

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

COMCAST CORPORATION, et al.,

Defendants.

Case No. 11-cv-00106 (RJL)

**DEFENDANTS' UNOPPOSED JOINT MOTION & SUPPORTING MEMORANDUM
TO AMEND FINAL JUDGMENT TO EXCLUDE OBLIGATIONS WITH RESPECT TO
GENERAL ELECTRIC COMPANY**

Defendants Comcast Corporation (“Comcast”), General Electric Co. (“GE”), and NBC Universal, Inc. (“NBCUniversal”) (collectively, “Defendants”) move unopposed to amend the Final Judgment entered in this case on September 1, 2011, based on the fact that GE no longer holds any interest in the joint venture that was the subject of this matter or any interest in NBCUniversal. In January 2011, Plaintiffs filed a complaint (the “Complaint”) alleging that a proposed joint venture between Comcast and GE, into which GE contributed NBCUniversal and Comcast contributed other assets, violated the Section 7 of the Clayton Act. The Parties simultaneously settled the case pursuant to the terms of the Final Judgment. The Final Judgment in this matter allowed the joint venture to be formed but required Defendants to undertake certain actions and refrain from certain conduct for the purpose of remedying the antitrust violations alleged in the Complaint.

In February 2013, Comcast agreed to acquire GE’s remaining common equity interest in the joint venture. That transaction has now closed and as of March 26, 2013, GE no longer holds, directly or indirectly, any interest in the joint venture or in NBCUniversal. *See* Exhibit 1,

Affidavit of Robert J. Duffy. In light of the disposition of GE's relevant interests, the Final Judgment should be modified to exclude GE as a party.

It is well-established that a change of circumstances may justify the modification of a merger consent decree and, in particular, that modification is appropriate where a sale of the relevant business eliminates the original basis for the decree. *See, e.g., United States v. Agri-Mark, Inc.*, 156 F.R.D. 87 (D. Vt. 1994); *United States v. Am. Cyanamid*, 598 F. Supp. 1516 (S.D.N.Y. 1984). Here, GE's sale of its interests in the joint venture and in NBCUniversal constitutes a change in circumstances that eliminates the rationale for including GE as a party to the Final Judgment. The Final Judgment resolved allegations in the Complaint of a potential harm to competition arising from Comcast's acquisition of control of the NBCUniversal's programming content and assets via the joint venture. *See, e.g.* Complaint ¶ 5. Now that GE has sold its interests in the joint venture and NBCUniversal, GE no longer has any connection to the competitive concerns that the Final Judgment sought to resolve which warrants the modification presently sought.

Furthermore, where the modification sought is not opposed by any party, "a court need only review the modification to ensure that it is in the 'public interest.'" *See United States v. Baroid Corp.*, 130 F. Supp. 2d 101, 103 (D.D.C. 2001). Here, Defendants have been authorized by the Plaintiffs to inform the Court that Plaintiffs do not oppose this joint motion. Moreover, the requested modification does not offend the public interest served by the Final Judgment as its obligations on Comcast and NBCUniversal will remain in place.

Accordingly, Defendants move, unopposed by Plaintiffs, to amend the Final Judgment to remove any obligations it imposes on, or with respect to, GE. Specifically, Defendants request that:

1. Definition I in Section II of the Final Judgment be modified to exclude General Electric;
2. Paragraph O in Section IV of the Final Judgment be modified so as to relieve Comcast and NBCUniversal from having to collect documents sent to or received from GE going forward; and
3. Paragraph E in Section V of the Final Judgment be modified to remove references to GE.

For the foregoing reasons, the Defendants respectfully request that the Court grant Defendants' unopposed motion and enter the proposed Modified Final Judgment attached to this motion as Exhibit 2.

Dated: June 4, 2013

Respectfully submitted,

DAVIS POLK & WARDWELL LLP

By: /s/ Arthur J. Burke
Arthur J. Burke (admitted *pro hac vice*)

450 Lexington Ave.
New York, New York 10017
(212) 450-4352
arthur.burke@davispolk.com

*Attorneys for Defendants Comcast
Corporation and NBC Universal, Inc.*

ARNOLD & PORTER LLP

By: /s/ Deborah L. Feinstein
Deborah L. Feinstein (DC Bar #412109)
Justin P. Hedge (DC Bar #979378)

555 Twelfth Street, NW
Washington, DC 20004-1206
(202) 942-5015
deborah.feinstein@aporter.com

*Attorneys for Defendant General Electric
Company*