(2) Fulfill this commitment through the provision of locally-originating programming that focuses on *bona fide* news, electoral, and public affairs programming. Programming that is produced as a consequence of a Local News Sharing Agreement or Local Marketing Agreement should not count towards this category;

(3) Ensure that the public and the Commission can monitor and enforce compliance with this commitment by requiring NBC owned and operated stations to establish (on a per station basis) the threshold level of local news and public affairs programming provided pre-merger. Each NBC owned and operated station should report quarterly on the type and amount of programming it is offering as a condition of the merger.[162] The reports should be publicly submitted to the Commission, made available in station public files, as well as posted on individual NBC station websites so that the FCC and the public can ensure compliance with the commitment.

- Ensuring that Telemundo owned and operated stations serve their communities with meaningful and enforceable local programming requirements. Applicants have currently made no commitments to invest in new local broadcast programming for Telemundo's

[162] Indeed, the Commission has an existing and appropriate vehicle to supply this information, known as Form 355. The form was adopted pursuant a 2007 Commission order, but has yet to be implemented industry-wide as a consequence of pending petition for reconsideration and approval by the Office of Management and budget. *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Report and Order, 23 FCC Rcd 1274 (2007). Of course the fact that the Commission has not yet required industry-wide adoption of this form does not preclude it from utilizing the form or something similar as an enforcement mechanism in this transaction.

broadcast audience. This omission is unacceptable, particularly given that Applicants appear willing to provide a modicum of investment in new local programming for NBC stations. To remedy this second class treatment of Telemundo stations and audiences, Applicants should:

(1) Commit to increasing local programming by at least one hour per day, per station;

(2) Fulfill this commitment through the provision of locally-originating programming that focuses on *bona fide* news, electoral, and public affairs programming. Programming that is produced as a consequence of a Local News Sharing Agreement or Local Marketing Agreement should not count towards this category;

(3) Ensure that the public and the Commission can monitor and enforce compliance with this commitment by requiring Telemundo owned and operated stations to establish (on a per station basis) the threshold level of local news and public affairs programming provided pre-merger. Each Telemundo owned and operated station should report quarterly on the type and amount of programming it is offering as a condition of the merger. The reports should be publicly submitted to the Commission, made available in station public files, as well as posted on individual Telemundo station websites so that the FCC and the public can ensure compliance with the commitment.

- Committing to remedy the harms caused to Spanish speaking broadcast audience in the Los Angeles market created by NBCU's failure to come into compliance with Commission orders and ownership rules for eight years. As we have discussed at length here and it our Petition, NBCU's failure to come into compliance with Commission rules and orders following its 2002 acquisition of Telemundo has adversely impacted Spanish speaking audience in the Los Angels marketplace. To compensate this community for this harm, to prevent further harm, and to ensure that observance of agency regulations does not become mere lip service, the Applicants must do the following:

(1) NBCU must immediately divest KWHY-TV, and, in the event that the relevant authorities approve the transaction, must do so prior to consummation of the merger.

(2) NBCU must submit to disciplinary proceedings with regard to NBCU's failure to divest KWHY for the past eight years. The Commission should exact the appropriate fines for NBCU's failure to comply. Additionally, to compensate the Los Angeles community for eight years of lost source diversity, Applicants should increase the amount of locally produced news and public affairs programming (over the additional programming commitment discussed above) on the retained Spanish language station, KVEA-TV.

- Finally, with regard to any commitments regarding broadcast programming or stations, Applicants should agree to be bound for two television license renewal terms or 16 years, which ever is the longer.

Conclusion

For the foregoing reasons Public Interest Petitioners urge the Commission to carefully consider the detrimental affects of a Comcast/NBCU merger on competition and the public interest. We respectfully request that the Commission deny Applicants' merger applications and attendant broadcast license transfers, and grant all such other relief as may be just and proper.

Respectfully Submitted,

______/s/______________

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August 19, 2010

Appendix A: Declaration of Mark Cooper and Adam Lynn in Support of Public Interest Petitioners' Reply to Opposition

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Applications of Comcast Corporation,	)	
General Electric Company and NBC	)	MB Dkt No. 10-56
Universal, Inc. For Consent to Assign	)	
Licenses or Transfer Control of Licensees	)	
	)	
	)	

DECLARATION
OF DR. MARK COOPER AND ADAM LYNN
IN SUPPORT OF PUBLIC INTEREST PETITIONERS' REPLY TO OPPOSITION

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August 19, 2010

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Universal, Inc. For Consent to Assign	)	
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DECLARATION OF DR. MARK COOPER AND ADAM LYNN IN SUPPORT OF PUBLIC INTEREST PETITIONERS' REPLY TO OPPOSITION

I. Introduction

Comcast and NBCU's (together "Applicants") Opposition[1] to our Petition[2] and their supporting analysis of the proposed merger[3] continues to ignore the fundamental economics of the multichannel video and broadband Internet access markets – their structure, conduct and performance – and the impact of this merger on those markets. However, repeating erroneous arguments or trying to bury them beneath mountains of irrelevant data does not correct the underlying fallacies. Careful digging through the data not only reveals that the flaws persist, but also frequently adds more evidence of their existence. In particular, confidential documents,[4] prepared at roughly the same time and at a moment when Comcast was certainly contemplating

[1] *Joint Opposition to Petitions to Deny and Response to Comments of Comcast Corp., General Electric Co., and NBCU Universal, Inc.*, filed MB Dkt 10-56 (July 21, 2010) ("Opposition").
[2] *Petition to Deny of Consumer Federation of America, Consumers Union, Free Press, and Media Access Project*, filed MB Dkt 10-56 (June 21, 2010) ("Petition").
[3] Gregory L. Rosston and Michael D. Topper, The Proposed Comcast-NBCU Transaction: Response to Comments and Petitions Regarding Competitive Benefits and Advertising Competition, MB Dkt. 10-56 (July 21, 2010) ("Rosston/Topper Response"); Mark Israel and Michael L. Katz, Economic Analysis of the Proposed Comcast-NBCU-GE Transaction, MB Dkt. 10-56 (July 21, 2010) ("Israel/Katz Response").
[4] {{ }}, 26-COM-0000000 and {{ }} 25-COM-00000194. A third document, {{ }} 31-COM-00001500, has no date but also makes it clear that {{ }}

the merger with NBCU, if not actively negotiating it,[5] not only refute the key assumptions underlying the arguments made by Applicants and their experts in support of the merger, they also call into question the veracity of the public interest statement.

The evidence before the Commission, identified at Exhibit 1 of this Declaration, has already demonstrated clearly and convincingly that

- Comcast and NBC have market power in critical segments of the video supply chain and that the merger would sharply increase that market power by allowing the post-merger company to leverage each source of market power to undermine competition and impose price increases on consumers;
- Comcast has engaged in behaviors in the past that exploit and abuse its market power in the cable and broadband Internet access power and acquiring the assets of NBC would dramatically increase the likelihood that the existing and new market power would be exercised and abused in the future.
- Comcast has profited from the abuse of its market power in the past and would have a powerful profit incentive to exploit the market power newly minted by this merger.

Despite this evidence, Applicants persists in asking the Commission to

- Ignore the basic economic evidence and approve this merger on the basis of discredited economic theories and speculative promises of future efficiency gains that have little support in the record,
- Ignore its own findings about the MVPD and the broadcast TV markets, and
- Ignore fundamental contradictions between what Comcast, NBCU, the cable industry and the broadcast networks have said in the recent past, and the position Comcast takes in the current proceeding.

Comcast and NBCU have staked the fate of this merger on the absurd claims that (1) Internet TV is not a nascent, but potentially powerful competitor for traditional MVPD operators; and, (2) that there is little head-to-head competition between cable and broadcasters in the local video advertising market. But these claims are undercut by Applicants' own internal documents, as well as by market realities. Because there is indeed head-to-head competition in both these

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[5] *See* Andrew Ross Sorkin and Tim Arango, "In Secret Meetings, Comcast Wooed G.E. and Won NBC," *New York Times*, Dec. 2, 2009.

markets it is clear that the anticompetitive harms of this merger vastly outweigh any benefits under both the antitrust laws and the Communications Act.

II. Procedural Issues

On May 21, 2010, the Commission requested that Comcast and NBCU submit a list of information deemed critical to determining the merger's effects on the communications marketplace.[6] The information was to be submitted by June 11, 2010. Following this submission, the Commission determined the merger parties to had "not fully complied with the instructions supplied with the Information request."[7]. We have conducted a preliminary review of the data submitted by Comcast and NBCU,[8] but that review is ongoing. We also note that certain data requested by the Commission has yet to be submitted by Applicants.[9]

After reviewing the confidential and highly confidential material submitted by the Applicants, our belief that the consumer harms that will result from this transaction far outweigh the claimed benefits has only grown stronger. The business information submitted, wiped clean of the public interest veneer reserved for Commission staff, directly contradicts the positions taken by the merging parties in their Application. Given the wealth of information asked for by

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[6] Request for Information Sent to Comcast Corporation, MB Dkt. 10-56 (May 21, 2010); Request for Information Sent to NBC Universal, Inc., MB Dkt 10-56 (May 21, 2010).

[7] Notice of Lack of Compliance With Request for Information Sent to Comcast Corporation, MB Dkt 10-56 (June 24, 2010); Notice of Lack of Compliance With Request for Information Sent to NBC Universal, Inc., MB Dkt 10-56 (June 24, 2010).

[8] Comcast submitted well over 2,000 documents totaling tens, if not hundreds, of thousands pages. We have largely reviewed that information and submit this review in response. We are still in the process of reviewing NBCU's data submission, which was many times larger. Thus, we reserve the right to provide further comment on Comcast's data to the extent it becomes significant upon analysis of NBCU's data.

[9] Comcast has yet to provide certain carriage agreements pursuant to the Commission's discovery requests. *See* Federal Communications Commission, *Request for Information Sent to Comcast Corporation*, MB Dkt 10-56 (May 21, 2010) at questions 32, 44, and 51. Instead, Comcast has stated, "this request has been deferred pending further review and consultation." Supplemental Response to Request for Information filed by Comcast Corp. (Jun 30, 2010).

the Commission, the primary source materials highlighted below represent both the proverbial "needle in a haystack" and " smoking gun."

In our initial pleading and accompanying Declaration we avoided citing proprietary data to ensure that the public would have access to a picture of the anticompetitive effects of the merger that was not pock-marked with redactions. Even though there is ample, non-confidential materials that demonstrate the problems with this merger, Applicants internal documents are so laden with evidence that contradicts Applicants' fundamental arguments that we no longer can rely only on non-confidential materials. By submitting this document with confidential materials, we seek to ensure their existence does not go unnoticed by the Commission staff and other parties for which the Commission has granted access.

III. Internet TV

A. Comcast Views Internet Video as a Competitor

The confidential documents submitted by Comcast indicate clearly that, as a matter of business, the company viewed, and continues to view, Internet video as competitor to their traditional video distribution business. We have already offered the Commission evidence to this effect.[10] The emergence of online video competition is a struggle over arbitrage,[11] cannibalization and disintermediation[12] in which a diversity of interests are playing out.[13] Each of

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[10] *See e.g. Declaration* at 54, n. 93.

[11] Michael Nathanson, et al., "Web Video: Friend or Foe…And to Whom?" *Bernstein Research*, Oct. 7, 2009, p. 15, identifies a strategy that [[ ]] (Dr. Mark Israel and Dr. Michael L. Katz, *The Comcast/NBCU Transaction and Online Video Distribution*, MB Dkt 10-56, 3rd Party Attachment 24 (May 4, 2010) ("Israel/Katz") ("Bernstein, *Web TV*").

[12] Matthieu Coppet, et al., "Can Pay TV Benefit From Online Video?" *UBS Investment Research*, June 22, 2009, p. 3, 10 (Israel/Katz - 3rd Party Attachment 23) ("UBS Investment Research, *Can Pay TV*"): [[

]]

the players who have leverage in the current supply chain are at risk of having its role in the control over distribution diminished. This is particularly true for the two sectors involved in the Comcast-NBC Universal merger -- video content production and multichannel video distribution.

The non-public materials submitted by Applicants offers a detailed look into this treatment. {{ [14] [15]}}

{{ [16] [17] [18]}} The analysis underscores the critical importance of the nascent competition that Internet TV represents. The analysis frames this threat as a conflict between the {{ }} and the {{ [19]}} The {{ }} is content.[20]

(footnote continued)
[13] Arbitrage refers to a company that risks nothing to earn a profit. In this case, over the top providers do not have to risk the costs of building last mile infrastructure to offer delivery of video content to consumers. Cannibalization refers to a company offering a product or service, which reduces revenue in another. In this case, the use of broadband to consumer video resulting in the canceling of traditional video delivery services. Disintermediation refers to the removal of an intermediary in a supply chain. In this case, the removal of traditional MVPDs in the delivery of video.

[14] 25-COM-00000017, Slide 3, 5.

[15] 25-COM-00000017, Slide 5. *See also* 31-COM-00001952, Slide 2 {{ }}

[16] 26-COM-00000001.

[17] *Ibid.*, Slide 8

[18] *Ibid.*

[19] *Ibid.*, Slides 9, 10, 11.

[20] *Ibid.*, Slide 17.

Like Comcast, NBCU has also recognized the potential for online video competition. {{An internal presentation posed the rhetorical query,

[21]

[22]

[23]}}

Comcast has done more than just acknowledge the existence of online competition. It has taken proactive steps to limit it. {{

[24] }} Comcast reviewed {{

[25]}} and reached conclusions that are very similar to the initial Declaration submitted by Public Interest Petitioners.[26]{{

[27]}} As described below, this is the strategy Comcast has begun and will continue to pursue in an attempt to undermine Internet video competitors.

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[21] 29nbcu0004283, Slide 8.
[22] *Ibid.*
[23] *Ibid.*, Slide *10.*
[24] 25-COM-00000194.
[25] *Ibid.*, Slide 51.
[26] *Declaration* at 54-56, 59.
[27] 25-COM-00000194, Slide 54.

{{

[28]

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[30]}} These competitors span the online video ecosystem, as shown in Exhibit 2, *infra*.

In late 2009 and early 2010, Comcast prepared numerous presentations to review their planned {{ [31]

}} This business plan has, to some extent, been disclosed publicly.[32] {{

[33]

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[28] *Ibid.,* Slide 50.{{

(*See* Israel/Katz, p. 33)

See 11-COM-00000166, p. 6,

10.

See Declaration at 28-

29.}}

[29] *Ibid.*, Slide 50. {{

(11-COM-

00000166, Slide 39).

(25-COM-00000308, Slide 55).

(FCC.Comcast.Exhibit.06.07).}}

[30] *Ibid.* at Slide 55. *See also* 25-COM-00000507; 11-COM-00000166.

[31] 25-COM-00000547.

[32] *See* Jeff Baumgartner, "Comcast Forges 'Excalibur' for IPTV," *Light Reading*, Oct. 28, 2009.

[33] 25-COM-00000547, Slide 40.

[34]

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[36]

[37]

}} These considerations are revealing, as shown in Exhibits 3 and 4 of this Declaration, *infra*.

Numerous internal documents submitted by Comcast illustrate the company's efforts to {{

[38]}}. Comcast's carriage agreements with programmers also illustrate its ability to leverage its position as the dominant MSO to {{

[39]

[34] *Ibid.* Slide 23.
[35] *Ibid.*
[36] *Ibid.*
[37] 25-COM-00000594, Slide 12.
[38] *Ibid.* Slide 39.
[39] 20-COM-00000071, p. 10. We note that numerous highly confidential documents may include similar language, however portions of the agreement are redacted. The Commission has reportedly agreed to allow these documents to be redacted. Given the protections stipulated in the first and second protective orders, we see *no reason* for taking such a position. *See e.g.* 20-COM-00000139, pp. 8-9 {{ }}; 20-COM-00000156, pp. 8-9 {{ }}; 20-COM-00000173, pp. 9-11 {{ }}; 20-COM-00000203, pp. 9-11 {{ }}; 20-COM-00000225, pp. 6-8 {{ }}

}} Similarly, NBCU documents illustrate that Comcast was exerting pressure on NBCU to {{

[40]

[41]

[42]

[43]

[44]

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[40] 50nbcu0000471, Slide 4.

[41] *Id.* at Slide 29. {{

}}

[42] 29nbcu0005310, Slide 5.

[43] *Ibid.*

[44] 29nbcu0006866, Slide 4.

[45]

[46]}}

Thus, it is clear that despite its contention that online video is not a competitor, Comcast has used its significant market power to stifle over-the-top competitors.

Indeed, it appears that cable companies had been actively hindering the speed of growth of online content and competition. {{

[47]

[48]

[49]}} These examples illustrate the hard bargaining that generally occurs between vertical competitors. {{

}} These outcomes will be magnified by the proposed Comcast/NBCU merger. By acquiring NBCU, the merger eliminates horizontal competition between Comcast's and NBCU's online video platforms, and further hinders NBCU's incentive to make its programming available to platforms that compete with Comcast cable television services.

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[45] *Ibid.*

[46] *Ibid.* at Slide 5.

[47] 50nbcu0006366, Slide 4.

[48] *Ibid* (emphasis added).

[49] *See e.g.* Jason Kilar, "Introducing Hulu Plus: More wherever. More whenever. Than ever.," *Hulu Blog*, June 29, 2010. {{

}} NBC Universal Inc., Response to FCC Request on May 21, 2010, p. 23.

B. Learning How to Prevent Disintermediation

The disconnect between what Applicants and their experts have submitted to the reviewing regulatory authorities and the proprietary data that Comcast had in its possession is stark. The analysis of the music industry is a perfect example. Applicants interpret our earlier analysis of the music industry as a defense of copyright infringement.[50] Nothing could be farther from the truth. We analyzed this example of digital disintermediation as a case study in how the combination of technology and consumer sovereignty could undermine the abuse of market power and create a more efficient, consumer-friendly industry.

As noted in our initial comments, the Wall Street analysts that have been examining the growing competition between Internet video and traditional video distribution[51] frequently begin by discussing the impact of digital distribution on the music labels and the determination of video content producers to avoid that fate.[52] Some see avoiding piracy of content as a primary

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[50] Opposition at 311.

[51] Michael Olson, "Internet Video: Field of Dreams of Nightmare on Elm Street?" *Piper Jaffray*, November 2009, p. 5, 8: [[

]] (Gregory L. Rosston, "An Economic Analysis of Competitive Benefits from the Comcast-NBCU Transaction," MB Dkt 10-56, Third Party Attachment #2, May 4, 2010 ("PiperJaffray, *Internet Video*")). UBS Investment Research, *Can Pay TV,* p. 9: [[

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[52] For example, the opening section of PiperJaffray, *Internet Video* (p. 4) is entitled "Music v. Video: Why These Markets are Traveling Down Different Paths." Similarly, the title page of Bernstein, *Web Video* starts with an observation about the difference between music and video and links that difference to the proactive behavior of Comcast. [[

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motivator for developing business models that allow consumers convenient access to content.[53] Others think the piracy threat is overstated.[54] Ultimately, the issue is one of building business models that use technology to better meet the needs of consumers. Given the abuse of market power that existed in the music space and in the MVPD and broadband Internet access market, that means putting pressure on the economic rents being captured by dominant incumbents.[55]

Comcast's own analysis of three examples – {{

[56]}} – supports the conclusions we reached in our analysis. Comcast concludes that {{

[57]}} NBCU paints a similar picture in which {{

[53] PiperJaffray, *Internet Video,* p. 12: [[

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[54] Bernstein, *Web TV,* p. 12: [[

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[55] PiperJaffray, *Internet Video,* p. 4: [[

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[56] 25-COM-00000194, Slide 51.

[57] *Ibid.*, Slide 52.

[58]

[59]}}

As we noted in our original Declaration's discussion of the disintermediation in the music sector,[60] here we have widely available digital distribution of legal content by services actually letting consumers get exactly what they want, at prices that are not inflated by supra-normal profits. That is a concept that is foreign to the cable industry.

Comcast's conclusion about {{

[61]}} As noted in our initial Declaration, the cable operators straddle the two distribution technologies, cable and broadband, so they are well positioned to prevent the outbreak of competition and new, consumer-friendly business models.[62]

The enhancement of consumer sovereignty combines with the new technology to have a major impact on prices and margins.[63] In fact, {{

[64]}} The analysis of the {{ }} is immediately followed by a discussion of the {{ [65]}} Ironically, but appropriately,

[58] 50nbcu0000471, Slide 9.
[59] 50nbcu0000051, Slide 30.
[60] *Declaration* at 54.
[61] 25-COM-00000194, Slide 54.
[62] *Declaration* at 22-35.
[63] *See Ibid.* at 56-59.
[64] 25-COM-00000194,Slide 51.
[65] *Ibid.*, Slide 55.

this discussion is followed by the section on {{ [66]}} in which the very first slide makes the claim that {{ [67]}}

The {{

}} Thus, as we showed in the music example, disintermediation can save consumers a great deal of money.

Comcast's analysis of the {{

[68]}} If competition reduced market power throughout the supply-chain, as happened in the music sector, the effect could be even larger. The potential efficiency gains deserve attention because a new technological approach to distribution has a powerful effect on a business in which distribution has been a substantial part of the cost. There are supply-side and demand side gains.[69] Advertising becomes more efficient.[70] Physical costs are reduced as

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[66] *Ibid.*, Slide 56.
[67] *Ibid.*, Slide 57.
[68] *Ibid.*, Slide 55
[69] {{ }} Piper Jaffray, *Internet Video* (p. 12), identifies two classical opportunities – expanding supply in the long-tail and increasing
(continued on next page)

redundancy of devices[71] is eliminated and economies of scale and scope combine with technological progress to dramatically lower costs.[72]

The {{

[73]

[74]

[75]}}

Even these estimates of the margins do not capture the full extent of the excess. {{

(footnote continued)
demand through greater convenience. [[

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[70] UBS Investment Research, *Can Pay TV*, p. 10: [[

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[71] Bernstein, *Web TV*, p. 14: [[

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[72] Bernstein, *Web TV*, p. 17: [[

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[73] 25-COM-00000194, Slide 65.

[74] *Ibid.*, Slide 66.

[75] *Ibid.*, Slide 67.

}}

C. TV Everywhere was Created to Prevent the Cannibalization of Cable Video Revenue

The clear recognition of the nascent competition and the emerging models of Internet competition in these documents make a mockery of Comcast's claim that its efforts to require a traditional subscription as the credential for access to professional video content on the Internet are pro competitive.[76] Comcast declares that "many MVPDs in fact compete with each other" and then gives exactly one example – DirecTV.[77] The cable companies with the overwhelming majority of MVPD subscribers do not compete with one another, but instead occupy regional fiefdoms. The major operators have refused to insert themselves into each others' territories (and hence compete) by never overbuilding one another. Through TV Everywhere, and Comcast's branded version, Fancast Xfinity TV, this physical space agreement to not compete is now being extended to the Internet, where there is no geographic or technological constraint on Comcast's ability to sell Internet TV to anyone who visits its web site. Comcast should welcome the opportunity to have a national footprint and sell to all potential customers. It has chosen instead to lead the effort to impose this anticompetitive discipline on the industry in a manner that preserves its market power.

The strategic response identified by the Wall Street analysts is to extend the current physical space business models into cyberspace. Each of the parties is likely to try to leverage its strategic assets to defend its current share of revenues and rents in video distribution...Content

[76] Opposition at. 207.
[77] *Ibid. at. 210.*

producers can leverage their libraries[78] and "must have" content[79] in a sector that is highly concentrated.[80] However, the real difference is in the market power of the cable operators, who are also the dominant broadband Internet access providers.[81] The strategy that emerges to prevent the dissipation of rents through disintermediation is to discipline the sector. This requires complex collaboration and "leadership"[82] at a crucial moment for action.[83] The largest cable/broadband operator acquiring one of the leading video content suppliers is an obvious candidate to exercise that leadership. The Wall Street analysts identify the combination of the Comcast-NBC Universal merger and Comcast's "TV Everywhere" initiative as perfect examples of the key strategies.[84] Vertical integration becomes pivotal to block the effects of digital

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[78] Piper Jaffray, *Internet Video,* p. 10, 17: [[

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[79] Piper Jaffray, *Internet Video,* p. 31: [[

]]

[80] Bernstein, *Web TV,* p. 12: [[

]]

[81] UBS Investment Research, *Can Pay TV,* p. 24: [[

]]

[82] UBS Investment Research, *Can Pay TV,* p. 7: [[

]]

[83] UBS Investment Research, *Can Pay TV,* p. 24: [[

]]

[84] Bernstein, *Web Video,* p. 9: [[

(continued on next page)

disintermediation and the emergence of a large firm straddling the production and distribution stages is a critical step in achieving the necessary spirit of collaboration.

While Comcast portrays its efforts to gain control over Internet distribution as friendly to consumers and content providers, its real motivation lies elsewhere as identified in an {{

[85]}}

Thus, it is clear that Comcast fears that consumers and content providers would escape from its stranglehold, ultimately relegating its service to a dumb pipe.

As discussed above, Comcast has supported the effort to squelch competition on the Internet with {{

[87]}}

In order to give a pro-consumer gloss, and to avoid the antitrust consequences of the campaign against over-the-top TV, Applicants and their experts take the position that Internet

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(footnote continued)

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[85] 11-COM-00000166, Slides 2, 6.

[87] 26-COM-00000001, Slide 17.