PUBLIC NOTICE

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MEDIA BUREAU SEEKS COMMENT ON
THE STATUS OF COMPETITION IN THE MARKET FOR THE DELIVERY OF VIDEO PROGRAMMING

MB Docket No. 16-247

Comments Due: September 21, 2016
Reply Comments Due: October 24, 2016

I. INTRODUCTION

This Public Notice (*Notice*) solicits data, information, and comment on the state of competition in the delivery of video programming for the Commission's Eighteenth Report (*18th Report*). We seek to update the information and metrics provided in the Seventeenth Report (*17th Report*)[1] in order to report on the state of competition in the video marketplace in 2015. Using the information collected pursuant to this *Notice*, we seek to enhance our analysis of competitive conditions, better understand the implications for the American consumer, and provide a solid foundation for Commission policy making with respect to the delivery of video programming to consumers. The *18th Report* also will satisfy the Commission's statutory requirement to "annually report to Congress on the status of competition in the market for the delivery of video programming."[2] Section 19 of the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act) amended the Communications Act of 1934, as amended[3] (the Act or Communications Act) and directed the Commission to establish regulations for the purpose of increasing competition and diversity in multichannel video programming distribution, increasing the availability of satellite delivered programming, and spurring the development of communications

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[1] *See Annual Assessment for the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 15-158, Seventeenth Report, 31 FCC Rcd 4472 (MB 2016) (*17th Report*).

[2] *See* Section 628(g) of the Communications Act of 1934, as amended, 47 U.S.C. § 548(g).

[3] 1992 Cable Act, Pub. L. No. 102-385, 106 Stat. 1460, 1494 (1992) ("The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market, to increase the availability of satellite cable programming and satellite broadcast programming to persons in rural and other areas not currently able to receive such programming, and to spur the development of communications technologies.").

technologies.[4] Our annual reports to Congress[5] seek to measure and assess progress toward these goals.

In 1992, when Congress first required the Commission to report on the status of competition in the market for the delivery of video programming, most consumers had the limited choice of receiving over-the-air broadcast television stations or subscribing to the video services offered by their local cable company.[6] For most consumers, head-to-head competition among multichannel video programming distributors (MVPDs)[7] arguably began in 1994 with the introduction of direct broadcast satellite (DBS) video services. In 2005, additional competitive alternative MVPD services became available to consumers when telephone companies began offering video services in some areas.[8] More recently, consumers have gained access to alternatives for the delivery of video programming from online video distributors (OVDs), which offer video content over the Internet.[9]

A. Scope of the Report

In the *18th Report*, we expect to continue using the analytical framework used in the *17th Report*.[10] Under this framework, we categorize entities that deliver video programming in one of three groups – MVPDs, broadcast television stations, or OVDs. Our placement of entities into groups is an organizational tool to facilitate the presentation of information. This approach is useful for several reasons. First, the three

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[4] Video programming is defined as: "Programming provided by, or generally considered comparable to programming provided by, a television broadcast station that is distributed and is exhibited for residential use." 47 U.S.C. § 522(20); 47 CFR § 79.1(a)(1).

[5] *See supra* note 2.

[6] In most areas, consumers had only one choice of cable provider, although cable overbuilders offered another option in some areas. *See Annual Assessment for the Status of Competition in the Market for the Delivery of Video Programming*, Tenth Report, 19 FCC Rcd 1606, 1659, para. 79 (2004).

[7] Section 602 (13) of the Communications Act of 1934, as amended, defines a multichannel video programming distributor (MVPD) as "a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming." 47 U.S.C. § 522(13). The Commission issued a Notice of Proposed Rulemaking seeking comment on a proposal to modernize the interpretation of the term "multichannel video programming distributor" by including within its scope services that make available for purchase, by subscribers or customers, multiple linear streams of video programming, regardless of the technology used to distribute the programming. *Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services*, Notice of Proposed Rulemaking, 29 FCC Rcd 15995 (2014) (*MVPD NPRM*). Nothing in this *Notice* should be read to state or imply our determination on the proposal.

[8] For example, Verizon and AT&T began offering video services in 2005 and 2006, respectively. In July 2015, the Commission approved the merger of AT&T and DIRECTV, the largest DBS provider. *See Applications of AT&T and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131 (2015).

[9] For purposes of this report, we define "OVD" as "an entity that distributes video programming (1) by means of the Internet or other Internet Protocol (IP)-based transmission path; (2) not as a component of an MVPD subscription or other managed video service; and (3) not solely to customers of a broadband Internet access service owned or operated by the entity or its affiliates." *See infra* Section II.C.i and note 43.

[10] *See 17th Report*, 31 FCC Rcd at 4476, para. 14.

categories reflect the historical evolution of video programming as initially delivered by over-the-air broadcast television stations, then also through MVPDs, and, more recently, via the Internet by OVDs. Second, to some degree the groupings reflect marketplace participants' self-identification. Entities within each group tend to identify other entities in the same group as their foremost competitors in marketing materials and when describing their businesses to shareholders. Third, the business models of entities within a group share more similarities than the business models of entities across groups. Finally, this organization parallels available data sources; some focus on one group (*e.g.*, BIA Kelsey, which focuses on broadcast) and others separately organize data in the same manner we propose (*e.g.*, SNL Kagan). We seek comment on our proposed categories. Is there a better way to group entities that compete in the marketplace for the delivery of video programming? Would a different grouping facilitate better discussion of competition, innovation, and investment?

We expect to describe the providers of delivered video programming in each group, summarize their business models and competitive strategies, and present selected operating and financial statistics. We invite interested parties to provide input for the *18th Report*. Specifically, we request data, information, and comment regarding the providers' business models and competitive strategies, and relevant operating and financial statistics in each of the three groups. We seek comment on our proposed description for each group. Is there a better way to describe competition in the marketplace? Are there characteristics that we should include in our description?

We recognize that the business models and competitive strategies of entities in one group may impact the business models and competitive strategies of entities in the other groups. We request data, information, and comment regarding the interrelationships and competitive interactions between and among MVPDs, broadcasters, and OVDs. We also recognize that some companies offer more than one type of video service, such as an MVPD service and an OVD service (DISH Network/Sling TV), or an MVPD service and a broadcast service (Comcast/NBCU). We request data, information, and comment regarding the impact of common ownership across the three groups on competition in the marketplace for the delivery of video programming. In addition, we recognize that many consumers obtain delivered video programming from providers in more than one of these three groups. We request data, information, and comment regarding consumer views and usage of MVPDs, broadcasters, and OVDs.

We also plan to examine customer premises equipment that enables consumers to view programming on their television sets and on other residential or mobile devices (*e.g.*, smartphones and tablets). In addition, we plan to discuss the deployment of new technologies and services, as well as innovation and investment in the marketplace for the delivery of video programming.

We request data, information, and comment from MVPDs, broadcast television stations, OVDs, consumers, consumer groups, and manufacturers of customer premises equipment. The accuracy and usefulness of the *18th Report* will depend in part on the quality of the data and information we receive from commenters in response to this *Notice*. We therefore encourage thorough and substantive submissions from industry participants, as well as state and local regulators with knowledge of the issues raised. We will augment reported information with submissions in other Commission proceedings and information from publicly available sources.

B. Analytic Framework

Following the analytic framework adopted initially in the *14th Report*,[11] we categorize entities that deliver video programming into one of three groups: MVPDs, broadcast television stations, or OVDs. We then describe each group's:

- *Providers*, which may include the number, size, and footprint of the entities in the group, horizontal and/or vertical concentration, regulatory and marketplace conditions affecting entry, innovation, and investment, and any recent entry or exit from the group;

- *Business models and competitive strategies*, which may include the technologies entities employ to deliver programing, pricing plans, and product and service differences; and

- *Selected Operating and Financial Statistics,* which may include statistics related to the number of subscribers or viewers, revenue, and other financial indicators.

We also plan to discuss customer premises equipment.

We seek comment on our analytic framework, including how to incorporate a discussion of the interrelationships and competitive interactions between and among the three groups. Are there additional topics we should include in our discussion of providers, business models and competitive strategies, and selected operating and financial statistics?

C. Data

The data reported in previous reports on the status of competition for the delivery of video programming were derived from various sources, including data the Commission collects in other contexts (*e.g.*, FCC Form 477 and FCC Form 325);[12] comments filed in other Commission proceedings; publicly available information from industry associations; company filings, news releases, and websites; Securities and Exchange Commission filings; data from trade associations and government entities; data from securities analysts and other research companies and consultants; corporate presentations to investors; newspaper and periodical articles; scholarly publications; vendor product releases; white papers; and various public Commission filings, decisions, reports, and data. Are there additional sources of data, especially quantitative data, we should use to report on the status of competition in the marketplace for the delivery of video programming? Additionally, we seek input on data that would help inform the Commission about the availability and adoption of service options to and by distinct segments of the population, such as data that are provided on a geographic basis or are aggregated by geographic (*i.e.*, rural vs. urban) or demographic (*e.g.*, divided into income or age brackets) strata.

In the *18th Report*, we plan to report on a calendar year-end basis. We request data as of year-end 2015 (*i.e.*, December 31, 2015). In addition, to the extent commenters can provide comparable data for year-end 2014, we seek such information to assess changes in the marketplace for the delivery of video programming over the last year.

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[11] *See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Fourteenth Report, 27 FCC Rcd 8610, 8615, para. 15 (2012).

[12] FCC Form 477 collects information about broadband connections to end user locations, wired and wireless local telephone services, and interconnected Voice over IP services, in individual states. FCC Form 325 is the Cable Television System Report that collects information about cable television systems.

II. PROVIDERS OF DELIVERED VIDEO PROGRAMMING

In this section, we address the data, information, and comment that will allow us to describe the providers, business models, competitive strategies, operations, and finances of MVPDs, broadcast television stations, and OVDs.

A. Multichannel Video Programming Distributors

(i) MVPD Providers

The vast majority of MVPD subscribers rely on cable, DBS, or telephone MVPDs to provide their video services.[13] For cable, DBS, and telephone MVPDs, we seek data on the number of providers, the number of homes passed, the number of subscribers for delivered video programming, the number of linear channels and amount of non-linear programming offered,[14] and the ability of subscribers to watch programming on multiple devices both inside and outside the home. Are there differences in the number and types of MVPDs between rural and urban areas?

We request updated information on the number of markets where DBS operators provide local-into-local broadcast service. With respect to non-contiguous states, do DBS MVPDs offer the same video packages at the same prices and terms in Alaska and Hawaii as they offer in the 48 contiguous states? Do subscribers need different or additional equipment to receive DBS MVPD services in these two non-contiguous states? With respect to U.S. territories (*i.e.*, Puerto Rico, Guam, American Samoa, U.S. Virgin Islands, and the Northern Mariana Islands), do DBS MVPDs offer the same video packages at the same prices as they offer in the 48 contiguous states? Do subscribers need different or additional equipment to receive DBS MVPD services in U.S. territories?

Horizontal Concentration. In the *17th Report*, we estimated the number of housing units nationwide with access to two, three, and four or more MVPDs.[15] Are there other measures of horizontal concentration we should consider? We seek data, information, and comment on this measure of horizontal concentration and on any other measure proposed by commenters. We also invite analysis regarding the relationship between the number of MVPDs available to a consumer and competition. Do consumers with access to more MVPDs have access to a wider array of service options, pay lower prices, or receive other benefits,

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[13] *17th Report*, 31 FCC Rcd at 4477-80, paras. 17-20. Fewer than 0.3 percent of MVPD subscribers rely on other types of MVPDs such as large home satellite dishes, open video systems, wireless cable systems, and private cable operators. *See* SNL Kagan, Cable TV Investor: Deals & Finance at 3 (Sept. 28, 2015). Large home satellite dish subscribers use a large dish (typically ranging from 4 to 8 feet in diameter) and receive signals transmitted by satellites operating in the C- and Ku-band frequencies. A wireless cable system, also known as a multichannel multipoint distribution system, is a radio alternative to cable television. Wireless cable systems use the Broadband Radio Service and Educational Broadband Service to transmit video programming to consumers. Private cable operators collect video signals using satellite master antenna systems and distribute programming via wiring in apartments, condominiums, hotels, and office buildings. We do not have reliable data for these other types of MVPDs and plan to exclude them from the *18th Report* consistent with recent reports. *See, e.g., 17th Report*, 31 FCC Rcd at 4477-78, para. 17 & n. 12; *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Sixteenth Report, 30 FCC Rcd 3253, 3259, para. 16 & n. 18 (2015); *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Fifteenth Report, 28 FCC Rcd 10496, 10508-509, paras. 31-32 (2013).

[14] A linear channel is one that distributes programming at a scheduled time. Non-linear programming, such as video-on-demand, is available at a time of the viewer's choosing.

[15] *See 17th Report*, 31 FCC Rcd at 4479-80, para. 20 & Table III.A.2.

relative to consumers with access to fewer MVPDs?

Vertical Integration. In the 1992 Cable Act, Congress enacted provisions related to common ownership between cable operators and video programming networks.[16] The Commission has access to data from publicly available sources that can be used to analyze trends in vertical integration. In addition, to obtain the most accurate picture of affiliations between cable operators and video programming networks, we seek data directly from stakeholders. In the *17th Report*, we identified the national video programming networks, regional video programming networks, and regional sports networks affiliated with one or more MVPDs.[17] Are there other categories of vertical integration we should consider? We seek comment on these categories of vertical integration and on any other categories proposed by commenters. We also invite analysis regarding the relationship between vertical integration and competition. Does vertical integration strengthen an MVPD's position when negotiating for carriage of non-affiliated video programming networks? What is the impact of vertical integration on an MVPD's competitive position in the marketplace for the delivery of video programming?

Regulatory and Market Conditions Affecting Competition. Regulations and market conditions potentially affect competition in the marketplace for the delivery of video programming. We seek data, information, and comment on the impact of the Communications Act and Commission rules on competition, innovation and investment. Relevant regulations may include franchising,[18] effective competition,[19] program access,[20] program carriage,[21] retransmission consent,[22] must carry,[23] exclusivity,[24] ownership,[25] public interest programming,[26] access to multiple dwelling units,[27] and over-the-air reception devices.[28]

We recognize that the regulations applicable to cable operators may differ from the regulations applicable

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[16] *See* 47 U.S.C. § 533. These provisions, among other things, prevent cable operators from engaging in unfair acts that have the purpose or effect of significantly hindering or preventing an MVPD from providing satellite-delivered programming to consumers, ensure that competitive MVPDs obtain access to satellite programming affiliated with a cable operator, and prohibit cable operators or other MVPDs from requiring a financial interest in a video programming vendor or obtaining exclusive rights as conditions for carriage. *See Id.* §§ 536, 548; 47 CFR §§ 76.1001-04, 1301-02.

[17] *See 17th Report*, 31 FCC Rcd at 4480-81, 4574-75, 4579-80, 4582-87, paras. 21-22; App. B, Table B-1; App. C, Table C-1; and App. D.

[18] See 47 U.S.C. § 541; 47 CFR § 76.41.

[19] See 47 U.S.C. § 543(a)(2); 47 CFR § 76.905(b).

[20] See 47 U.S.C. § 548; 47 CFR §§ 76.1001-04.

[21] See 47 U.S.C. § 536; 47 CFR §§ 76.1301-02.

[22] See 47 U.S.C. § 325(b); 47 CFR § 76.64.

[23] See 47 U.S.C. §§ 534-35; 47 CFR § 76.56.

[24] *See id.* §§ 76.92, 76.101, 76.111.

[25] *See* 47 U.S.C. § 533(f); 47 CFR §§ 76.501, 76.503-04.

[26] A franchising authority may require a cable operator to use channel capacity for public, educational, or governmental (PEG) use. 47 U.S.C. §§ 531, 541(a)(4)(B). DBS operators are required to reserve four percent of their channel capacity for noncommercial programming of an educational or informational nature. *Id.* § 335(b)(1)(A); 47 CFR § 25.701(f).

[27] *See id.* § 76.2000.

[28] *See* 47 U.S.C. § 303 note; 47 CFR § 1.4000.

to DBS systems and telephone MVPDs. How do regulatory disparities affect competition, innovation, and investment? What specific actions could the Commission take to facilitate competition, innovation, and investment in the marketplace for the delivery of video programming?

We seek comment on the impact of marketplace conditions on MVPD competition, innovation, and investment. Market conditions include access to capital, economies of scale, first-mover advantages, access to content, and the responses of competitors. Are there other marketplace conditions that influence MVPD competition? If so, we seek data, information, and comment on those marketplace conditions. We also request data, information, and comment regarding the entry and exit of MVPDs in 2015. We are specifically interested in entry that increases the number of MVPDs available to consumers and exit that reduces the number of MVPDs available to consumers.

(ii) MVPD Business Models and Competitive Strategies

MVPDs may choose from a variety of business models and competitive strategies to attract and retain subscribers and viewers. MVPDs decide where they will offer video services, the technology they will use to deliver video services, the programming they will offer, how they will package the programming (*i.e.*, the number of tiers of video programming and the specific programming carried on each tier), and the additional video services they will offer (*e.g.*, HD programming, ultra HD programming, digital video recording (DVR), video-on-demand (VOD), and TV Everywhere[29]). MVPDs also make decisions regarding bundles *(i.e.,* packaging Internet and phone services with video services), pricing, advertising, customer service, and vertical integration with suppliers of video programming. We invite data, information, and comment that will assist our understanding of MVPDs' business models and competitive strategies.

We seek descriptions of MVPD business models and competitive strategies in the marketplace for the delivery of video programming. How do MVPDs attract new subscribers and retain existing subscribers? How do MVPDs distinguish their video services from the services of their closest competitors? Do bundles of video, Internet, and voice services help attract and retain video subscribers? Has the introduction of smaller video bundles enhanced the competitiveness of MVPDs? Are smaller video bundles attracting "cord cutters" (households that have cancelled MVPD service) and "cord nevers" (households that have never had MVPD service) or helping to retain existing subscribers that may have been thinking about cutting the cord? What percentage of MVPD customers subscribe only to broadband service?

Do the size, structure, and other characteristics of MVPDs confer a competitive advantage in the marketplace for the delivery of video programming? If so, what are the reasons for such advantages? Have vertically integrated MVPDs (*i.e.*, MVPDs with ownership interests in video programming) made it more difficult for competitors to acquire programming by restricting access or raising prices? What is the impact of rising programming prices and rising retransmission consent fees on MVPD business models and competitive strategies?

To enhance their competitive position in the marketplace for the delivery of video programming, some MVPDs have deployed TV Everywhere, which allows MVPD subscribers to access both linear and VOD programs on a variety of in-home and mobile Internet-connected devices. Access to TV Everywhere video programming is restricted through the use of an authentication process that requires a subscriber to select his or her MVPD service provider and then provide a user ID and password. We seek comment,

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[29] TV Everywhere is an authentication system whereby certain movies and television shows are accessible online via a variety of display devices including personal computers, tablets, smartphones, and televisions – but only if you can prove (or "authenticate") that you have a subscription to an MVPD.

information, and data on MVPD deployment and subscriber use of TV Everywhere.

In addition to TV Everywhere, which requires an MVPD subscription, some MVPDs are offering online video packages (*e.g.*, Sling TV by DISH Network), that do not require an MVPD subscription, to attract cord cutters and cord nevers. We request comment on the competitive strategies of MVPDs launching online video services separate from their MVPD services.

Some MVPDs have added various video programming-related fees to monthly billing statements. Such fees include, for instance, a broadcast fee to partially recoup retransmission consent fees charged by local broadcast stations and a sports fee to defray the cost of sports programming. We seek comment on competitive strategies associated with listing programming fees for certain channels or types of programming, such as local broadcast stations or sports programming, separately on consumers' bills. Are the fees included in the MVPD's advertised prices? Do the fees correspond to what the MVPD is paying for the relevant programming? Are consumers less responsive to increases in video programming related fees than they are to increases in the advertised prices or the monthly subscription prices of video services? How are such fees disclosed to consumers? To what extent do MVPDs use fees not directly related to programming, such as equipment rental fees, to defray programming costs?

We request information on MVPDs' deployment of new technologies including all-digital distribution, Internet Protocol (IP)-delivered video programming, more efficient video encoding technologies (*e.g.*, MPEG-4 and High Efficiency Video Coding (HEVC)),[30] enhanced transmission technologies (*e.g.*, DOCSIS 3.1), and 3-D and 4K services.

We are interested in competition between MVPD services, OVD services, and over-the-air broadcast television. To what extent do MVPDs compete with broadcast stations and with OVDs? Is such competition increasing, and if so, how? What video services do MVPDs offer that OVDs and broadcast stations do not? What actions have MVPDs taken in response to actual or potential competition from OVDs and broadcast stations? MVPDs can offer non-video services such as telephone service, Internet access, caller ID, home security, and home monitoring to consumers. Does the ability to offer these services enhance the ability of MVPDs to attract video customers and compete in the video marketplace? Can other participants in the video marketplace enhance their competitive position by offering non-video services to customers as well?

To what extent do consumers view OVDs and broadcast stations as supplements for MVPD services? To what extent do consumers view them as substitutes? To what extent do the prices associated with MVPD services enter into the decisions of cord cutters, cord nevers, and cord shavers? Have increasing prices for MVPD video packages contributed to cord cutting? When marketing their video services, MVPDs often compare their video services with the services of rival MVPDs.[31] To what extent do they compare their video services with the services of OVDs? Do MVPDs encourage consumers to switch away from OVD services and rely more on MVPD services?

(iii) Selected MVPD Operating and Financial Statistics

In the *17th Report*, we provided the following MVPD operating and financial statistics: video packages and pricing, number of video subscribers and penetration rates, revenue from subscriptions, advertising, and fees for video rentals and sales, and video margins.[32] Should we include other operating and financial

[30] HEVC is a video compression standard, a successor to MPEG-4.

[31] *17th Report*, 31 FCC Rcd at 4499-4500, para. 69.

[32] *Id.* at 4501-05, paras. 73-77.

statistics? If commenters suggest additional statistics, we request data or identification of data sources that would allow us to report such statistics in the *18th Report*, especially sources that provide aggregated or industry-wide statistics.

We seek data on the number of housing units passed nationally, the number of subscribers, and the penetration rates.[33] We seek data on MVPD subscriber losses and the factors leading to those losses, especially competition from OVDs. We request data on MVPD revenue. While we recognize that cable and telephone MVPDs also provide Internet and phone services using their own facilities, the *18th Report* will focus on the delivery of video programming. Commenters submitting data for operating and financial statistics should separate video from non-video services. We seek information regarding changes in MVPD video revenue and margins, as well as comment concerning whether such changes reflect changes in the number of video subscribers, changes in the number of video services sold to subscribers, or changes in the price of video services.

B. Broadcast Television Stations

(i) Broadcast Television Service Providers

Providers of broadcast television services include both individual and group-owned stations that hold licenses to broadcast video programming to consumers. Broadcast stations deliver video programming over the air to consumers. The Commission already collects data on the number of broadcast television stations in each designated market area (DMA)[34] and ownership of broadcast television stations using our CDBS database,[35] and through purchases of data from BIA/Kelsey and The Nielsen Company. We seek additional data concerning the number of households that use over-the-air broadcast television services. How many households view broadcast programming over the air exclusively, and how many households receive such programming over the air on some televisions not connected to an MVPD service? How many households use a combination of over-the-air stations and OVD services?

Horizontal Concentration. We are interested in tracking common ownership of broadcast stations nationally and by DMA. Commission rules limit the number of broadcast television stations an entity can own in a DMA, depending on the number of independently owned stations in the market.[36] The Commission already collects data from the above-mentioned sources that we can use to assess the horizontal concentration of broadcast stations, including the number of stations in each DMA and the

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[33] The penetration rate is the number of subscribers divided by the number of housing units passed.

[34] While the Commission's rules require each broadcast television station to serve a community of license, DMAs commonly are used to define each station's geographic market. The Nielsen Company defines a DMA as a group of counties that comprise the major viewing audience for each television stations located in a particular metropolitan area. For the most part, the metropolitan areas correspond to the standard metropolitan statistical areas defined by the Federal Government Office of Management and Budget. The geographic areas do not overlap, and most counties in the United States belong to only one DMA. There are 210 DMAs, covering the entire continental United States, Hawaii, and parts of Alaska.

[35] The Commission collects data on broadcast stations through the Broadcast Radio and Television Electronic Filing System (CDBS). *See* Federal Communications Commission, Media Bureau: MB-CDBS: CDBS Public Access, http://licensing.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm (last visited July 29, 2016). We collect ownership data on FCC Form 323 – Ownership Report for Commercial Broadcast Station – and the data are available in CDBS.

[36] *See* 47 CFR § 73.3555(e)(1) (imposing a cap on the percentage of television households that one television station group can serve to 39 percent of U.S. television households). *See also* Telecommunications Act of 1996, Pub. L. No. 104-04, § 202(c)(1), 110 Stat. 56, 114 (1996).

ownership of each station. Are there other available data that can be used to inform our assessment of horizontal concentration? Does group ownership affect the competitive position of broadcast stations in the marketplace for the delivery of video programming, including the prices, terms, or conditions of carriage agreements with MVPDs?

Vertical Integration. We are interested in tracking the common ownership of broadcast television stations and video programming networks. The Commission has a significant amount of data from publicly available sources that we can use to analyze trends in vertical integration, including data on the number of broadcast stations owned by or affiliated with video content creators and aggregators. However, to obtain the most accurate picture of affiliations between broadcast stations and programming networks, we request additional data directly from stakeholders. We seek information on common ownership of television stations and video programming networks. Does vertical integration strengthen a broadcast station's ability to negotiate carriage rights with MVPDs? Are vertically integrated broadcast stations stronger competitors in the marketplace for the delivery of video programming?

Regulatory and Market Conditions Affecting Competition. The Commission's spectrum allocation and licensing policies affect broadcast television by limiting the number of stations located in a given geographic area.[37] Commission rules limit the number of broadcast television stations an entity can own in a DMA and the aggregate national audience reach of commonly owned broadcast television stations.[38] The Commission's territorial exclusivity rule restricts the geographic area in which a television broadcast station may obtain exclusive rights to video programming.[39] We seek data, information, and comment on the impact of these regulations on competition in the marketplace for the delivery of video programming.

We seek comment on the impact of marketplace conditions on broadcast television station competition, innovation, and investment. Marketplace conditions include access to capital and access to programming. With respect to access to capital, we seek comment on the impact or potential impact of the Commission's 2013 Declaratory Ruling regarding foreign broadcast investment.[40] We recognize that broadcast stations depend heavily on advertising, and that stations' revenues can be affected by local and national economic conditions as well as election cycles, which can change the demand for political advertising. We seek data, information, and comment on the impact of economic conditions, including election cycles, on broadcast station competition, innovation, and investment. We also request data, information, and comment regarding the entry and exit of broadcast television stations in 2015.

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[37] *See generally* 47 CFR Part 73, Subpart E.

[38] *Id.* §§ 73.3555(b), (e).

[39] *Id.* § 73.658(b). *See also Amendment of the Commission's Rules Related to Retransmission Consent*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 3351(2014).

[40] *See Commission Policies and Procedures Under Section 310(b)(4) of the Communications Act, Foreign Investment in Broadcast Licensees*, Declaratory Ruling, 28 FCC Rcd 16244 (2013) (clarifying the Commission's policies and procedures in reviewing broadcast applications that seek greater than 25 percent indirect foreign ownership in broadcast licensees). *See also Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(B)(4) of the Communications Act of 1934, as Amended*, GN Docket No. 15-236, Notice of Proposed Rulemaking, 30 FCC Rcd 11830 (2015) (proposing to allow U.S. controlling parents of a broadcast licensee to have up to and including 100 percent foreign ownership and to allow non-controlling named foreign investors to increase interest in U.S. parents up to and including a 49.99 percent non-controlling interest at some future time and seeking comment on revising the methodology a licensee should use to assess its Section 310(b)(4) compliance with the 25 percent foreign ownership benchmark).

(ii) Broadcast Television Station Business Models and Competitive Strategies

Broadcasters' business models and competitive strategies involve decisions regarding the communities they will serve, the number of stations they will own nationally and within a DMA (subject to our ownership rules), the audience demographic they seek to attract and the programming they will offer, whether they will be affiliated with a broadcast network, the amount of HD, ultra HD and multicast programming (*i.e.*, multiple linear streams of HD and/or SD programing) they will provide, whether they will air local news, how they advertise their stations and their programming, and what content to include on their websites. We seek data, information, and comment on broadcast station business models and competitive strategies. What competitive strategies are broadcast television stations using to distinguish themselves from other broadcast television stations? What competitive strategies are broadcast stations using to strengthen their competitive position in the marketplace for the delivery of video programming?

We seek data, information, and comment on the use of multicast streams, the amount of HD programming available, and the nature and use of broadcast station websites and apps. Are multicast streams being used to carry one of the four major broadcast networks (*i.e.*, ABC, CBS, FOX, or NBC), other national broadcast networks (*e.g.*, The CW, Telemundo), newer networks, niche content, or independently and/or locally produced programming? We seek comment regarding the ability of broadcast stations to secure MVPD carriage of their multicast signals and the impact of such carriage on the financial viability of their multicast operations. How many broadcast television stations offer video content in HD or ultra HD, and is the amount of such programming increasing? What effect does the ability to offer HD or ultra HD programming have on a broadcast station's ability to compete in the marketplace for the delivery of video programming? In what ways are broadcasters using their stations' websites to strengthen their competitive position in the marketplace for the delivery of video programming?

To what extent do broadcast stations market themselves as providing unique services, such as local news, sports, weather and emergency alerts, to increase viewership? We seek comment on the provision of local news as a competitive strategy. We also request comment on the partnerships among broadcast stations used to produce and deliver local news. To what extent is local broadcast news programming available online? Has online delivery contributed to increased investment in broadcast station local news and information programming?

For many years, broadcast television networks used their local broadcast television-affiliated stations as their primary distributor of programming. Broadcast network programming, however, has become increasingly available from OVDs. In addition, broadcast networks are increasingly providing OVD services themselves to strengthen their competitive position in the marketplace for delivery of video programming.[41] We seek comment on the effect of the broadcast networks' provision of OVD service on the relationship between broadcast networks and their affiliates. Does the provision of OVD service by broadcast networks impact the financial well-being of affiliated stations that previously offered such programming to the public on an exclusive basis? To what extent are broadcast networks including the signals (or local programming) of their affiliated stations in the networks' OVD services, and what are the implications of such inclusion for the attractiveness of the OVD services and the relationships between

[41] *See* http://abc.go.com/ (last visited July. 29, 2016), http://www.cbs.com/(last visited July. 29, 2016), http://www.fox.com/ (last visited July. 29, 2016), and www.nbc.com (last visited July. 29, 2016). VOD programming from the ABC, FOX, and NBC broadcast networks is also available from Hulu, which is a joint venture of the three networks' parent companies, The Walt Disney Company, 21st Century Fox, and NBCUniversal, respectively. In addition, CBS has launched an online subscription service called CBS All Access that offers access to linear and on-demand programming online without an MVPD subscription. *See* Joe Flint, *CBS Launches Online Subscription Video Service*, Wall St. J. (Oct. 16, 2014), http://www.wsj.com/articles/cbs-launches-online-subscription-video-service-1413465013.

the networks and the affiliated stations? What competitive strategies are broadcast stations using to remain important to broadcast networks for program distribution? To what extent are broadcast stations making video programming available online? Specifically, what types and amounts of programming are they making available online? How are stations using these services to strengthen their competitive positions in the marketplace?

To what extent do consumers view over-the-air services as a supplement to MVPD and OVD services? To what extent do consumers view them as substitutes? Do consumers view a combination of over-the-air and OVD services as an alternative to MVPD services? Have increasing prices for MVPD video packages or OVD services contributed to increased use of over-the-air service? Do broadcast stations encourage consumers to rely on over-the-air service? What competitive strategies are broadcast stations using to respond to the competitive challenges posed by MVPDs and OVDs?

(iii) Selected Broadcast Television Station Operating and Financial Statistics

In the *17th Report*, we provided the following broadcast television station operating and financial statistics: audiences and revenue from advertising, retransmission consent fees, and online services.[42] Are there other operating and financial statistics that we should include? What are the best sources of data for broadcast television station operating and financial statistics? If commenters suggest other statistics, we request data or identification of data sources that would allow us to report such statistics in the *18th Report*. We invite data, information, and comment on broadcast station operating and financial statistics that will assist our understanding of competition in the marketplace for the delivery of video programming.

We seek data on the viewership of broadcast television stations from over-the-air reception, MVPD carriage, and online viewing. What are the trends in broadcast station viewership over each such platform? Has multicasting and/or online viewing increased broadcast station viewership in the marketplace for the delivery of video programming?

We seek data on broadcast television station revenues from advertising (including online advertisements), retransmission consent fees, and other sources. What percentage of total revenue is derived from each of these sources? How are these revenue sources and their relative shares of total revenue changing? We seek information concerning the extent to which various types of advertising (*e.g.*, national, local, political, website, etc.) contribute to broadcast stations' overall advertising revenue. Are there changes to the network/affiliate relationships that affect broadcast stations' revenues? We seek information regarding the extent to which network affiliated broadcast stations share retransmission consent revenues with the network. We realize that some broadcast stations are integrated with other businesses, but we are interested in financial data related directly to the delivered video programming of broadcast television stations, such as the local and national advertising revenue, retransmission consent fees, and revenue from stations' websites.

C. Online Video Distributors

(i) OVD Providers

The services provided by OVDs[43] in the video marketplace continue to expand and evolve. An increasing

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[42] *17th Report*, 31 FCC Rcd at 4520-26, paras. 115-129.

[43] In prior reports, we defined an "OVD" as "any entity that provides video programming by means of the Internet or other Internet Protocol (IP)-based transmission path where the transmission path is provided by a person other than the OVD." *17th Report*, 31 FCC Rcd at 4474, note 4. We clarified that "an OVD does not include an MVPD inside its MVPD footprint or an MVPD to the extent it is offering online

array of sources is making video programming available to consumers. And new OVD service offerings are provided by both new entrants and existing industry participants developing new products. For instance, some MVPDs now offer Internet-delivered services that do not require subscription to their traditional MVPD services (*e.g.*, Sling TV by Dish Network).[44]

OVDs use the Internet to deliver video content to consumers.[45] Thus, to receive an OVD's video programming, a consumer must have access to high-speed Internet service. Data regarding OVDs tends to be more dispersed and less standardized and reliable, relative to more long-established data for the MVPD and broadcast station categories. We seek comment on the most comprehensive and reliable data sources for OVDs, both individually and as a group. The *17th Report* described the providers, business models and competitive strategies, and selected operating and financial statistics for some OVD entities, but lacked a reliable source of data for OVDs as a group. We seek data and information regarding OVDs for the *18th Report*.

Horizontal Concentration. Because OVDs may be accessed wherever consumers can connect to high-speed Internet, we assume that OVDs compete with one another in a national marketplace. We seek comment on the validity of this assumption. In the *17th Report*, we noted that OVDs continued to enter and exit the marketplace and OVDs had diverse business models that continued to evolve.[46] We also noted the difficulty of measuring OVD market shares as many OVDs are subsidiaries or divisions of companies that do not report data separately for OVD services.[47] We seek comment on an appropriate measure of OVD horizontal concentration. For any recommended measure of horizontal concentration, we seek relevant data for assessing the level of concentration.

Vertical Integration. Some OVDs are vertically integrated with MVPDs.[48] Some OVDs are vertically integrated with video content creators and aggregators (*i.e.*, broadcast and cable networks, television and movie studios, and sports leagues).[49] Some OVDs are vertically integrated with manufacturers of devices

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video programming as a component of an MVPD subscription to customers whose homes are inside its MVPD footprint." *See id.* (citing *Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licensees*, MB Docket No. 10-56, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4357, App. A (2011). The Commission employed a slightly different definition of "OVD" in the context of the recent transaction involving Charter Communications (Charter), Time Warner Cable (TWC), and Bright House Networks (BHN). Specifically, the Commission defined an "OVD" as "an entity that distributes video programming (1) by means of the Internet or other Internet Protocol (IP)-based transmission path; (2) not as a component of an MVPD subscription or other managed video service; and (3) not solely to customers of a broadband Internet access service owned or operated by the entity or its affiliates." *Charter-TWC-Bright House Order* at 14 n.83. For purposes of the *18th Report*, we will use the OVD definition articulated in the Charter-TWC-BHN transaction. We do not anticipate that this will have a significant impact on the analysis provided in the report.

[44] *See* Sling TV, https://www.sling.com/; go90, https://www.go90.com/.

[45] *See supra* note 9 (defining an OVD).

[46] *Id.* at 4542-43, paras. 168-170.

[47] *Id*. at 4532-33, para. 143.

[48] For example, Sling TV is owned by the Dish Network. *See supra* n.44.

[49] For example, the OVD Hulu is owned by 21st Century Fox, NBCUniversal, and The Walt Disney Company. *See supra* n.42. The four largest professional sports leagues – Major League Baseball, the

used for viewing video programming.[50] In addition, some OVDs provide video storage services and operate content delivery networks (CDNs).[51] Do these vertical relationships strengthen the competitive positions of OVDs? To what extent are OVDs developing CDNs? We seek data, information, and comment regarding OVD vertical integration and its impact on competition in the marketplace for the delivery of video programming.

Regulatory and Marketplace Conditions Affecting Competition. We request data, information, and comment on regulatory and marketplace conditions that may have an impact on OVDs' competitive position in the marketplace for the delivery of video programming. Relevant regulations include possible reclassification of some OVDs as MVPDs,[52] Open Internet rules,[53] and IP closed captioning requirements for video programming.[54]

We seek data, information, and comment on marketplace conditions affecting OVD competition, innovation, and investment. OVDs depend on ISPs to deliver video content to consumers. To what extent does this dependence impact the ability of OVDs to compete in the marketplace for the delivery of video programming? How do Internet speed requirements differ among OVDs or by type of programming (SD, HD, Ultra HD), and what factors affect the speed needed to deliver specific OVD programming to consumers? Are ISPs providing consumers with sufficient Internet speeds to view OVD programming whenever, and wherever, and on whatever devices they choose? What is the impact of the growing amount of Internet traffic on Internet speed? Do Internet speeds slow when OVD traffic increases, and if so why? Do ISP data caps or usage-based pricing inhibit consumers' use of OVD services? What impact, if any, does local competition among broadband providers (*i.e.*, the ability of consumers to choose between two or more competing broadband providers) have on consumer access to broadband speeds and data allowances sufficient for viewing OVD content? To what extent are consumers able to obtain or purchase higher tiers of Internet service needed to view OVD programming? Do ISPs that are also MVPDs have incentives to disadvantage OVDs? Do ISPs that are also MVPDs favor their own online services or impede OVD services? If so, how? What specific actions are OVDs

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National Football League, the National Basketball Association, and the National Hockey League – also provide a significant portion of their programming through their own OVD services. *See*, *e.g.*, *17th Report*, 31 FCC Rcd at 4532, para. 142.

[50] For example, the OVD iTunes is owned by Apple. *See*, *e.g.*, *id.* at 4528, para. 135; SNL Kagan, *The State of Online Video Delivery,* 2015 Edition, at 13 (*2015 State of Online Video Delivery*).

[51] A content delivery network provides video content to consumers more quickly and reliably by placing servers close to consumers. *See* TechTerms.com, http://techterms.com/definition/cdn (last visited July 29, 2016). The 17th Report provides examples of OVDs that operate video storage systems and CDNs. *See*, *e.g.*, *17th Report*, 31 FCC Rcd at 4533, para. 145 (discussing services provided by Amazon, Apple, Microsoft, Google, Netflix, and Verizon).

[52] *See MVPD NPRM*, 29 FCC Rcd 15995.

[53] *See Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601 (2015).

[54] *See Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010; Closed Captioning of Internet Protocol-Delivered Video Clips*, Second Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 29 FCC Rcd 8687 (2014); *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, 27 FCC Rcd 787 (2012).

and ISPs taking individually or cooperatively to improve video streaming quality and facilitate the viewing of video online?

We seek data, information, and comment regarding the ability of OVDs to acquire content. Do OVDs encounter unique issues (relative to MVPDs and broadcast stations) when acquiring content rights? To what extent, if at all, do MVPD and broadcast station agreements with content providers hinder the ability of OVDs to acquire content on reasonable terms? Are OVDs disadvantaged in obtaining programming due to the bargaining leverage of large MVPDs? If so, how and why do OVDs experience such disadvantages? Are large OVDs able to secure more favorable terms and conditions for program content than smaller OVDs? Are there contracting practices that impact the ability of OVD's to acquire programming?

(ii) OVD Business Models and Competitive Strategies

The business models of OVDs vary greatly. Some OVDs rely on subscriptions or per-program fees, others rely on advertising, and some OVDs rely on a combination of subscription and advertising revenue.[55] Some offer tens-of-thousands of video programs, others offer much fewer.[56] Some OVDs have ownership interests in little or no video programming, while others have significant ownership interests in all or most of the video programming they make available over the Internet.[57] Some OVDs distribute only video programming previously available through other delivery technologies, while others create their own content.[58]

We seek information on the business models and competitive strategies OVDs use to compete in the marketplace for the delivery of video programming. How do OVDs differentiate their services and attract consumers? What are the key differences in terms of the video service offerings, picture quality, original programming, distinctive content, linear programming, video streaming quality, enabling viewing on multiple devices, pricing, and revenue sources?

We seek data, information, and comment on competition between OVDs. When marketing to consumers, do OVDs compare their services with other OVDs? To what extent do OVDs use prices to compete with one another? Do OVDs encourage consumers to switch away from other OVDs? What are the trends in household expenditures on OVD programming and the time households spend viewing OVD programming?

Differences in OVD business models may lead consumers to view some OVDs as supplements and other OVDs as substitutes. To what extent do OVDs compete with MVPDs and with over-the-air broadcast services? To what extent do consumers view OVD services as a supplement to MVPD and over-the-air services? What actions have OVDs taken in response to competition from MVPDs and broadcast stations? Do OVDs market their services as substitutes to encourage consumers to switch away from MVPD services and rely more on OVD services? What is the competitive significance of the arrangements that some OVDs are making with MVPDs to have their services appear on the MVPDs' set-top boxes?

Which OVDs do consumers view as supplements? Which OVDs do consumers view as substitutes?

[55] *2015 State of Online Video Delivery* at 2 and 16.

[56] *Id.* at 7 and 11.

[57] *Id.* at 15.

[58] *Id.* at 10.

Although substitution may be examined solely in terms of available video programming, there are additional features that influence a consumer's view of substitution in the marketplace for the delivery of video programming. These include price and the number of commercials. Other potentially important features may include which episodes or seasons are offered for a specific television show, the ability to binge view programming, and whether programming can be recorded for later viewing over DVRs and other similar devices. Which features do consumers deem most important when substituting OVD services for MVPD and over-the-air services?

In addition to offering VOD programming, OVDs are increasingly offering linear programming. Does the provision of linear programming enable OVDs to become better substitutes for MVPDs? To what extent can consumers use a combination of OVDs to replicate the programming offered by MVPDs and over-the-air broadcast services? To what extent are OVDs providing live sports, first-run programming, and other content that is offered by over-the-air broadcasters? How important is such programming to OVDs' competitive position in the video programming marketplace? What prices are consumers paying for such combinations? What programming offered by MVPDs and broadcast stations is not available from OVDs? Do OVDs that are vertically integrated with MVPDs and/or broadcast and cable networks (*e.g.*, Hulu) offer programming that provides less incentive for subscribers to drop MVPD and over-the-air services relative to programming offered by non-vertically integrated OVDs (*e.g.*, Netflix)? Are OVDs that are vertically integrated with MVPDs and or broadcast and cable networks more likely to provide programming that consumers view as supplements rather than substitutes?

(iii) Selected OVD Operating and Financial Statistics

In the *17th Report*, we provided the following OVD operating and financial statistics: usage, viewership, subscribership, revenue, investment, and profitability.[59] Are there other operating and financial statistics that we should include? What are the best sources of data for OVD operating and financial statistics?

We seek information concerning the amount and type of video programming OVDs offer (*e.g.*, television programs, movies, and sports). We seek data on the number of consumers who view OVD programming, the number of programs they view, and the amount of time they spend viewing. We seek data on OVD revenue from subscriptions, advertising, and fees for video rentals and sales. In addition, we invite comment and the submission of data and information on other OVD statistics that will assist our understanding of competition in the marketplace for the delivery of video programming and the relative success of various OVD business models.

III. CUSTOMER PREMISES EQUIPMENT

For purposes of the report, customer premises equipment (CPE) refers to devices that enable consumers to watch video content delivered by MVPDs, broadcast stations, and OVDs.[60] While consumers have traditionally leased certain CPE such as set-top boxes and routers, they tend to purchase many other types of CPE. The current CPE marketplace includes numerous devices that receive and display video (*e.g.*, televisions, computers, tablets, and smartphones), MVPD set-top boxes, recording equipment (*e.g.*, DVRs), video game consoles and streaming devices (*e.g.*, Xbox, PlayStation, Roku, Fire TV, Chromecast, Apple TV, and DVD and Blu-Ray players), gateways (*i.e.*, modems and wireless routers), and antennas.

We seek comment on the major developments in CPE devices that affect competition in the marketplace for the delivery of video programming. What new CPE products have been introduced? What are the

[59] *See 17th Report*, 31 FCC Rcd at 4554-62, paras. 192-209.

[60] *See id.* at 4562, para. 210.

major technological developments in CPE? Are devices that allow consumers to access both MVPD and OVD services available in the marketplace? And if so, to what extent are consumers purchasing and using such devices? Does the increased availability of a variety of new devices make it easier for consumers to combine or switch between broadcast, MVPD, and OVD services? We seek comment on the competitive strategies associated with leasing of CPE to consumers, as well as the effects of CPE leasing on innovation and investment in CPE devices.[61]

IV. CONSUMER BEHAVIOR

We seek information regarding trends in consumer behavior and their impact on the products and services entities offer in the marketplace for the delivery of video programming. We request data on the number or percentage of households that have HD televisions, ultra HD televisions, Internet-connected televisions, DVRs, and mobile video devices (*e.g.*, laptops, tablets, and smartphones). We also seek data on trends that compare consumer viewing of linear video programming with time-shifted programming. To what extent are consumers dropping or limiting MVPD services in favor of OVDs or a combination of OVDs and over-the-air television? Do some consumers view OVD services separately, or in conjunction with over-the-air broadcast television services as a potential substitute for some or all MVPD services? Do consumers who do not subscribe to MVPD services share common characteristics? For example, do these consumers have lower incomes or assign less value to live sports programming and first-run programming, relative to MVPD subscribers? How do they compare to other consumers in terms of age, education, or household structure? Do consumers view OVD services as complements, supplements, or substitutes for MVPD services? We seek comment on the relationship between consumer behavior (*e.g.*, binge viewing, time shifting, viewing outside the home, viewing on multiple devices), and the business models and competitive strategies of entities in the marketplace for the delivery of video programming.

MVPD, OVDs, and broadcast stations use television, newspapers, mailings, and websites to reach potential consumers and provide information about video services and prices. Do consumers have sufficient information to easily compare video services and price offerings? What do consumers value most when choosing between and among MVPDs, broadcast stations, and OVDs? What reasons do consumers give for switching between MVPDs, broadcast stations, and OVDs (*e.g.*, price, programming)?

V. ADDITIONAL ISSUES

With this *Notice*, we seek data, information, and comment on a wide range of issues in order to report on the status of competition in the marketplace for the delivery of video programming. To make the *18th Report* as useful as possible, are there other issues, additional information, or data we should include in the report? In the interest of streamlining the report, we request comment on issues, information, and data that could be modified or eliminated without impairing the value of the *18th Report* to Congress on the status of competition in the marketplace for the delivery of video programming.

VI. PROCEDURAL MATTERS

Ex Parte Rules. There are no *ex parte* or disclosure requirements applicable to this proceeding pursuant to 47 CFR § 1.1204(b)(1).

Comment Information. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment

[61] The Commission has a pending proceeding that proposes new rules intended to provide consumers with more CPE choices. *See Expanding Consumers' Video Navigation Choices*, MB Docket No. 16-42, Notice of Proposed Rulemaking and Memorandum Opinion and Order, 31 FCC Rcd 1544 (2016).

Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://fjallfoss.fcc.gov/ecfs2/.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

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