

Comments on Comcast: An analysis of public comments at July 13' 2010 Public Forum to Discuss [the] Proposed Comcast/NBCU/GE Joint Venture

**A report by Chicago Media Action
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Executive summary

Chicago Media Action releases the results of an analysis of comments of a Chicago forum held by the Federal Communications Commission on July 13, 2010, on the proposed merger of Comcast and NBC Universal. Among the key findings of the analysis:

- * Only eight persons who commented specifically approved the proposed Comcast/NBC Universal merger.
- * None of those who spoke approvingly of Comcast mentioned any reasons relevant to the proposed merger in favor of it; the only reasons offered were discursions to the question of the merger, mostly by Chicago-area nonprofit organizations who received Comcast support.
- * 34 commenters offered a wide range of criticism and concerns of the proposed merger, and represented a more diverse set of concerned groups and individuals.

¹ Research assistance by Scott Sanders, and other feedback by Jeanette Foreman, Steve Macek, Beverley Walter, and James Owens.

1. Media concentration, policy, and activism

The trend of increasing concentration of media ownership in the major U.S. media in recent decades is well-documented, as are the negative impacts stemming from such concentration, such as more commercialism, less localism, less quality journalism, less diversity, fewer diverse perspectives, and layoffs of media producers.² The reason for such concentration stems from the increasing profit mandates of these media companies, some of them the largest corporations on Earth, coupled with a federal policy apparatus long dominated by a markets-know-best ethos and by a proverbial personnel “water slide” where policymakers invariably leave government to *join* the very industry they previously “regulated” to assume influential and highly-paid positions.³ But in recent years, concentrated media has become “a thinkable issue” even though the major U.S. media have seldom actually covered the political debates about themselves for these same institutional reasons.⁴

Even less covered by major media have been the efforts of political activists working on U.S. media policy -- grouped under such rubrics as “media justice”, “media democracy”, or more broadly “media activism” – who actually made media concentration a “thinkable issue”. Yet it can be shown that the long and tireless efforts of these political activists have resulted in some dramatic victories in halting the worst trends of media concentration since 2003.⁵ To improve their efforts further, these media policy activists and groups comprising them, many of whom had collaborated on a loose and informal basis, began to formalize to some extent in such coalitions as the Media and Democracy Coalition (“MaDCO”) and the Media Action Grassroots Network (“MAG-Net”).

These coalitions, and indeed anyone who enters the sphere of media policy work from a public interest view in addressing media concentration, invariably face a key question that evokes the paradoxes of the ancient Greek philosopher Zeno of Elea: How do you talk about the media without using the media? That is, with the major media holding the main means of public awareness on issues, and with the major media also refusing to cover themselves to protect their own self-interest, how is public awareness achieved especially where public awareness has been critical for building public support, involvement, and constructive action? One answer to that question is and has

² See for example, Ben Bagdikian, *The New Media Monopoly*, Boston: Beacon Press, 2004; Robert McChesney, *Rich Media, Poor Democracy: Communication Politics in Dubious Times*, Champaign, IL: University of Illinois Press, 1999.

³ One brief history of this “water slide”, just of the past 20 years is at, “Mikey Powell, Telecoms Investor” at <http://www.diymedia.net/archive/0805.htm#081205>, retrieved November 13, 2010.

⁴ The term “thinkable issue” stems from the last sentences of the book *The Problem of the Media* (New York: Monthly Review Press, 2004) where Robert McChesney, summarizing the recent successes over blocking increased media concentration, writes: “Media reform is now thinkable. Nothing will ever be the same again.”

⁵ See, for example, Eric Klinenberg, *Fighting for Air: The Battle to Control America’s Media*, New York: Metropolitan Books, 2007. 2

been to use every tactic at your disposal, and so a variety of tactics – everything from distributing songs, to organizing street protests, to writing critical op-eds (in newspapers that will allow them), to using the internet in forms from email to social networking – have been deployed to “get the word out” to build that needed public awareness and support.

One key tactic has been the establishment and use of in-person public fora about media concentration in cities across the U.S. In the months preceding the dramatic win to halt the FCC’s 2003 round of media concentration, a number of organized fora, mostly unofficial, served a critical role in reaching sympathetic media, rallying and demonstrating public support, building and strengthening connections among activists, and exposing the hypocrisy and bankruptcy of the corporate media’s positions and arguments. The city of Chicago, with its size and its position “outside” the major media policy centers of New York and Washington, has served as a frequent locale for such fora, including the 2003 (unofficial) Midwest Forum on Media Ownership, the 2007 (official) FCC forum on the Quadrennial Media Ownership Review, and – the focus of this paper – the 2010 Public Forum to Discuss [the] Proposed Comcast/NBCU/GE Joint Venture.

2. The public forum on the proposed Comcast/NBC/GE joint venture.

As of 2010, Comcast ranked among all U.S. companies as the largest cable television company, the largest broadband internet company, the third-largest telephone services company, and among the largest overall media companies. Comcast has long had an eye to enter into new media realms, offering a bid in 2004 to purchase Disney which Disney rejected. In the summer of 2009 the media business press was abuzz with speculation that Comcast sought to buy a majority stake in the NBC Universal media conglomerate from its current corporate owner, General Electric.⁶ Such a merger would mark an unprecedented consolidation of broadcast television, movie production, music distribution, cable television distribution and production, broadband internet, and telephone service under a single corporate roof, with potentially grave ramifications on media concentration, network neutrality, journalism, public access television, labor and layoffs, communities of color, and even the very future of broadcast television, among many other concerns. The antitrust potential of the Comcast/NBC joint venture was even described by one analyst as ranking a “ten out of ten”.⁷

With such enormous stakes, the proposed merger received ostensible scrutiny among a number of government bodies: the Federal Communication Commission (FCC), the Department of Justice, and two committees in the U.S.

⁶ See, for example, “GE Is In Talks to Spin Off NBC, Give Comcast 51% of New Unit”, from CNBC, <http://www.cnbc.com/id/33123120>, October 1, 2009; retrieved November 13, 2010.

⁷ “Would Comcast/NBC need FCC approval? And How Would That Play Out?”, <http://tales-of-the-sausage-factory.wetmachine.com/content/will-comcastnbc-need-fcc-approval-and-how-would-that-play-out>, November 2, 2010; retrieved November 13, 2010

House of Representatives (Judiciary, Energy and Commerce). The House committees held public hearings outside of Washington on the proposed merger – one by Judiciary in Los Angeles June 7th, and another by Energy and Commerce in Chicago on July 8th. Reports of the Los Angeles hearing focused predominantly on criticisms leveled against Comcast.⁸ The Chicago hearing also saw some criticism voiced of Comcast and NBC Universal, but that criticism focused almost exclusively on the paucity of communities of color in Comcast's and NBC Universal's hiring practices, upper-level management, and television programming. The 90-minute-long Chicago hearing allotted no time for public comment, and the one person who tried to interject comments during that hearing was dismissed by hearing chair Rick Boucher (D-VA).⁹

The public was offered a chance to comment for the record on the proposed merger five days later and ten blocks away when the FCC held a public event on the proposed merger at Northwestern University Law School. That the event took place at all was remarkable; in the past, most mergers simply received approval without any noticeable public debate or discussion. (This is not to say that such debate or discussion is sufficient to derail a proposed merger, but it is certainly necessary.) While the deck was stacked decidedly for Comcast and NBC Universal in the Chicago House Committee hearing, the two panels of commentators convened by the FCC were decidedly more critical, so much so that one headline recounting the hearing read: "Critics Dominate Latest Hearing On Comcast-NBC Merger".¹⁰

The FCC opened a two-hour public comment period, where anyone could sign up and offer up to two minutes of commentary about the proposed merger to be included in the docket on consideration of the merger. Both pro-merger efforts and media democracy efforts staked a claim during this public comment period. The comments at this particular hearing carry potentially tremendous weight, given the fate of the proposed Comcast/NBC Universal merger, and what doors may open or close thereafter for other possible mergers, and that this Chicago FCC event on the proposed Comcast/NBC merger could well be the *only* such public event organized by FCC staff on the matter. It can thus be argued that an analysis of those comments is critical for current and future media mergers and the future of the American media environment on the whole, and so we devote the balance of this paper to provide such an analysis.

3. The public comment period and analysis

Although the public comment period was scheduled to run for two hours,

⁸ See for example, "Comcast-Universal merger attacked", Los Angeles Times, June 8, 2010, online at <http://articles.latimes.com/2010/jun/08/business/la-fi-ct-comcast-20100608>, retrieved November 13, 2010

⁹ Chicago Media Action recorded the full audio of the hearing and posted it online at http://www.chicagomediaaction.org/audiofiles/HCC_Chicago_Comcast_NBC_2010-07-08.mp3

¹⁰ Online at <http://techdailydose.nationaljournal.com/2010/07/critics-dominate-latest-hearin.php>, retrieved November 13, 2010

the FCC to its credit extended the time for the period to allow everyone who signed up to enter comments on the record, even though that time range lasted longer than the originally scheduled two hours. In all, 69 individuals testified during the public comment period. Chicago Media Action (CMA) created a database after reviewing the full video of the comments posted on the FCC's website at <http://reboot.fcc.gov/video-archives>¹¹. The CMA database gathered a number of metrics about the speakers including the stated name of each speaker, the stated organizational affiliation (if any) of each speaker, whether the speaker can be reasonably construed to speak in favor of or against the proposed merger, some reasonably construed demographic data of each speaker (sex and race), the stated locale of each speaker (if any), and whether or not applause was heard after each commenter's testimony. The full database is presented as a Microsoft Excel spreadsheet separate to this report; portions of the database are included in this report as Appendix A. In this report, we refer to each speaker by the speaker's last name and the order in which they gave their testimony (e.g., Kraft 56 refers to Dave Kraft of Nuclear Energy Information Service, who was the 56th speaker to testify in the public comment period).

We also note that even though the event was about the proposed merger of Comcast and NBC Universal, NBC Universal was seldom mentioned in the comment period. This is understandable given Comcast's greater financial position and since Comcast stands to be the main owner in the proposed merger. Thus we focus our analysis on Comcast as the main actor here.

A. In praise of Comcast

Of the 69 speakers who testified, 35 offered clear praise of Comcast. Those 35 people can be grouped as follows:

- 29 representatives of various non-profit organizations
- Two representatives of various for-profit companies
- Two Comcast employees
- Two representatives of area government entities (Bennett 51, Jones 59)

One might suppose that with slightly more than half of all public speakers praising Comcast that the audience would hear ample rationale why the proposed merger is a good thing and should go forward. Quite the contrary: *Not one of those 35 speakers posited even a single explicit reason in favor of the proposed merger on grounds of the merger per se.* What's more, of those 35 speakers only eight people even *mentioned* the proposed Comcast/NBC merger in some form. A list of quotes from these eight people is presented in Appendix B.

Fundamentally, the only reason offered by these 35 speakers, if it even merits being called a "reason", can be summarized with the following syllogism:

¹¹ Retrieved on November 13, 2010.

- (1) Comcast does all these good things for us.
- (2) Therefore, Comcast is good.
- (3) Therefore, Comcast's proposed buyout of NBC Universal is good.

The 29 representatives of various non-profit organizations who praised Comcast spanned the gamut of various social service organizations, working on issues like LGBT rights (Reid 45), education (Lynn 10), therapy (Werkin 2), the environment (Guritz 35), and even a public access TV channel in Naperville (Spencer 28).

A critical observer of this scene might be inclined to think that the praise is simply a smokescreen to make Comcast seem like a model corporate citizen. After all, if a person is on trial for a crime, the question of the guilt of the accused is the matter at issue. Speaking about the good works of the accused is avoiding the issue of the guilt of the accused, and no court worth its salt would tolerate such discursions. And yet, it seems that efforts in praise of Comcast during the public comment period consisted of *nothing but* such discursions.

There is some indication that the establishment of a smokescreen was the *whole point* of their presence at the hearing. One of the 35 speakers -- Evans (39) -- said that their whole purpose was to talk about how great Comcast is:

“We’re here today not to discuss the creation of a media conglomerate, rather, the collaboration of investment and interest...”

It bears repeating that such remarks are blatantly disingenuous; the *whole point of the July 13th FCC event is to talk about media mergers, specifically the proposed merger of Comcast and NBC Universal*, and anything else either misses the point or deliberately avoids the point, neither of which is a vote of confidence for those who spoke in praise of Comcast.

B. In criticism of Comcast

While the “Comcast 35” couldn’t muster a single valid reason to support the proposed merger, the remaining 34 speakers raised a wide variety of issues and concerns related to the proposed merger, including the following:

- The massive scale of the proposed merger (Szczepanczyk 20, Gallie 66)
- The likelihood of layoffs and anti-labor tactics (Macek 22)
- The fear of an insufficient number of federal hearings, and a call for more hearings (Kang 36, Martinez 38)
- The threat of increasing media concentration that could be opened if the merger proceeds (Gomez 14)
- Call for the divestiture of Telemundo amidst such a threat of concentration (Atkin 27)
- Concern about the future of public access, education and government₆

- (PEG) cable television in the wake of the proposed merger (Furcaro 6, Popovic 25, Padhurst 34, Davis 40, Kraft 56)
- The possibility of Comcast gutting MSNBC as a resource of non-right-wing reporting and opinion (Snarrs 30)
 - The future, or lack thereof, of network neutrality (Pastin 63, Hawkins 65)
 - The future, or lack thereof, of First Amendment rights on the internet (Carpenter 62)
 - The cementing of corporate power in American life (Kalas 47, Trauscht 64)
 - The reduction of diversity in media (Kang 36)
 - Comcast's previously dismal record on consumer rights and media issues (Szczepanczyk 20, Macek 22)

Those who raised concerns of the merger were not as neatly delimited as those who praised Comcast. They included media democracy activists both aligned with media activist groups (e.g., Szczepanczyk 20, Kalas 47, Sanders 58) and not aligned (e.g., Chamberlain 29, Rhyne 37, Tobin 50), community media producers in radio and television (e.g., Gomez 14, Lehman 19, Cervantes 31), a host of public access television programmers (e.g., Furcaro 6, Davis 40, Kraft 56), representatives from non-profit organizations (e.g., Logan 5, Popovic 25, Kang 36, Martinez 38), students and educators (e.g., Macek 22, Gosztola 60, Carpenter 62), one gentleman who complained of a land dispute with Comcast (Feldman 1), a variety of concerned individuals (e.g., Snarrs 30, Pastin 63, Trauscht 64, Hawkins 65, Gallie 66), and even some in the media including one gentleman who identified himself solely as “a worker in the industry” and didn't give his name (e.g., Atkin 27, Anonymous 67).

Encouragingly, some of those critical of the proposed merger recognized the apparent smokescreen and called it out amidst the comments. Chamberlain (29) explicitly called out Comcast near the end of her remarks to say: “Is Comcast a social service agency?” And Tobin (50) began her remarks to say that Comcast's social service work is irrelevant to the question of the proposed merger of Comcast and NBC Universal.

There was one other metric of note: whether or not speakers received any applause during or after their remarks. By our count, nineteen speakers received applause from the audience that was recorded on the FCC video. *All nineteen of those speakers were critical of the merger*; not one person who praised Comcast received any audible applause, even from others who also praised Comcast.

4. Conclusion

Even a cursory review of the FCC's history demonstrates its longstanding willingness to serve as a handmaiden of big corporate media.¹² The July 13th event, despite its noteworthiness, provides little in the way to change this overall

¹² See, for example, Robert McChesney, *Telecommunications, Mass Media, & Democracy: The Battle for the Control of U.S. Broadcasting, 1928-1935*, New York: Oxford University Press, 1993. 7

trajectory: the event wasn't an official FCC forum, otherwise all five sitting FCC commissioners would be required to attend and only one commissioner, Michael Copps, actually did attend. But official forums are only one variable in the trajectory of our media, and it bears noting that progress on media policy often happens in spite of the FCC rather than because of it. The proposed merger of Comcast and NBC Universal is no different.

The common opinion among many analysts, and even among Comcast officers in public interviews, is that the proposed merger of Comcast and NBC Universal will gain approval from the FCC and all other requisite government agencies, after a year or so of review, and perhaps with one or more conditions. Such conditions may include divestiture of one or more cable channels (e.g., CNBC, Telemundo), a temporary commitment to one or more socially beneficent policies (e.g., requiring Comcast to abide by network neutrality policies for two years), or any of a number of permanent requirements (e.g., keeping to diversity mandates, a requirement that Comcast not close down any NBC broadcasting affiliates). Other outside proposals, such as that offered by the Writers Guild of America East who have asked for a \$100 million set-aside for public affairs programming as a condition of the proposed merger, may also affect the negotiations.¹³

But even if FCC and other government approval of the proposed merger is likely, there are any of a number of additional ways in which the merger could fail or be blocked. Comcast could call off the merger if one or more conditions are connected to the proposed merger that Comcast deems undesirable and is unable to remove or ignore. If the raft of government agencies addressing the merger take a long time to resolve out the many antitrust questions related to the merger, a bloc of Comcast shareholders could get cold feet over the amount of time spent on the merger and demand that the merger be called off. And there's still the possibility that an outside lawsuit can still scuttle the merger or hobble it enough for Comcast to call it off.

The hearings, especially FCC-organized events, play a special role in that the comments heard there *can* serve as grist for lawsuits against the FCC and others which *can* affect particular actions and the media that result. Thus, it is important to organize, outreach, encourage people to attend, and encourage people to testify for the record – particularly when the opposition *will* be there and *will* deliver a smokescreen of non-responses.

¹³ See, for example, "Writers Guild wants Comcast cash for public programming", in The Hill, October 6, 2010, <http://thehill.com/blogs/hillicon-valley/technology/123051-writers-guild-wants-comcast-cash-for-public-programming>, retrieved November 13, 2010.

Appendix A: July 13th commentators in the public comment period

This is an excerpt of the database compiled by Chicago Media Action from the FCC's video archives of the July 13th event this report as Appendix A. The full spreadsheet is presented as a Microsoft Excel spreadsheet separate to this report. The rightmost column refers to whether or not the commenter can be reasonably construed as being (f)or Comcast, (a)gainst Comcast, or unknown.

No.	Speaker	Stated Organizational affiliation	F/A/?
1	Ilan Feldman	None	A
2	Peggy Werkin	Beacon Therapeutic Diagnostic Treatment Center	F
3	Anna Schwartz	By the Hand Club for Kids	F
4	Cynthia Schmidt	The Association House of Chicago	f
5	Phylis Logan	HUD / NAACP	a
6	Nick Furcaro	Kartemquin Films	a
7	Brian Pollock	League of United Latin American Citizens	f
8	Carrie Marshall	Prevention First	f
9	Shirley III	Total Living Network	f
10	Sue Lynn	Marane Valley Community College Foundation	f
11	Andy Vehelicz	Spanish Community Center	f
12	Ed Garcia	Back of the Yards Neighborhood Council	f
13	Neil James	West Central Municipal Conference	f
14	Allan Gomez	Radios Populares	a
15	Cassie Burns	Comcast	f
16	Barbara Cestella	Gad's Hill Center	f
17	Maureen Kelly	Chicago Southland Chamber of Commerce	f
18	Joseph Yancey	Chicago Boys & Girls Club – Yancey Club	f
19	Dale Lehman	Neighbors for Peace / WZRD radio	a
20	Mitchell Szczepanczyk	Chicago Media Action	a
21	Jacob Perez	United Neighborhood Organization	f
22	Steve Macek	North Central College	a
23	Shelley Lewis	Little Angels	f
24	Angela Zavala	Comcast	f
25	Barbara Popovic	CAN TV	a
26	Michael Howard	Fuller Park Community Development	f
27	Delmert Atkin	Spanish Broadcasting System	a
28	Elizabeth Spencer	Neighborhood Community Television / Channel 17	f
29	Dr. Lora Chamberlain	Progressive Democrats of America, et al.	a
30	Nikolas Snarrs	None	a
31	Vicki Cervantes	En El Ojo	a

32	Christine Lay	North Star Cable Construction	f
33	Christine Kenney	Literacy Works	f
34	Cynthia Padhurst	Safe Humane Chicago	a
35	David Guritz	Forest Preserve District of DuPage County	f
36	Sam Kang	Greenlining Institute	a
37	Jim Rhyne	None	a
38	Nia Martinez	National Asian Alliance	a
39	Michael Evans	Bolingbroke Area Chamber of Commerce	f
40	Grady Davis	Tuskegee Airmen	a
41	Robert Morton	Community and Economic Development Association	f
42	Julie Marcie	Seguin Services	f
43	Wanda Avila	La Familia Rida Counseling Agency	a
44	Jonathan Lavin	Age Options	f
45	Courtney Reid	Center on Halsted	f
46	Fran Bell	YMCA of Metro Chicago	f
47	Mike Kalas	"group of media activists"	a
48	Vicki Smith	Southwest Conference of Mayors	f
49	Deirdre Joy Smith	POWER: Opening Doors for Women	f
50	Claire Tobin	None	a
51	Jerry Bennett	Mayor of Palos Hills, IL	f
52	Jeanette Forman	None	a
53	Rhett Lindsay	Test Positive Awareness Network	f
54	Bree Hayden	None	a
55	Susan Satyr	Office of Attorney General Lisa Madigan	a
56	Dave Kraft	Nuclear Energy Information Service	a
57	Robbie Smith	None	a
58	Scott Sanders	Chicago Media Action	a
59	Thaddeus Jones	Calumet City, IL alderman / The Jones Foundation	f
60	Kevin Gosztola	Recent grad of Columbia College	a
61	Walt Holden	None	?
62	Starla Carpenter	Northwestern University Law School	a
63	Sue Pastin	None	a
64	Thomas Trauscht	None	a
65	Savannah Hawkins	None	a
66	Bob Gallie	None	a
67	Anonymous	Worker in "the industry"	a
68	Jay Readey	NeighborScapes	f
69	Jim Garrett	Chicago Southland Convention and Visitors Bureau	f

Appendix B – Eight speakers who spoke in favor of Comcast and who actually mentioned or referred to the proposed Comcast/NBC Universal merger

(1) James 13: "I'm here today to support Comcast in its partnership proposal with NBC/Universal...We believe that this proposal will greatly strengthen west suburban Cook County, and we ask for your approval of the proposal"

(2) Perez 21: "We are here to show our support for Comcast and their joint venture with NBC/Universal... It is UNO's belief that the Comcast / Universal joint venture is in the public's best interest."

(3) Guritz 35: "I'm here representing the Forest Preserve District of DuPage County and also here to express support for the Comcast U/GE joint venture"

(4) Smith 48: "I ask the FCC to approve this proposal in a exp, uh in a expeditiously manner."

(5) Smith 49: "and we fully support the Comcast / NBC joint venture"

(6) Jones 59: "I'm here to support the merger...I'm not here to beg"

(7) Readey 68: "I'm happy to speak in favor of the merger... I have twice appeared... on their (Comcast's) public access programming."

(8) Garrett 69: "Our objective is to support the joint venture partnership between Comcast and NBC Universal"