

Statement of

The Honorable Russ Feingold

United States Senator
Wisconsin
February 4, 2010

Statement of Senator Russell D. Feingold
U.S. Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy, and Consumer Rights
Hearing on "The Comcast/NBC Universal Merger: What Does the Future Hold for Competition and Consumers?"
February 4, 2010

Mr. Chairman, thank you very much for holding this hearing. The proposal to combine NBC Universal and Comcast clearly has both vertical and horizontal competition concerns. In addition to the content produced by the NBC broadcast network, both NBC Universal and Comcast have a significant number of profitable cable networks on both sides of the ledger including USA, Bravo, E!, and regional sports channels. The dangers of this horizontal consolidation are significantly compounded by the vertical combination of content and distribution that the joint written statement of Comcast and NBC Universal not only admits but touts.

While Mr. Zucker and Mr. Roberts believe that this vertical integration is not a problem, I have been concerned with these types of vertical alliances of behemoths both in media and elsewhere for some time. They often seem to be harmful, unsuccessful, or both. For example, the vertical combination of Clear Channel's radio stations, concert venues and promotion was unfair to musical artists, small business competitors and, ultimately, concert goers and radio listeners. But even with this ability to leverage dominance in one part of the industry, that union was not successful, and the concert venue and promotion side of the business was spun off as Live Nation. In retrospect, I think you would be hard pressed to find anyone who thought the vertical alliance had been beneficial to consumers, but many believe, as I do, that the alliance was harmful and contributed to a decline in the quality, local content and popularity of traditional radio.

Similarly, I had strong reservations about the vertical merger of Live Nation with Ticketmaster and despite the series of conditions required by the Justice Department, I remain concerned about the long-term competitive environment in concerts and ticketing.

Perhaps more on-point to the current merger proposal, I think it is telling that 10 years after their highly touted merger, Time Warner, AOL and Time Warner Cable are now three separate entities.

The potential for NBC Universal-Comcast merger to be unsuccessful would not really be our concern if the downside were limited to the companies involved. But Mr. Schwartzman, Mr. Cooper and a number of other observers have suggested several ways that the merger will be

harmful either to consumers, smaller competitors, or both. These include serious concerns about harm to innovation, as Comcast has not been the strongest supporter of net neutrality principles. In addition, the combined company's vertical interest in the internet television site Hulu could unfairly tip the scales in that nascent segment of the industry.

But I am going to focus on what my constituents really want--cable rates that don't increase by double digits every year. During the past two years in Wisconsin, basic cable rates have increased by 21% and expanded basic rates have gone up by 11%. This is all the more galling since consumers had been promised lower rates from state franchise deregulation. It reminds me of the disparity between promises and results from the deregulation of the 1996 Telecom Act. It seems to me that proponents of this merger ought to answer some very pointed questions about the effect of the merger on consumers.

Thank you, Mr. Chairman.