# Economic Analysis of the Impact of the Proposed Comcast/NBCU Transaction on Rivals' Programming Costs

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# Fundamental Conclusions

- The proposed transaction would create conditions likely to result in Comcast’s MVPD rivals paying higher fees for NBCU programming
- Applicants’ exclusive focus on the likelihood of foreclosure is improper, as it ignores the potential impact on MVPDs’ fees for NBCU programming

# Analytical Approach

- Application of standard Nash bargaining model
  - Similar to model presented to FCC by Professor Katz in 2009 analysis of retransmission consent fees
- Vertical integration reduces the loss to the joint venture from failure to reach a carriage arrangement with a competing MVPD
- Resulting change in "fallback payoff" improves Comcast's bargaining position, enabling it to obtain higher programming fees

# Primary Inputs to Model

- "Departure rate," or the percentage loss of an MVPD's subscribers when the MVPD does not carry NBCU programming
- "Diversion rate," or the fraction of the MVPD's lost subscribers that switches to Comcast
- Profitability to the MVPD of each of those lost subscribers
- Advertising revenues (or other benefits) that NBCU loses if the MVPD does not carry the NBCU programming

# The Departure Rate is Substantial

- Demonstrated by choice of NBC affiliates to bargain for retransmission consent rather than invoke must-carry
  - Observed retransmission consent fees imply a substantial departure rate associated with the loss of an NBC station
- Supported by DIRECTV's local-into-local experience
- Supported by DISH Network's experience in the Fisher dispute
- Adopted by Professor Katz in 2009 analysis of retransmission consent fees

# The Diversion Rate Also Is Substantial

- In my initial report, I adopted Israel/Katz's and FCC's assumption of switching proportional to market share
- Israel/Katz now assert that diversion rate to Comcast is "near zero"
  - Inconsistent with Katz's analysis in 2009
  - Inconsistent with Applicants' assertions regarding market competition
- Analysis of DIRECTV's subscriber-survey data shows that switching may not be fully proportional to market share, but clearly is substantial
- Predicted fee increases for NBCU programming based on the estimated diversion rate are substantial

# Equal Sharing Assumption

- Applicants criticize model for assuming that parties would share surplus equally
  - Standard assumption in Nash bargaining model
  - Used by FCC in prior cases, and by Professor Katz in 2009 submission
- Applicants provide no basis to assume that NBCU has dominant bargaining position against Comcast rivals, such as DIRECTV, DISH, AT&T, and Verizon
- Even if (hypothetically) NBCU has twice as much bargaining power as the MVPD, my model still predicts substantial price increases for NBCU programming

# Applicants' Welfare Analysis is Flawed

- Applicants contend that the benefits from elimination of double marginalization would "swamp" the impact of price increases to Comcast's rivals
- One cannot assume that a decline in Comcast's marginal cost combined with an increase in its rivals' costs would reduce consumer prices overall
- As the FCC has recognized, a proper analysis would require consideration of how competition works in the marketplace
- Applicants have not provided necessary evidence to support their conclusion

# Application of the Model to Online Programming

- Implications of bargaining model extend to online programming
- Applying program access rules to linear but not online programming could create incentives to move programming online