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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.  
See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

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## FCC Media Bureau Releases 11<sup>th</sup> Annual MVPD Competition Report

Washington, DC -- The Federal Communications Commission (FCC) today released its 11<sup>th</sup> *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*. The report examines the status of competition in the market for the delivery of video programming, changes that have occurred in the market over the past year, and factors that have facilitated or impeded competition among video programming providers.

Consumers today have viable choices in the delivery of video programming, according to the report. Almost all U.S. consumers have the choice between over-the-air broadcast television, a cable service, and at least two direct broadcast satellite (DBS) providers. In some areas, consumers also can choose to receive service via one or more emerging technologies, including digital broadcast spectrum, fiber, and video over the Internet.

In addition, the report finds that as a result of system upgrades and increased competition from DBS services, cable subscribers are enjoying a broad range of advanced services, such as digital tiers and video on demand, as well as more channels of video programming.

Specifically, the report states that overall cable subscribership remained relatively stable over the past year, as the multichannel video programming distribution (MVPD) market grew. In contrast, DBS subscriberships continued to increase at double-digit rates of growth, which is due in part to the continued increase in the number of markets where local broadcast television stations are distributed by DBS under the authority granted to them by the Satellite Home Viewer Improvement Act of 1999 (SHVIA). In addition, other delivery technologies continue to serve small numbers of subscribers in limited areas.

As of June 2004, 92.3 million households subscribed to an MVPD – with 71.6 percent subscribing to a franchised cable operator, 25.1 percent receiving their video programming from a DBS operator, and 3.3 percent of subscribers choosing service from other types of providers (e.g., broadband service provider (BSP), wireless cable operator, private cable operator).

The report offers analysis of other potential competitors to cable television and discusses the transition of traditional over-the-air broadcasting to digital technology, emerging technologies such as Internet Protocol television, and developments in foreign markets. In addition, the report examines horizontal concentration in the MVPD marketplace, vertical

integration between cable television systems and programming services, competitive issues in small and rural markets, and technical advances.

This is the Commission's 11<sup>th</sup> annual report to Congress on the status of competition in the market for the delivery of video programming. Section 628(g) of the Communications Act of 1934, as amended, requires the Commission to report annually to Congress on the status of competition in the market for the delivery of video programming.

A list of the key findings of the report is attached, and a full copy of the report is available at [www.fcc.gov/mb](http://www.fcc.gov/mb).

Action by the Commission, January 14, 2005 by Report (FCC 05-13). Chairman Powell issuing a separate statement. Commissioners Copps and Adelstein concurring and issuing a joint statement.

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## **KEY FINDINGS OF THE FCC'S 11<sup>TH</sup> ANNUAL REPORT ON VIDEO COMPETITION**

**Industry Growth:** The 2004 report discusses changes that have occurred in the competitive environment over the last year. Overall, we find that cable subscribership is remaining relatively stable as the MVPD market grows; thus, cable's share of the multichannel video programming distribution (MVPD) market is declining. In contrast, DBS subscribership continues to increase at nearly double-digit rates of growth, and its share of the marketplace is increasing. The second and fourth largest MVPDs are both DBS operators. In addition, other delivery technologies continue to serve small numbers of subscribers in limited areas. Local exchange carriers (LECs), who have partnered with DBS providers to offer video service over the last year, have recently announced plans to enter the video distribution market with fiber facilities.

As of June 2004, cable operators served approximately 72 percent of all MVPD subscribers. Today, almost all consumers have the choice between over-the-air broadcast television, a cable service, and at least two DBS providers. In some areas, consumers may also choose between other traditional (e.g., broadcasting, cable, DBS) and emerging (e.g., use of digital broadcast spectrum, fiber, video over the Internet) delivery technologies as well. Increased competition in the market for the delivery of video programming since our first Report has led to improvements in cable television services, including more channels of video programming and more service options, but generally not lower prices. In addition, through the use of advanced set-top boxes and digital video recorders, consumers are now able to maintain more control over what, when, and how they receive information.

Based on the information presented in this Report, we find that consumers today have viable choices in the delivery of video programming, and they are exercising their ability to switch among MVPDs. We do not believe that the fact that large numbers of consumers continue to subscribe to cable service indicates a lack of choice. Cable operators in response to the growth of DBS have made upgrades and advances in their offerings. The number of cable subscribers selecting digital tiers and advanced services not offered by DBS continues to grow. In addition, consumers are more likely to consider switching from cable to DBS when they change their residences, indicating a convenience factor and the cost of switching, rather than a lack of choice, is an important consideration in remaining a cable subscriber.

### **Convergence of Video Programming and Nonvideo Advanced Services**

Cable multiple system operators (MSOs) and other MVPDs continue to offer nonvideo advanced services. Some cable operators continue to offer access to the Internet through the subscriber's television and a specially designed set-top box, but the most popular way to access the Internet over cable is through the use of a cable modem and personal computer. As of June 2003, there were more than 13.7 million cable modem Internet access subscribers. As of June 2004, there were about 18.5 million cable modem Internet access subscribers. A majority of MSOs offering telephone service are offering facilities-based service, some using voice over Internet Protocol (IP) based services. Some MSOs continue to offer circuit-switched resale telephone service. As of year-end 2003, cable operators were serving approximately 2.8 million subscribers with telephone service.

Broadband service providers (BSPs) continue to offer a package of video and nonvideo services over their advanced fiber networks, and many wireless cable and private cable operators offer nonvideo advanced services in addition to their primary video offerings. As we reported in the 2003 Report, the DBS industry is continuing to develop ways to bring advanced services to its customers. DIRECTV continues to offer one-way and two-way satellite-delivered Internet service under the brand name DIRECWAY. We note that DIRECTV has scaled back its plans to use SPACEWAY satellites to offer broadband services. EchoStar, which has offered satellite-based Internet services in the past, no longer offers its own service. DIRECTV and EchoStar continue to develop strategic marketing alliances with local exchange carriers to offer an integrated digital satellite and DSL service. These agreements allow for single billing and discounts for subscribers to both services.

## **Distribution Technologies Findings:**

FCC findings as to particular distribution technologies operating in the market for the delivery of video programming include the following:

**Cable Systems:** Subscribership to cable television services has remained relatively static over the past year. Between June 2003 and June 2004, there was only a 0.08 percent increase in subscribership from 66.05 million subscribers to 66.1 million subscribers. As we reported last year, some cable operators have lost subscribers since our last Report, while others have increased their subscribership. This year, many cable operators have reported quarterly losses in subscribership, while reporting small overall, year-to-year increases. Nevertheless, the industry continues to grow in terms of revenue, collective, all-day audience shares for nonbroadcast networks, and spending on programming. The cable industry has upgraded almost 91 percent of its plant to 750 MHz capacity or higher. As a result, cable continues to offer increased channel offerings and new advanced services, including video-on-demand and home networking, in addition to such advanced services as high-speed Internet access and telephony.

**Direct-to-Home (DTH) Satellite Service (DBS and HSD):** DBS continues to increase its share of the MVPD market, while other MVPDs continue to experience losses in market share. As of June 2004, DBS represented a 25.1 percent of all MVPD households, and DIRECTV and EchoStar rank among the four largest providers of multichannel video programming service. In June 2004, DBS operators had over 23.16 million subscribers, an increase of close to 14 percent since the 2003 Report. Home satellite dish (HSD) represents another 0.36 percent of all MVPD subscribers as of June 2004, with approximately 335,800 subscribers to HSD services, as measured by the number of HSD users that actually purchase programming packages.

**Broadband Service Providers (BSPs):** BSPs are entities that compete with existing cable systems using state-of-the-art networks that are capable of providing a package of video and nonvideo services. BSPs, many of which also operate as competitive LECs, are the primary open video system (OVS) certification holders, a regulatory framework originally intended for local exchange carriers. As of June 2004, BSPs served approximately 1.4 million subscribers, representing 1.5 percent of all MVPD households.

**Broadcast Television:** Broadcast television stations supply video programming directly to those television households that are not MVPD subscribers and to television sets in MVPD households that are not connected to such service. The broadcast industry continues to grow in the number of operating stations (from 1,726 in June 2003 to 1,747 in June 2004), adding about 1.2 percent stations over the past year. Broadcast stations and networks, and nonbroadcast networks alike must either produce programming or purchase programming from third-party producers. During the 2002-2003 television season, broadcast television stations collectively (network affiliates, independent stations and public broadcast stations) accounted for an average 49 share of prime time viewing for all television households, compared to an average 48 share during the 2003-2004 television season. During the 2002-2003 television season, broadcast television stations collectively accounted for an average 45 share of all day viewing for all television households, compared to an average 44 share during 2003-2004 television season. Broadcast television stations continue to deploy digital television (DTV) service. As of September 2004, all of the 40 stations that make up the top-four network affiliates in the top ten television markets were offering digital broadcasts and 1,468 television stations, representing 85 percent of all stations, are on the air with DTV operation.

**Wireless Cable Systems:** Wireless cable operators continue to provide competition to the cable industry in a few limited areas, with their subscribership remaining relatively constant. For both June 2003 and June 2004, we report approximately 200,000 subscribers to wireless cable systems. Wireless cable subscribers now represent approximately 0.22 percent of the all MVPD households, the same share as reported in the 2003 Report. Wireless cable operators continue to convert their use of the spectrum from video service to Internet service exclusively.

**Private Cable Operators:** Private cable operators, also known as SMATV operators, use some of the same technology as cable systems, but do not use public rights-of-way. PCOs focus principally on serving small numbers of subscribers living in multiple dwelling units (MDUs) and other private communities. As of June 2003, there were about 1.2 million subscribers to PCO services, representing 1.34 percent of all MVPD subscribers. As of June 2004, there were about 1.1 million subscribers to PCO services, representing 1.19 percent of the total number of MVPD households, a decline since our last Report.

**Internet Video:** Over the past year, video provided over the Internet has grown and promises to become an increasingly strong product in the market for the delivery of video programming. Most instances of video streamed over the web, however, are still not of broadcast quality, and the medium is still not seen as a direct competitor to traditional video services. Streaming video is currently most viable when delivered over broadband networks. As of June 2004, an estimated 64 million Americans subscribed to an Internet access service, and 30.1 million of those subscribed to a high-speed Internet access service, or about 47 percent of all subscribers. Most near term uses of video available over the web will be downloadable video. Traditionally, downloadable video has been stored and viewed over the personal computer; however, video also is becoming available for download directly to a set-top box to be viewed over the television, similar to MVPD video-on-demand services. Despite its relative low quality, streaming video remains popular, and many firms continue to develop a great deal of content.

**Home Video Sales and Rentals:** We consider the sale and rental of home video, including videocassettes, DVDs, and laser discs, part of the video marketplace because they provide services similar to the premium and pay-per-view offerings of MVPDs. In 2004, VCR penetration is estimated to be about 91 percent of TV households. As of July 2004, approximately 70 percent of TV households have a DVD player. Digital video recorders (DVRs) are the newest technology for recording live video programming. DVRs are capable of pausing, recording, and rewinding live television in digital form on an internal hard drive instead of videotape. DVRs may be standalone devices, where the consumer obtains a subscription from a DVR service operator. In addition, cable and satellite operators have incorporated DVR functionality into their set-top boxes. TiVo, the largest DVR maker, has approximately two million subscribers, of which 1.1 million are DIRECTV subscribers. There are 1.4 million cable subscribers that have set-top boxes with DVR functionality, and EchoStar has over one million subscribers to its DVR system.

**LEC Entry:** In past Reports, we have reported that the largest incumbent LECs have largely exited the video business. While this remains true today, some large incumbent LECs (ILECs) (*e.g.*, SBC and Verizon) have announced plans to provide video service over fiber networks they plan to deploy over the next several years. BellSouth maintains its facilities-based overbuild cable systems in 20 franchise areas, passing 1.4 million homes. In addition, Verizon has received franchises for two communities thus far, and has announced plans to roll out video services in additional areas in 2005. Several ILECs are also offering or are preparing to offer, MVPD service over existing telephone lines. Qwest Communications, for example, offers video service, high-speed Internet access, and telephone service in several markets using existing copper telephone lines and very high-speed digital subscriber line (VDSL) technology.

**Electric and Gas Utilities:** Some utilities are engaged in the provision of video services through overbuilding incumbent cable systems. Though their services are still not widespread, utilities provide competition in scattered localities. Attributes such as their ownership of fiber optic networks and access to public rights-of-way are competitive strengths. Some utilities offer telecommunications services on their own, while others partner with broadband service providers. Municipal utilities in rural areas are also notable entrants. Reports indicate that 109 public power entities offer video services.

## **Additional Findings:**

**Consolidation and Clustering:** Cable operators' acquisitions and system trades have slowed significantly since our 2003 Report. In June 2003, the four largest operators served about 59 percent of all U.S. cable subscribers, whereas in June 2004, the four largest cable operators served about 58 percent of all U.S. cable subscribers. In terms of one traditional economic measure, national concentration among the top MVPDs has declined slightly since last year. As of year-end 2003, slightly more than 53.6 million of the nation's cable subscribers were served by systems that are included in 108 regional clusters.

**Programming Networks:** The number of programming networks has increased over the last year. As of June 2003, there were approximately 339 nonbroadcast programming networks available for carriage by MVPDs. As of June 2004, there were 388 national nonbroadcast programming networks. Of these networks, cable operators had ownership interests in 89, compared to 110 networks reported in June 2003. Thus, during this period, vertical integration of national programming services between cable operators and programmers has decreased from 33 percent as of June 2003 to 23 percent as of June 2004. As of June 2004, four of the top six cable MSOs, ranked by subscribership, held ownership interests in programming services, the same as a year earlier. In addition, we identified 103 national, nonbroadcast networks that are not owned wholly or in part by a cable operator, but are owned by one or more media entities, such as a broadcast television network or broadcast station licensee. Thus, we have identified 196 national nonbroadcast networks, representing approximately 51 percent of the 388 networks, that are not affiliated with either cable or other media entities.

In addition, of the 15 new programming networks that were launched in 2004, two are affiliated with cable operators. In 2003, 39 new networks were launched; four of these networks are affiliated with cable operators, and a fifth is affiliated with News Corp. (Fox).

Sports programming warrants special attention because of its widespread appeal and strategic significance for MVPDs. The 2004 Report identifies at least 38 sports channels out of a total of 96 regional networks. Many of these networks are owned at least in part by MSOs. There are also 40 regional and local news networks that compete with local broadcast stations and national cable news networks. Many of these networks are owned at least in part by MSOs.

**Navigation Devices:** In 2003, the Commission adopted rules to permit television sets to be built with "plug-and-play" functionality for one-way digital cable services, without the need for a set-top box. The cable, DBS, and consumer electronics industries continue to work on the development of an agreement for two-way "plug-and-play" receivers. In addition, the Commission also adopted rules in 2003 to assure that DTV broadcast content will not be indiscriminately redistributed over the Internet. In 2004, the Commission approved 13 technologies meeting the Commission's standard.

**Cable Modems:** In June 2004, there were approximately 18.5 million cable modem subscribers in the U.S. As of September 2004, 427 DOCSIS modems have received certification. Most operators continue to improve their high-speed Internet access service, offering higher speeds and special features.

**Foreign Markets:** We report on some interesting developments in foreign markets, covering video over Internet Protocol (IP) broadband, the digital television transition, and terrestrial, cable, and satellite competition that we find relevant to our examination of video programming in the United States. In particular, we have chosen to examine video provided via IP broadband (also known as IPTV) in Hong Kong, Italy, and the United Kingdom. We also report on the transition to digital television in Germany and the United Kingdom, in order to provide insight into the relative efficiency of market structures and regulations within the United States.