

Statement of

The Honorable Herb Kohl

United States Senator
Wisconsin
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Chairman, Senate Antitrust, Competition Policy and Consumer Rights Subcommittee

Today we examine the merger between Comcast and NBC Universal. The combination of NBC's content holdings with Comcast's distribution power would create a media powerhouse of unmatched size and scope which, if approved, will have far reaching consequences for competition and consumers.

Comcast is the nation's largest and most powerful cable TV company - with 24 million pay TV subscribers and the dominant share of customers in the markets it serves. It now seeks to acquire NBC-Universal, which includes the family of NBC broadcasting and cable networks, 25 local NBC and Telemundo stations in some of the nation's largest cities, and the Universal Pictures Movie Studios. NBC has some of the most popular programs on television - from the Olympics, to NFL football, to NBC news programming, to entertainment programs ranging from the Tonight Show to the Office, to give just a few examples. We are witnessing the creation of a media conglomerate which is likely to greatly impact both what consumers pay for cable TV and the ability of other pay TV companies to compete fairly in the market.

The highly concentrated nature of the cable TV industry, and the limited choices available to consumers, have long concerned this Subcommittee. Rather than compete with each other, large incumbent cable companies have divided the country into regional clusters in which their market share of pay TV viewers reach as much as 70% or higher. Consumers suffer from annual cable rate increases running for the last decade about triple the rate of inflation. While recent years have seen the emergence of satellite and phone company competitors, these competitors face considerable obstacles, including difficulties obtaining programming owned by the cable giants and steep price increases when they are able to obtain that programming. Now, because of NBC's must-have programming, many fear this merger has the potential to make these obstacles even worse.

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There are four principal areas of concern raised by this merger. First, will this deal create the possibility that Comcast will deny "must have" NBC programming to its rival pay TV services, or unreasonably raise the price of this programming? Second, will Comcast move NBC programming now enjoyed by millions of Americans on free broadcast TV to pay cable TV? Third, will this deal make it significantly more difficult for independent programmers to have Comcast carry their new cable networks?

And fourth, we must pay particular attention to the effects of this merger on a new and promising form of competition - video programming on the Internet. The widespread deployment of broadband internet in millions of consumers' homes has led to a growing phenomenon of "cord

cutting" - consumers dropping their pay TV subscriptions and watching full length television programming via high speed internet connections. But we have recently heard concerns from programmers that cable TV companies are demanding restrictions on their ability to show their programming on the Internet. We must be vigilant to ensure that the market strength created by this merger does not give the combined company the ability to stifle this new innovative form of competition over the Internet. Moreover, NBC owns a significant share in Hulu, one of the largest providers of video content on the Internet, and there are real concerns regarding its future and its ability to access NBC content after the merger.

So the role of the antitrust regulators at the Justice Department and the FCC will be vital to preserving competition. Should these agencies decide to allow this merger, we believe it is essential they insist on strong conditions to protect consumers. Comcast has already pledged to adhere to a number of commitments with respect to this merger. We appreciate that effort, however those commitments are only a starting point to determine what conditions will be necessary to protect consumers. And it is essential that you, Mr. Roberts and Mr. Zucker, explain to us and the American public how the creation of this media conglomerate will serve the interests of the American people, not just the interests of your companies.