Senator Orrin Hatch

Questions for the Record
"The Comcast/NBC Universal Merger:
What Does the Future Hold for Competition and Consumers?"
Hearing before the Senate Subcommittee on Antitrust, Competition Policy and Consumer Rights
February 4, 2010

For Ms. Abdoulah

1. One potentially horizontal aspect of this merger involves the combination of NBC-owned and Comcast-owned video content. In your written statement, you argued that, with ownership of NBC Universal, Comcast would have greater ability to increase prices on content and to bundle "must-have" content with less desirable and less marketable content. However, it seems to me that, at the current time, NBC Universal already has an incentive to maximize the licensing fees it charges for its content to the highest marketable level and to bundle content as well. And, according to Comcast and NBC Universal's Public Interest Statement filed with the FCC, the merger will not change NBC Universal's overall place in the content market.
This is an increase in concentration, to be sure. But, I'm not certain that it is significant enough to give Comcast the ability raise prices or bundle content any more than NBC Universal is already able to in the current market environment. Is this increased concentration in the content market really significant enough to give the new company more power to raise prices or bundle content?

WOW Response:

Yes, there would be a significant enough increase in market power from the combination of programming assets to give Comcast the ability to raise prices or bundle content beyond what NBC Universal is already able to in the current market environment, particularly in markets that are served by a Comcast regional sports network. As you're aware Comcast owns 10 regional sports network, channels that have been classified as "must-have" by the Federal Communications Commission. After Comcast acquires NBC Universal, the company will be able to negotiate their "must-have" RSN with their entire suite of NBCU's popular cable networks, which, especially when combined with the NBC O&O TV station in many of those same markets, would also be considered "must-have." Empirical evidence indicates that such a combination permits the owner to exact even greater rates than when the programming is sold separately. Moreover, to the extent that they also negotiate retransmission consent for their NBC affiliates in the future, another "must-have" channel as determined by the FCC, Comcast will have significant leverage at the bargaining table to demand much higher programming fees and/or more onerous terms and conditions for their programming (including their online content). An operator who refuses to accept Comcast's prices, terms, and conditions could be de-authorized which would cripple their business.