American owned media and 2) Ensure that African American owned cable television networks have nationwide distribution on all platforms. In short, we represent the interests of African American owned media companies to compete fairly by having access to distribution platforms.

While we support the important goals of increasing the visibility of African Americans on television, cable and now the Internet, our organization is focused on the critical need of ownership of media in the African American community, which includes not just providing cable networks targeted only to African Americans but cable networks targeted to the general market which is owned by African Americans. It is important to note, that we support ownership opportunities for African Americans who provide competitive general market programming nationwide, which may include some African American targeted programming. Our goal is to ensure that African Americans have the opportunity to wholly own, maintain and distribute cable networks across the rich geographic, ethnic, and income diversity of the American viewing audience.

Merger of Comcast and NBC Universal Threatens African American Owned Media

African American media owners are deeply concerned about the proposed merger of Comcast and NBC Universal because this critical merger threatens to entrench the status quo that keeps African American owned cable networks from being able to secure distribution on the Comcast Platform.

The lack of African American owned media companies in broadcast and cable networks in the U.S., simply put by a FCC Commissioner, "is a national disgrace." Consider these facts. Over the last three decades, the African American consumer segment has grown to represent more than \$1 trillion in spending power from a base of 13% of the U.S. population. Yet, according to a 2007 report issued by Free Press¹, only 0.6 percent of all broadcast television stations in the nation are 50% owned by African Americans. Even fewer are 100% African American owned. More alarming still, we are moving backwards instead of forward in addressing this situation. The same report found that between October 2006 and October 2007, the number of African American

¹ Free Press, *Out of the Picture 2007: US Minority & Female TV Station Ownership in the United States*, October 2007.

owned full power commercial television stations decreased by nearly 60 percent.² As of 2007, there were only eight African American owned full power commercial television stations left in the entire nation. And most importantly, that same report showed that in 2007, no cable networks were 100% African American owned. Today, there are no cable networks with full nationwide distribution that are 100% African American owned; thanks to gatekeepers such as Comcast.

Comcast brings in approximately \$3 billion per month, \$36 billion per year, from nearly 24 million cable subscribers. Based on the large African American populated cities in which Comcast serves, we estimate there are millions of African American subscribers that contribute approximately 40% or \$15 billion of Comcast's annual revenue. Because of the enormous support that the African American community has shown Comcast over four decades, we find it unacceptable that none of the 250 plus channels that are offered on the Comcast platform are 100% African American owned and widely distributed on their nationwide platform. Further, in many of the U.S. cities where Comcast has a dominant share of the cable market, African Americans comprise a majority or near majority of the population. For example, in Philadelphia --- the city in which Comcast is headquartered --- African Americans make up more than 43 percent of the city's population. A little more than half of all residents of Washington, D.C. are African American. In Detroit, 8 out of 10 residents are African American. Other Comcast markets with high concentrations of African American subscribers include Atlanta, Baltimore, Birmingham, Chicago, Jackson, MS, Memphis, New Orleans, Oakland, CA, Pittsburgh, Raleigh-Durham, and many more. Nevertheless, the availability of African American owned media does not reflect these statistics. Indeed, not one of the networks on Comcast's cable television platform is 100% African American owned and widely distributed. Even channels that carry African-American targeted content are no longer 100% owned by African-American companies. Viacom owns BET and Comcast owns 33% of TV One. The proposed merger will perpetuate or even worsen the lack of 100% African American owned cable networks.

As you know, the tremendous size and significance of this merger threatens to lay the foundation for how video content is distributed in the 21st century. While Comcast has supported charity efforts in the African American community, its purchase of NBCU without conditions on ownership will continue to kill African American owned media companies that are struggling to get a foothold in the market. Comcast is already the nation's largest cable and broadband operator, with over 250 channels on its platform, approximately 24 million cable television subscribers, 16 million high-speed broadband subscribers, and 7.6 million digital voice customers. After the proposed merger, Comcast/NBCU will control or have an attributable ownership interest in 44 cable networks, own 10 regional sports networks, 2 broadcast networks, 26 owned and operated broadcast TV stations, 32 online video properties, as well as Universal Studios and Focus Features. In short, the Comcast/NBCU merger would further consolidate content and platform ownership in the hands of an entity that already controls the

² Id.

means of access to cable television for millions of American homes, many of which are African American.

Despite their market power and the large number of African American subscribers that help make Comcast a profitable company, Comcast has not demonstrated the industry leadership to support African American owned media. Rather, they have continued to demonstrate predatory behavior, denying nationwide access to any 100 percent African American owned channels in which they do not own equity. Without constraints imposed by the Federal Communications Commission ("FCC"), Comcast/NBCU would have the unfettered ability to favor certain types of programming over others consistently violating the FCC's Cable Act Section 616 and to reduce or even eliminate ownership opportunities for African American owned media.

The Merger is Anti-competitive

The public interest of broadcasting and cable is served if the industry prevents concentration of economic power.³ However, if this merger is completed, it will increase both horizontal and vertical integration in the cable/broadcast industry and will precisely concentrate power into the largest distributor. There will be significant impact that will hit African American owned media companies, which are generally much smaller than other media companies. This merger, in many ways, will completely eliminate their chances of success in media. First, the deal will reduce competition by permitting Comcast/NBCU to play favoritism to their massive portfolio of 44 owned cable networks, and more to be launched in the future, in lieu of 100% African American owned channels which will never get widely distributed on the Comcast platform. So we have no opportunity to survive and thrive. And to support these facts, please refer to the FCC Carriage Complaint filed January 5, 2010, by the Tennis Channel against Comcast for this very reason. Additionally, Comcast was caught blocking and slowing down competing video content on their broadband platform which recently resulted in a class action lawsuit against Comcast in which they settled in the amount of \$16 million for their deplorable behavior. These are just two examples of their anti-competitive conduct. Dr. Maya Angelou said it best, "When someone shows you who they are, believe them the first time."

Brian Roberts, Chairman and Steve Burke, Chief Operating Officer, 2009 compensation packages were in excess of \$35 million each. These two men, Brian Roberts and Steve Burke, paid themselves significantly more than what Comcast paid to wholly-owned African American media collectively. Comcast spends approximately \$7 billion per year on content from cable networks and less than \$2 million per year is allocated to wholly-owned African American networks. Matt Bond, Executive Vice President, Programming Content Acquisitions, should be subpoenaed to testify under oath as to how many African American owned media companies have been allowed to pitch him (or not pitch him) for Carriage Distribution Agreements. And how many African American owned media companies have been consistently denied such opportunities?

³ Federal Communications Comm'n v. Nat'l Citizens Comm. for Broad., 436 U.S. 775, 780 (1978).

Clearly the answer is disturbing, given the lack of 100% African American owned cable networks widely distributed on the Comcast platform. I had a letter sent to Brian Roberts, dated April 9, 2010, stating our position and requesting a meeting to resolve this urgent issue. We have been completely ignored and no one from Comcast has reached out or acknowledged the NCAAOM position until the end of last week right before this hearing. On May 12, 2010, I personally introduced myself to Brian Roberts at the NCTA Cable Show in Los Angeles and requested a meeting about these issues. Unfortunately the meeting request was denied. If this is their conduct while they are trying to secure approval of the largest media acquisition in history, how do you think they are going to act if they get approved? **The time has come where Comcast needs to understand that African Americans are no longer interested in living on the Comcast plantation.**

Comcast discriminates against independent African-American focused programming

Comcast does not carry independent African-American owned or focused programming on the same programming tier as similar channels controlled by Comcast or other programmers that bundle highly desirable programming. While NCAAOM advocates strongly that African Americans should be able to own and produce all kinds of general market content, not just content specific to the African American community, this discriminatory impact is best observed in certain cases that did involve African American themed programming. For example, Comcast carries the African Channel in only 8 U.S. markets and in those markets; the Channel is carried on the lowest penetrated programming tier. This means that the Channel's subscribers are limited to roughly 4% penetration or 1 million households, on Comcast cable systems that serve 24 million households. Not only is the Channel receiving a reduced per subscriber fee compared to similar programming on the basic and more widely distributed tiers, but it is viewed by few subscribers because it is on the lowest penetrated tier. As a result, the total compensation the Africa Channel receives for carriage is much less than what similar programming does receive on the most widely distributed tiers. TV One, an African American targeted network in which Comcast has a significant equity stake, is carried on a more widely distributed Comcast tier.

The Black Family Channel, financed by African American entrepreneurs, was not supported by Comcast. Instead, they stipulated the Black Family Channel to pay millions of dollars in launch fees even though Comcast serves millions of black families. I urge you that once you have Matt Bond under oath, please ask him the question: "Why did you feel compelled not to support a network called the Black Family Channel, when you have millions of African American subscribers?" But instead, he charged them millions of dollars in unnecessary launch fees which contributed to their financial demise. In addition, Comcast shifted Black Family Channel to a tier with fewer subscribers knowing it was only a matter of months before the Black Family Channel was out of business, despite its backing from many well known African American celebrities and entrepreneurs. TV One, a Comcast-Radio One joint venture, receives favorable channel placement. If this merger proceeds, Comcast will have less incentive

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to negotiate competitive carriage agreements with independent programming because it will own programming that it can carry on its cable systems on more favorable terms to Comcast. African American media owners will be forced to accept less favorable terms in order to be carried, if any terms at all.

Diverse ownership fosters content diversity for all audiences

Diversity of viewpoints in programming is critical to an informed democracy and is in the public interest. In light of the lack of African-American owned networks available on Comcast's cable systems, ensuring access to, and a level playing field for, African-American networks is more important than ever to ensure the public interest is served.

Denying the merger, as proposed, will prevent excessive consolidation. Such consolidation will reduce ownership opportunities for African-Americans and hinder wholly owned African-American cable networks to be carried on Comcast cable systems.

NCAAOM Opposes the Merger of Comcast and NBC Universal as Proposed

This proposed merger is an unacceptable proposition for African American owners of media, as well as consumers. It threatens to eliminate and prevent opportunities for wholly owned African American cable networks to be widely distributed. It consolidates multiple distribution networks – some of which are currently free to independent programmers – in the hands of a few, and it reduces consumer access to many of the independent voices and expressions available through media. As a result, NCAAOM opposes the Comcast/NBC-Universal merger and is petitioning the Federal Communications Commission (FCC) and Department of Justice (DOJ) to deny this merger because it threatens to eliminate and prevent opportunities for wholly owned African American networks. The only way to protect African-American owned cable networks if this transaction is approved is for the FCC and DOJ to require Comcast to provide African-American owned media with certain protections. We believe that, should the merger be approved, the FCC should mandate, as a condition of the merger, that the merged Comcast/NBCU allocate 10 percent of its channel capacity (a minimum of 25 channels) to 100% African American owned media companies. This is not an unprecedented demand. When the Commission approved the application of Sirius Satellite Radio Inc. ("Sirius") and XM Satellite Radio Holdings Inc. ("XM") in 2008, it obtained voluntary commitments from the two parties to dedicate eight percent of their channel capacity to African American owned media and others. Here, the stakes are even higher, as the proposed Comcast/NBCU merger will affect substantially more consumers than the Sirius/XM merger.

In addition, NCAAOM believes the FCC should condition the merger of Comcast/NBCU in which the NBC broadcasting network will allocate four (4) hours of prime time programming per week out of 22 hours per week to African American owned media. These conditions will at least allow African American owned companies to compete on a

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level playing field – which is all we deserve given our significant contribution to the Comcast platforms by African American subscribers.

Conclusion

In summary, NCAAOM advocates for the right of African Americans to own networks which distribute both general market and African American themed content.

NCAAOM believes that this merger, as it currently is proposed, is horrible for African American media owners and consumers, and therefore, without our proposed conditions we oppose the merger. We believe that our proposed conditions will provide a level playing field for wholly-owned African American media. Please consider our recommendations thoroughly before any final action is taken.

We urge Members of Congress to be mindful of the critical importance of African American owned media in the emerging new 21st century world of media distribution, a market which is rapidly changing year to year. Although African Americans have been represented in network classics, and African American actors have been integrated into a range of roles on today's dramas, the barriers to African American owned content are still extreme, unjustifiable and reprehensible in an industry where so many talented African Americans have fought for an equal opportunity to own, produce, distribute and air programming for all consumers nationwide. Without ownership opportunities, African Americans will not have a seat at the table in which we help shape our images and instead, have to remain on the sidelines.

We look forward to continuing to work with this Committee, and Congress as a whole, as you review the myriad of issues surrounding this merger and its affect on American consumers and the media community.

Thank you for your time and the opportunity to speak with you today.