



PUBLIC NOTICE

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OFFICE OF ECONOMICS AND ANALYTICS SEEKS COMMENT ON THE STATE OF COMPETITION IN THE COMMUNICATIONS MARKETPLACE

GN Docket No. 20-60

Comments Due: April 13, 2020

Reply Comments Due: May 13, 2020

I. INTRODUCTION

In the last quarter of every even numbered year, the Commission must publish a *Communications Marketplace Report* that, among other things, “assess[es] the state of competition in the communications marketplace, including competition to deliver voice, video, audio, and data services among providers of telecommunications, providers of commercial mobile service (as defined in section 332 of the Communications Act of 1934, as amended (the Act)), multichannel video programming distributors (as defined in section 602), broadcast stations, providers of satellite communications, Internet service providers, and other providers of communications services.”¹ In assessing the state of competition, the Commission must consider all forms of competition, including “the effect of intermodal competition, facilities-based competition, and competition from new and emergent communications services.”² The Commission must also “assess whether laws, regulations, regulatory practices (whether those of the Federal Government, States, political subdivisions of States, Indian tribes or tribal organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)), or foreign governments), or demonstrated marketplace practices pose a barrier to competitive entry into the communications marketplace or to the competitive expansion of existing providers of communications service.”³

¹ 47 U.S.C. § 163(a), (b)(1); *see also* Section 401 of the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (RAY BAUM’S Act), Pub. L. No. 115-141, 132 Stat. 1087 (codified at 47 U.S.C. § 163) (RAY BAUM’S Act).

² 47 U.S.C. § 163(d)(1).

³ 47 U.S.C. § 163(b)(3). In assessing the state of competition under subsection (b)(1) and regulatory barriers under subsection (b)(3) of the Act, the Commission must also “consider market entry barriers for entrepreneurs and other small businesses in the communications marketplace in accordance with the national policy under section 257(b).” 47 U.S.C. § 163(d)(3). The Commission must include the International Broadband Data Report required by section 103(b)(1) of the Broadband Data Improvement Act as part of the Communications Marketplace Report. *See* RAY BAUM’S Act of 2018 § 402(c), 132 Stat. at 1089; 47 U.S.C. § 163; 47 U.S.C. § 1303(b)(1).

On December 12, 2018, the Commission adopted the first *Communications Marketplace Report* (2018 *Communications Marketplace Report*), providing a comprehensive evaluation of the state of the communications marketplace (as of year-end 2017).⁴ In February 2020, the Commission updated certain figures, maps and tables contained in the 2018 *Communications Marketplace Report*, to reflect the most recent data available as of year-end 2018.⁵

This *Public Notice* seeks input on the state of the communications marketplace to inform the Commission's required assessment of the state of competition in the communications marketplace in its second *Communications Marketplace Report* (2020 *Communications Marketplace Report*) to Congress. Specifically, we seek data, information, and comment on a wide range of issues relevant to the state of competition in the communications marketplace. We request that commenters submit information, data, and statistics for 2018 and 2019, as well as information on any notable trends and developments that have occurred during early 2020. Industry stakeholders, the public, and other interested parties are encouraged to submit information, comments, and analyses. To facilitate analysis of competitive trends, parties should submit relevant current and historic data that are comparable over time.

II. COMPETITION AND DEPLOYMENT IN MOBILE WIRELESS SERVICES

Regarding the mobile wireless industry, we request comment on the criteria or metrics that could be used to evaluate the state of mobile wireless competition and deployment. Comments and information are sought on industry data, competitive dynamics, and trending factors in the mobile wireless industry, including, but not limited to, factors that determine demand for mobile wireless services, the number of connections, pricing, spectrum holdings, network coverage, and the development of innovative technologies. We also request comment on whether laws, regulations, regulatory practices, or demonstrated marketplace practices pose a barrier to competitive entry into the mobile wireless marketplace, or to the competitive expansion of existing providers. Further, we seek information on the extent to which any such laws, regulations, or marketplace practices affect entry conditions for entrepreneurs and other small businesses in the mobile wireless marketplace. Commenters are invited to submit data and information on, for example:

- The number of mobile wireless subscribers/connections and churn
- Trends in data traffic and consumer data usage
- Price levels and trends, as well as trends in service offerings
- Revenue metrics—including total revenue and average revenue per unit—for the industry as a whole and for individual providers
- Capital investment and technological upgrades
- Network quality and speed of service
- Spectrum holdings, access to spectrum, spectrum usage, and spectrum aggregation
- The role of infrastructure in the mobile wireless marketplace
- Measurements of mobile coverage, nationwide and disaggregated by urban and by rural areas, including discussion of any methodological issues identified
- Innovation and 5G
- The role of entry conditions (federal, state and/or local) in mobile wireless competition, including for entrepreneurs and other small businesses

⁴ *Communications Marketplace Report et al.*, GN Docket No. 18-231 et al., Report, 33 FCC Rcd 12558 (2018) (2018 *Communications Marketplace Report*).

⁵ FCC, 2018 *Communications Marketplace Report – Updates*, available at <https://www.fcc.gov/communications-marketplace-report-updates>.

- The extent of competition between mobile and fixed (i.e., wireline, satellite, and fixed wireless) providers of voice, broadband, and video services

III. COMPETITION AND DEPLOYMENT IN FIXED SERVICES

Regarding fixed services (i.e., wireline, satellite, and terrestrial fixed wireless), we request comment on the criteria or metrics that could be used to evaluate the state of competition for those services and the state of broadband deployment. Comments and information also are sought on industry data, competitive dynamics, and trending factors in the provision of fixed broadband services. We also request comment on whether laws, regulations, regulatory practices, or demonstrated marketplace practices pose a barrier to facilities-based competitive entry into the marketplace for the provision of fixed services, or to the competitive expansion of existing facilities-based service providers. Further, we seek information on the extent to which any such laws, regulations, or marketplace practices affect entry conditions for entrepreneurs and other small businesses in the provision of facilities-based fixed broadband services. We also request comment on the criteria, metrics or methodologies that might be used to evaluate potential competition between mobile wireless and fixed broadband services, including the extent to which these services are viewed by consumers as substitutes or complements. Commenters are invited to submit data and information on, for example:

- Competition in the provision of fixed voice telephone and broadband services
- The extent of competition between fixed broadband providers that rely on different types of transmission technologies, such as fiber, cable, digital subscriber lines (DSL), fixed wireless, and satellite, and the degree to which consumers consider their services to be substitutes
- Factors that determine consumer demand for fixed broadband services and the number of fixed broadband subscribers
- Trends in data traffic and consumer data usage
- Price levels and trends, as well as trends in service offerings
- Revenue metrics—including total revenue and average revenue per unit—for the industry as a whole and for individual providers
- What data sources the Commission should consider to evaluate competition or deployment of fixed services⁶
- Capital investment, innovation and technological upgrades, including the likely effect of 5G on competition between fixed and mobile broadband services
- Network quality and speed of service, including latency
- The role of entry conditions (federal, state, and/or local) in fixed broadband services, including for entrepreneurs and other small businesses
- The extent to which competition between fixed and mobile broadband services constrains prices or affects service quality
- The extent to which survey data could help inform our evaluation of substitutability, including a discussion of reliable data sources

IV. VOICE

Regarding voice services, we request comment on the criteria or metrics that could be used to

⁶ In August 2019, the FCC began a new process for collecting more granular data on the availability of fixed broadband service with the adoption of the *Digital Opportunity Data Collection Report and Order*. Establishing the Digital Opportunity Data Collection, Report and Order and Second Further Notice of Proposed Rulemaking, 34 FCC Rcd at 7505 (*Digital Opportunity Data Collection Report and Order*). We note that this new collection of coverage data will not have begun in time for use in the *2020 Communications Marketplace Report*. We anticipate, however, that we will analyze these data in addition to Form 477 data for use in future Reports.

evaluate the state of competition in this marketplace. Comments and information also are sought on industry data, competitive dynamics, and trending factors in the provision of voice services. We also request comment on whether laws, regulations, regulatory practices, or demonstrated marketplace practices pose a barrier to facilities-based competitive entry into the marketplace for the provision of voice services. Further, we seek information on the extent to which any such laws, regulations, or marketplace practices affect entry conditions for entrepreneurs and other small businesses in the provision of voice services. We also request comment on the criteria, metrics or methodologies that might be used to evaluate potential competition between mobile wireless and fixed voice services, including the extent to which these services are viewed by consumers as substitutes or complements. Finally, we seek information on the proportion of households that do not subscribe to either fixed or mobile voice, as well as the effect of cross-platform messaging applications.

V. VIDEO

We request comment on the issues and trends affecting competition to deliver video programming services.⁷ We plan to use an analytical framework similar to that employed in the *2018 Communications Marketplace Report*, which categorizes entities that deliver video services into three groups—multichannel video programming distributors (MVPDs), online video distributors (OVDs), and OTA broadcast television stations.⁸ We seek comment on both intragroup competition (i.e., competition within a group) and intergroup competition (i.e., competition between groups). We also request comment on whether laws, regulations, regulatory practices, or demonstrated marketplace practices pose a barrier to competitive entry into the video marketplace, or to the competitive expansion of existing providers. Further, information is sought on the extent to which any such laws, regulations, or marketplace practices affect entry conditions for entrepreneurs and other small businesses in the video marketplace. Commenters are invited to provide data and information on, for example:

- Competition in the provision of video programming services
- Vertical integration
- Technological developments
- Recent entry and exit
- Trends (e.g., declining MVPD subscriptions, increasing virtual MVPD (vMVPD) prices, fragmentation of Video on Demand (VOD) content, household subscription to multiple video services)
- Service features (e.g., live vs VOD content, pricing, commercials, device compatibility, leased equipment) that lead some video programming services to be viewed as substitutes for one another and others as supplements
- Operating and financial statistics including subscriptions, subscription revenue, advertising revenue, retransmission consent fee revenue, and any other sources of revenue
- Data and comment that will help the Commission analyze how the ongoing evolution in the video programming market affects competition in the related market for set-top boxes and devices, including how it affects the extent to which consumer choice for devices to access MVPD content remains a relevant aspect of the competitive environment

VI. AUDIO

We request comment on the criteria or metrics that could be used to evaluate the state of

⁷ 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); *see also* 47 CFR § 76.6(ff).

⁸ *Communications Marketplace Report*, 33 FCC Rcd at 12597, para. 49.

competition in the audio programming marketplace, as well as comment and information on industry data, competitive dynamics, and trending factors. We also request comment on whether laws, regulations, regulatory practices, or demonstrated marketplace practices pose a barrier to competitive entry into the audio marketplace, or to the competitive expansion of existing providers. Further, information is sought on the extent to which any such laws, regulations, or marketplace practices affect entry conditions for entrepreneurs and other small businesses in the audio marketplace. For example, commenters are invited to submit data and information related to participants in the marketplace for the delivery of audio programming, including, but not limited to, terrestrial radio broadcasters (i.e., AM and FM radio stations), satellite radio providers, and entities that provide audio programming over the Internet and to mobile devices on:

- Industry participants in the provision of audio programming services
- Trends in service offerings, pricing, and consumer behavior
- The extent of competition among audio marketplace participants, including intramodal competition (i.e., competition among providers of the same type, such as terrestrial radio broadcast stations) and intermodal competition (i.e., competition among providers of different types, such as terrestrial radio broadcast stations and satellite radio providers)
- Ratings, subscribership, and revenue information, for the marketplace as a whole and for individual industry participants
- Capital investment, innovation, and the deployment of advanced technology
- Requirements for entry into the marketplace
- Recent entry into and exit from the marketplace

VII. INTERNATIONAL BROADBAND DATA

As part of its assessment in the *Communications Marketplace Report*, the Commission must by statute include “information comparing the extent of broadband service capability (including data transmission speeds and price for broadband service capability) in a total of 75 communities in at least 25 countries abroad for each of the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers.”⁹ The Commission must choose international communities comparable to various communities in the United States with respect to population size, population density, topography, and demographic profile.¹⁰ The Commission is required to include “a geographically diverse selection of countries” and “communities including the capital cities of such countries.”¹¹ We seek data, information, and comment on comparative international information on broadband services that can inform the Commission’s assessment.

VIII. PROCEDURAL MATTERS

Pursuant to section 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before **April 13, 2020** and reply comments on or before **May 13, 2020**. All filings should refer to GN Docket No. 20-60. Filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission. Comments and reply comments may be filed by paper or by using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

⁹ 47 U.S.C. § 1303(b)(1). The Broadband Data Improvement Act, Pub. L. No. 110-385, 122 Stat. 4096 (2008), is codified in Title 47, Chapter 12 of the United States Code. 47 U.S.C. § 1301 et seq.

¹⁰ *Id.* § 1303(b)(2).

¹¹ *Id.*

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

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 hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, 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 9050 Junction Drive, Annapolis Junction, MD 20701.
- 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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