Senator Kohl's Follow-Up Questions for Hearing On

"The Comcast/NBC Universal Merger: What Does the Future Hold for Competition and Consumers?"

For Colleen Abdoulah

1. If the price of NBC broadcast or cable programming was raised at the behest of Comcast after this merger, would you be forced to pass these cost increases on to consumers?

   WOW Response:

   While WOW makes every effort to minimize customer increases, like all other costs of operation a portion of these cost increases would be passed along to consumers.

2. Are you concerned that, as part of the "TV Everywhere" model, Comcast and the other large cable operators will sign exclusive deals with programmers with respect to internet delivery of programmers' content, making it more difficult for WOW to gain access to this content on your internet platform? Do you have any other concerns regarding Comcast's "TV Everywhere" model?

   WOW Response:

   Yes, based on past behavior I am concerned that Comcast and other cable operators will seek to sign exclusive deals with programmers with respect to the online delivery of programming that will prevent WOW! from offering its customers its own "TV Everywhere" product. Moreover, I am concerned that, even if the deals are non-exclusive, programmers affiliated with Comcast and other large cable operators will charge my company much higher (discriminatory) rates for access to this online content than they charge their affiliated cable operator even though there's no greater cost of providing the online content to Comcast as compared to WOW.

3. The FCC's program access rules contain what is known as the "terrestrial loophole." This means that programming a cable company owns that is delivered via wires on the ground does not have to be made available to its competitors. Comcast has made use of this loophole to deny its regional sports network in Philadelphia to its satellite TV competitors.
   Do you worry that Comcast will take advantage of the terrestrial loophole in the future by, for example, distributing "must have" NBC programming by terrestrial means so it can deny this programming to competitors such as WOW?

   WOW Response:

   Yes, I am especially concerned because Comcast has already taken advantage of the terrestrial loophole and has long opposed closing it. If this loophole is not eliminated, I expect that Comcast will take advantage of it to distribute NBC Universal's national cable networks and local broadcast stations by terrestrial means so that it can deny this programming to my company or only make it available at discriminatory rates.

4. Please identify any conditions you believe that the Justice Department or FCC should place on the Comcast/NBC Universal deal should they decide to approve it.

<u>WOW Response:</u>

We have so far been focusing on identifying the horizontal and vertical harms from the proposed combination, and, as indicated in our testimony and at the hearing, believe they are significant. The FCC and Justice Department will need to adopt both behavioral and structural relief to address these harms. I should add that the current program access rules and the conditions placed on previous mergers by the FCC have proven inadequate and are insufficient to address the harms identified so far as the dispute resolution procedure is too costly, time consuming and, typically, fails to provide for ongoing carriage of the disputed programming while a complaint is pending. We are working on more robust set of remedies and will share these will the Committee and agencies shortly.

5. As a small cable operator also representing of the American Cable Association, does this merger have the potential to increase pricing for NBC programming to small and rural cable operators who do not compete with Comcast but who need to offer their customer's NBC's must-have programming?

<u>WOW Response:</u>

Yes, this merger will significantly enhance Comcast's power in the programming market allowing them to increase prices for all of their programming to small and rural cable operators who do not compete against Comcast. Pay television providers that operate in areas that include a Comcast regional sports network (RSN), a channel classified as "must-have" by the Federal Communications Commission, would be particularly vulnerable. 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 combined can also be considered "must have." Moreover, to the extent that they negotiate retransmission consent for their NBC affiliates in the future, another "must-have" channel, Comcast will have significant leverage at the bargaining table to demand higher programming fees and/or more onerous terms and conditions on other pay television providers and their customers.