Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming	))	MB Docket No. 14-16

NOTICE OF INQUIRY

Adopted: January 30, 2014 **Released: January 31, 2014**

Comment Date: March 21, 2014
Reply Comment Date: April 21, 2014

By the Commission:

TABLE OF CONTENTS

Heading Paragraph #

I. INTRODUCTION

1. This Notice of Inquiry ("*Notice*") solicits data, information, and comment on the state of competition in the delivery of video programming for the Commission's Sixteenth Report ("16th Report").

We seek to update the information and metrics provided in the Fifteenth Report ("*15th Report*")[1] and report on the state of competition in the video marketplace in 2013. 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.

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[2] ("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 technologies.[3] To measure progress toward these goals, Congress required the Commission to report annually on "the status of competition in the market for the delivery of video programming."[4]

3. 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 service their local cable company offered.[5] From the consumer perspective, head-to-head competition in multichannel video programming distribution ("MVPD")[6] began with the introduction of direct broadcast satellite ("DBS") video services. An additional competitive alternative for MVPD service became available to consumers when telephone companies began offering video services in some areas cable operators already served.[7]

---

[1] *Annual Assessment for the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 12-203, Fifteenth Report, 28 FCC Rcd 10496 (2013) ("*15th Report*").

[2] 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.").

[3] 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 C.F.R. § 79.1(a)(1).

[4] Section 628(g) of the Communications Act of 1934, as amended, 47 U.S.C. § 548(g). The Commission's previous reports appear at: *Implementation of Section 19 of the 1992 Cable Act (Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 9 FCC Rcd 7442 (1994) ("*First Report*"); 11 FCC Rcd 2060 (1996) ("*Second Report*"); 12 FCC Rcd 4358 (1997) ("*Third Report*"); 13 FCC Rcd 1034 (1998) ("*Fourth Report*"); 13 FCC Rcd 24284 (1998) ("*Fifth Report*"); 15 FCC Rcd 978 (2000) ("*Sixth Report*"); 16 FCC Rcd 6005 (2001) ("*Seventh Report*"); 17 FCC Rcd 1244 (2002) ("*Eighth Report*"); 17 FCC Rcd 26901 (2002) ("*Ninth Report*"); 19 FCC Rcd 1606 (2004) ("*Tenth Report*"); 20 FCC Rcd 2755 (2005) ("*11th Report*"); 21 FCC Rcd 2503 (2006) ("*12th Report*"); 24 FCC Rcd 542 (2007) ("*13th Report*"); 27 FCC Rcd 8610 (2012) ("*14th Report*"); *15th Report*.

[5] In most areas, consumers had only one choice of cable provider, although cable overbuilders offered another option in some areas. *See Tenth Report*, 19 FCC Rcd at 1659, ¶ 79.

[6] 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 Media Bureau issued a Public Notice seeking comment on the interpretation of the terms "MVPD" and "channel," and whether an entity must also provide its subscribers a transmission path to qualify under the statutory definition. *Media Bureau Seeks Comment On Interpretation of the Terms "Multichannel Video Programming Distributor" and "Channel" as Raised in Pending Program Access Complaint Proceeding*, MB Docket No. 12-83, Public Notice, 27 FCC Rcd 3079 (MB 2012).

[7] For example, Verizon and AT&T began offering video service in 2005 and 2006, respectively.

More recently, most consumers have additional alternatives for delivered video programming from online video distributors' ("OVDs") offerings of video content over the Internet.[8]

A. Scope of the Report

4. In the 16th Report, we plan to continue using the analytical framework first adopted in the *14th Report*.[9] 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 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 market 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).

5. Of course, we recognize that the three categories are interrelated. Entities in all these groups may share some similar features, some companies have an ownership stake in each group, advertisers may reach viewers in each group, and many consumers obtain delivered video programming from multiple groups. The three categories are also interrelated through their competitive impacts on one another as the business models and competitive strategies of entities in one group affect the business models and competitive strategies of entities in the other groups. For our 16th Report, we seek data, information, and comment on the interrelationships and competitive interactions among the three groups as well as between groups, *e.g.*, the effect of OVDs on MVPDs.

6. Consistent with the *14th and 15th Reports*, we plan 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.[10] We also plan to examine key industry inputs that may

---

[8] An "OVD" is any entity that offers video content by means of the Internet or other Internet Protocol (IP)-based transmission path provided by a person or entity other than the OVD. An OVD does not include an MVPD inside its MVPD footprint or an MVPD to the extent it is offering online video content as a component of an MVPD subscription to customers whose homes are inside its MVPD footprint. *See Application of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, MB Docket No. 10-56, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4358, App. A (2011) ("*Comcast-NBCU Order"*). Consumers need a broadband connection to receive video content from OVDs. The issue of whether a certain type of OVD also qualifies as an MVPD under the Act and our regulations has been raised in pending program access complaint proceedings. *See, e.g.*, *Sky Angel U.S., LLC v. Discovery Communications LLC, et al.*, Program Access Complaint (Mar. 24, 2010). *See also supra* note 6 (citing statutory definition of MVPD and referencing MB Docket No. 12-83). Nothing in this Notice should be read to state or imply our determination on that issue.

[9] Our framework is consistent with the framework used in recent wireless and satellite competition reports. *See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 and Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 11-186, Sixteenth Report, 28 FCC Rcd 3700 (2013) ("*16th Mobile Wireless Report*"); *Third Report and Analysis of Competitive Market Conditions with Respect to Domestic and International Satellite Communications Services, Report and Analysis of Competitive Market Conditions with Respect to Domestic and International Satellite Communications Services*, IB Docket Nos. 09-16 and 10-99, 26 FCC Rcd 17284 (2011) ("*Third Satellite Competition Report*").

[10] *See* Michael E. Porter, COMPETITIVE STRATEGY: TECHNIQUES FOR ANALYZING INDUSTRIES AND COMPETITORS 129-155 (Free Press) (1980). Although the organization of the 16th Report will be consistent with the *14th and 15th Reports*, we plan to change the section titles and terminology to help clarify the content of data and information

(continued….)

impact the market for the delivery of video programming, including the creators and aggregators of video programming and their distribution strategies as well as consumer premises equipment. In addition, we plan to compare video programming competition in rural and urban areas for each of the three groups and examine consumer behavior.

7. We invite interested parties to provide input for the 16th Report. We seek to collect data to gain further insight into such areas as the deployment of new technologies and services, as well as innovation and investment in the market for the delivery of video programming. The entry of each new delivery technology provides consumers with increasing options for obtaining video content. We therefore request comment regarding the providers in each of the three groups, business models and competitive strategies, relevant operating and financial statistics, consumer behavior, urban-rural comparisons, and key industry inputs in the market. To the extent possible, we request commenters to provide information and comments on competition using this framework, including the assessment of competition across the three groups.

8. In particular, we request data, information, and comment from entities that provide delivered video programming directly to consumers. These entities include MVPDs, broadcast television stations, and OVDs. We also seek data, information, and comment from entities that provide key inputs into the market for the delivery of video programming. These include content creators and aggregators as well as manufacturers of consumer premises equipment, including equipment that enables consumers to view programming on their television sets and on other devices (*e.g.*, smartphones and tablets). In addition, we request data, information, and comment from consumers and consumer groups. The accuracy and usefulness of the 16th Report will depend on the quality of the data and information we receive from commenters in response to this *Notice*. We encourage thorough and substantive submissions from industry participants, as well as state and local regulators with knowledge of the issues raised. When possible, we will augment reported information with submissions in other Commission proceedings and from publicly available sources.

B. Analytic Framework

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

- *Providers*, which may include the number, size, and footprint of the entities in the group, horizontal and/or vertical concentration, regulatory and market conditions affecting entry, 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 look upstream and downstream to examine the influence of industry inputs and consumer behavior on the delivery of video programming. As we did in the *14th* and *15th Reports*, we plan to discuss two key industry inputs: video content and aggregation, and consumer premises equipment.[11] We

(Continued from previous page)
contained in this report. *See* Dennis W. Carlton & Jeffrey M. Perloff, MODERN INDUSTRIAL ORGANIZATION, Chapter 1 (Addison, Wesley, Longman, Inc.) (4th ed. 2005) (describing modern price theory consistent with the content of the various sections of this report).

[11] As described more fully below in Section IV, content creators are firms that produce video programming and content aggregators are entities that assemble packages of video programming for distribution by MVPDs, broadcasters, and OVDs.

seek comment on the value of this information and whether we should continue including this information in our reports on competition in the market for the delivery of video programming.

10. We seek comment on our analytic framework, including how to incorporate a discussion of the interrelationships and competitive interactions across the three groups. Is it a suitable framework for reporting on the status of competition in the market for the delivery of video programming or would modifications improve the report? Is it useful to categorize the entities that deliver video programming into these 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

11. 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 response to notices of inquiry, and other Commission proceedings; publicly available information from industry associations; company filings and news releases; Securities and Exchange Commission filings; data from trade associations and government entities; data from securities analysts and other research companies and consultants; company news releases and websites; 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 market 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 is provided on a geographic basis or is aggregated by geographic (*i.e.,* rural vs. urban) or demographic (*e.g.*, divided into income or age brackets) strata.

12. In previous notices of inquiry, we requested data as of June 30 of the relevant year.[13] In the past we noted that a significant amount of data is only available as of year-end.[14] In the 16th Report, we plan to report on a calendar year-end basis instead of a mid-year basis. Our reports generally make use of both individual company data and industry-wide data. Because a vast majority of industry-wide data are assembled from individual company data and require additional time and effort to produce, such data are often available only on an end of year basis.[15] We request data as of year-end 2013 (*i.e.*, December 31, 2013).[16] In addition, to the extent commenters can provide comparable data for year-end 2012, we seek such information to assess changes in the market for the delivery of video programming over the last year. Will the use of year-end data improve the availability of data or improve data comparison?

---

[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.

[13] *See, e.g.*, *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 12-203, Notice of Inquiry, 27 FCC Rcd 8581, 8585-8586, ¶ 10 (2012) ("*15th NOI*"); *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 07-269, Notice of Inquiry, 24 FCC Rcd 750, 751, ¶ 2 (2009).

[14] *See 15th NOI*, 27 FCC Rcd at 8586, ¶ 10.

[15] Industry-wide data is built by aggregating individual company data.

[16] While the last *NOI* requested data as of June 30, we reported a significant amount of year-end 2012 data in the *15th Report*. *See 15th NOI*, 27 FCC Rcd at 8586, ¶ 10; *see also 15th Report* generally. Thus, the 16th Report will cover 2013, with appropriate comparisons to 2012.

II. PROVIDERS OF DELIVERED VIDEO PROGRAMMING

13. In this section, we seek data, information, and comment that will allow us to describe the providers, business models and competitive strategies, and selected operating and financial statistics of MVPDs, broadcast television stations, and OVDs. To improve our description of the video products and services within each group, we seek quantitative and qualitative data and information from companies and trade associations in each group. In addition, we request comment from the perspective of consumers, advertisers, content creators, content aggregators, and consumer premises equipment manufacturers on the extent to which the video services of MVPDs, broadcast stations, and OVDs are substitutes.

A. Multichannel Video Programming Distributors

1. MVPD Providers

14. MVPDs include all entities that make available for purchase multiple channels of video programming.[17] In the *15th Report*, we determined that most MVPD subscribers use cable, DBS, or telephone MVPDs for their video service.[18] Less than one percent of MVPD subscribers use other types of MVPDs such as home satellite dishes ("HSD"),[19] open video systems ("OVS"), wireless cable systems,[20] and private cable operators ("PCOs").[21] We also found that little reliable data is available for

[17] *See supra* note 6 (defining an MVPD). To the extent entities that deliver video programming have offerings that are accessible to consumers via mobile devices or wireless connections, and information is available on such offerings, we plan to describe them in the 16th Report. The Commission's mobile wireless reports discuss the video offerings of mobile wireless providers and so, consistent with the *15th Report*, we do not plan to include such providers in the 16th Report. *See, e.g.*, *16th Mobile Wireless Report*. The Commission has not addressed the extent to which mobile wireless providers offering video programming to mobile phones and other wireless devices should be classified as MVPDs under the Act, and we do not intend to do so within the context of this proceeding.

[18] *15th Report*, 28 FCC Rcd at 10504-08, ¶¶ 22-30.

[19] HSD subscribers use a large dish and receive signals transmitted by satellites operating in the C- and Ku-band frequencies. HSD channels may be transmitted either as clear channels, available for free reception, or as scrambled signals. To receive scrambled channels, a household must purchase an integrated receiver-decoder and pay a subscription fee. HSD systems are typically designed to receive programming from several different satellites at several different orbital locations. Most HSDs include motors that permit the receiving dishes to rotate and receive signals from different satellites. Space considerations and zoning regulations restrict many viewers' ability to install the large antenna needed for HSD reception, typically ranging from 4 to 8 feet in diameter. *13th Report*, 24 FCC Rcd at 588-589, ¶ 93. We previously reported that SNL Kagan data showed no reported HSD subscribers, but a company called Skyvision was offering HSD service during limited hours of each day. *15th Report*, 28 FCC Rcd at 10508-09, ¶ 31.

[20] A wireless cable system, also known as a multichannel multipoint distribution system ("MMDS"), is a radio alternative to cable television. Wireless cable systems use the Broadband Radio Service ("BRS") (formerly the multipoint distribution service or MDS) and Educational Broadband Service ("EBS") (formerly instructional television fixed service or ITFS) to transmit video programming to consumers. *See 13th Report*, 24 FCC Rcd at 609-10, ¶ 141. By definition, wireless cable systems are MVPDs and are subject to some of the rules applicable to cable operators, such as retransmission consent. *See supra* note 6. *See also, e.g.*, 47 U.S.C. § 325(b)(1) (retransmission consent requirements for MVPDs); 47 C.F.R. § 76. 64. In addition, wireless cable systems and other wireless providers that use spectrum to transmit video programming must comply with the Commission's spectrum licensing policies as well as the appropriate interference and technical rules. *See 16th Mobile Wireless Report*, ¶ 75.

[21] Private cable operators were formerly known as satellite master antenna ("SMATV") systems. PCOs collect video signals using satellite master antenna systems and distribute programming via wiring in apartments, condominiums, hotels, and office buildings. PCOs do not use any public rights-of-way. 47 U.S.C. § 522(7). In addition, PCOs and SMATV operators: (a) do not pay franchise and Federal Communications Commission subscriber fees; (b) are not obligated to pass every resident in a given area; (c) are not subject to rate regulation; and (d) are not subject to must carry and local government access obligations. Fourth Report, 13 FCC Rcd at 1085, n.296. In the 15th Report, we found that PCOs accounted for the overwhelming bulk of the alternative MVPD subscribers, with approximately 650,000 subscribers. *15th Report*, 28 FCC Rcd at 10508-09, ¶ 31.

these other types of MVPDs.[22] To what extent is additional data available for other types of MVPDs? If additional data is not available, to what extent should these other types of MVPDs be included in the 16th Report?

15. For each type of MVPD, 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,[23] and the ability of subscribers to watch programming on multiple devices both inside and outside the home. Some MVPDs offer bundles that include video, broadband, voice, and sometimes mobile wireless services.

16. 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 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?

17. *Horizontal Concentration*. Because the different types of MVPDs use different geographic units (*e.g.*, census blocks, communities) to report where they offer video services, we are not able to determine the competitive alternatives available to any specific household or identify where specific MVPDs are engaged in head-to-head competition. In the *15th Report*, we provided one measure of horizontal concentration estimating the number of housing units nationwide with access to two, three, and four or more MVPDs.[24] We seek comment on this measure of concentration. Are there other measures of horizontal concentration we should consider? We seek data and information 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 pay lower prices or receive higher quality services relative to consumers with access to fewer MVPDs? Does such competition differ based on the type of MVPDs available to consumers (*e.g.*, when there are two competing cable MVPDs compared to cable MVPDs competing against DBS)?

18. *Vertical Integration*. In the 1992 Cable Act, Congress enacted provisions related to common ownership between cable operators and video programming networks.[25] In the *15th Report*, we discussed vertical integration in terms of affiliations between programming networks and MVPDs. Specifically, we identified the number of national video programming networks affiliated with one or more MVPDs.[26] Similarly, we reported on regional programming networks affiliated with MVPDs.[27] We also differentiated between the availability of standard definition ("SD") and high definition ("HD") versions of individual networks consistent with recent Commission decisions.[28] We seek comment on

[22] *15th Report*, 28 FCC Rcd at 10508-09, ¶¶ 31-32.

[23] A linear channel is one that distributes programming at a scheduled time. Non-linear programming, such as video-on-demand ("VOD") and online video content, is available at a time of the viewer's choosing.

[24] *15th Report*, 28 FCC Rcd at 10513-14, ¶ 36 & Table 2.

[25] 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 or 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* 47 U.S.C. §§ 536, 548; 47 C.F.R. §§ 76.1001-04, 1301-02.

[26] *See 15th Report*, 28 FCC Rcd at 10515, ¶¶ 38-39. *See also id*. at 10684-85, App. B, Table B-1.

[27] *See id*. at 10689-91, App. C, Table C-1.

these measures of vertical concentration. Are there other measures of vertical concentration we should consider? We seek data and information on these measures of vertical concentration and on any other measures proposed by commenters. We request data, information, and comment on the vertical integration between MVPDs and video programming networks. In addition, we request information on satellite and terrestrially delivered national and regional networks.[29]

19. *Regulatory and Market Conditions Affecting Entry and Competition*. Regulations and market conditions affect MVPD entry and competition in the market for the delivery of video programming. We seek comment on the impact of the Communications Act and Commission rules on MVPD entry and competition. Relevant regulations include franchising,[30] effective competition,[31] program access,[32] program carriage,[33] retransmission consent,[34] must carry,[35] exclusivity,[36] ownership,[37] public interest programming,[38] leased access,[39] access to multiple dwelling units,[40] inside wiring,[41] and over-the-air reception devices.[42]

20. We also request data on the number of channels MVPDs dedicate to must-carry; public interest, including public, educational, and governmental ("PEG"); and leased access programming. On

(Continued from previous page)

[28] *See, e.g.*, *Review of Commission's Program Access Rules and Examination of Programming Tying Arrangements*, MB Docket No. 07-198, First Report and Order, 25 FCC Rcd 746, 785, ¶ 55 (2010) ("*2010 Program Access Order*"), *aff'd in part and vacated in part sub nom. Cablevision Systems Corp. et al. v FCC*, 649 F.3d 695 (D.C. Cir. 2011).

[29] *See generally 2010 Program Access Order*. The Commission defines satellite-delivered programming as programming delivered to MVPDs via satellite. Similarly, terrestrially delivered programming is defined as programming delivered to MVPDs via terrestrial means, such as programming transmitted to MVPDs by fiber. *See id.* at 748-49, ¶¶ 4, 5. National networks are distributed throughout the entire country (*e.g.*, CNN, Discovery Channel, and HBO); regional networks are only provided in certain geographic areas (*e.g.*, Comcast SportsNet Philadelphia and Arizona News Channel).

[30] 47 U.S.C. § 541; 47 C.F.R. § 76.41.

[31] 47 U.S.C. § 543(a)(2); 47 C.F.R. § 76.905(b).

[32] 47 U.S.C. § 548; 47 C.F.R. §§ 76.1001-04. *See Revision of the Commission's Program Access Rules et al.*, Further Notice of Proposed Rulemaking, 27 FCC Rcd 12605, 12658-68, ¶¶ 82-100 (2012) (seeking comment on possible modifications to the program access rules regarding buying groups, including (1) revising the definition of "buying group" to provide an alternative means for an entity seeking to qualify as a "buying group" to satisfy the definition's financial liability requirement; (2) establishing standards for the right of buying group members to participate in their group's master licensing agreements; and (3) establishing a standard of comparability for buying groups regarding volume discounts).

[33] 47 U.S.C. § 536; 47 C.F.R. §§ 76.1301-02.

[34] 47 U.S.C. § 525(b); 47 C.F.R. § 76.64.

[35] 47 U.S.C. §§ 534-35; 47 C.F.R. § 76.56.

[36] 47 C.F.R. §§ 76.92, 76.101, 76.111.

[37] 47 U.S.C. § 533(f); 47 C.F.R. §§ 76.501, 76.503-04.

[38] 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 4 percent of their channel capacity for noncommercial programming of an educational or informational nature. 47 U.S.C. § 335(b)(1)(A); 47 C.F.R. § 25.701(f).

[39] 47 U.S.C. § 532; 47 C.F.R. § 76.701.

[40] 47 C.F.R. § 76.2000.

[41] 47 U.S.C. § 544(i); 47 C.F.R. §§ 76.801-06.

[42] 47 U.S.C. § 303 note; 47 C.F.R. § 1.4000.

which tiers are these types of channels placed and is extra equipment required to view them?[43] Are there more or fewer PEG and leased access channels carried on cable systems at the end of 2013 than were carried at the end of 2012? We recognize that the regulations applicable to cable operators may differ from the regulations applicable to DBS systems and other MVPD operators. How do regulatory disparities affect MVPD competition? We also solicit comment on specific actions the Commission can take to facilitate MVPD entry and competition with the intent to increase consumer choice in the market for the delivery of video programming. In addition, we request comment on any state or local regulations that affect MVPD entry and competition.

21. We seek comment on the impact of market conditions on MVPD entry and competition. Market conditions include economies of scale,[44] capital requirements,[45] first-mover advantages,[46] access to content (*e.g.*, exclusive deals), and reaction from existing competitors.[47] Are there other market conditions that influence MVPD entry and competition? If so, we also seek data on those market conditions. We also request information on the exit of MVPDs and comment on the reasons why MVPDs leave the video marketplace.

2. MVPD Business Models and Competitive Strategies

22. *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, for example, the types of delivered video services they will offer, the programming they offer consumers, how they package the programming (*i.e.*, the number of tiers of video programming and the specific programming carried on each tier), and the complementary product features they will offer (*e.g.*, HD programming, DVRs (digital video recorders), video-on-demand ("VOD"), and TV Everywhere).[48] MVPDs also make decisions regarding bundles (*i.e.*, packaging Internet and phone services with video service), pricing, advertising, customer service, and vertical integration with suppliers of video programming.

23. We seek descriptions of MVPD business models and competitive strategies in the market for the delivery of video programming. Although MVPDs earn revenue from advertising, the bulk of their revenue is derived from consumer subscriptions to MVPD services.[49] As such, MVPDs focus their competitive strategies on attracting and retaining subscribers. What are key differences among MVPD business models and competitive strategies? How do MVPDs distinguish their video services from their closest competitors? What competitive strategies do MVPDs use for attracting new subscribers and retaining existing subscribers? Which strategies are the most successful? Do MVPDs charge lower prices to consumers with access to a greater number of MVPDs? How do bundled offerings affect competition? Do bundles provide a competitive advantage? We seek comment on the provision of local news as a competitive strategy. We seek comment on the provision of sports as a competitive strategy. How do the business models and competitive strategies differ as a function of an MVPD's delivery

[43] *See*, *e.g.*, 47 U.S.C. § 534(b)(7) (must-carry signals "shall be provided to every subscriber of a cable system"); 47 U.S.C. § 543(b)(7) (must-carry signals and PEG programming must be carried on the basic service tier).

[44] Unit costs may decline as the total number of units produced per period increases.

[45] Large investments may be necessary to enter and remain a viable competitor.

[46] Years of advertising and customer relationships may provide incumbents with a degree of brand identification and customer loyalty.

[47] Existing MVPDs may lower prices to drive an entrant from the market before it can establish itself.

[48] TV Everywhere is an initiative, which allows subscribers of certain MVPD services to access MVPD video programming on Internet-connected devices including: televisions, computers, tablets, and smartphones.

[49] For example, in 2011, advertising revenue accounted for only $3.5 billion of the $97.9 billion total revenue earned by cable MVPDs. SNL Kagan, *Broadband Cable Financial Databook*, 2012 Edition, at 7.

technology and size?[50] Are there differences in the number of channels offered, availability of VOD, DVR, and TV Everywhere services, or the bundling of video with voice and data service? How do the business models and competitive strategies of MVPDs affect broadcast stations and OVDs?

24. We seek comment on the relationship between an MVPD's size and the price it pays for video programming. Does the vertical integration of MVPDs with content creators or aggregators impact the ability of other MVPDs to obtain programming or raise the price of the programming? We seek comment on the effects of retransmission consent fees on MVPD business models and competitive strategies. What impact has the growth in OVD services had on MVPD deployment of VOD and TV Everywhere services? Have OVDs spurred investment and innovation by MVPDs? We seek information and comment on agreements between MVPDs and manufacturers of consumer premises equipment to deliver TV Everywhere programming.[51] In addition, we invite comment and the submission of data and information on other issues that will assist our understanding of MVPDs' business models and competitive strategies.

25. We request information on MVPDs' investment in and deployment of new technologies, including transitioning from a hybrid analog/digital distribution to all-digital distribution, adding Internet Protocol (IP)-delivered video programming, deploying more efficient video encoding technologies (*e.g.*, MPEG-4), developing and testing enhanced transmission technologies (*e.g.*, DOCSIS 3.1) and expanding 3-D and 4K services. What benefits do these technologies provide to consumers?

3. Selected MVPD Operating and Financial Statistics

26. In the *15th Report*, we provided the following MVPD operating and financial statistics: video packages and pricing, number of video subscribers and penetration rates, revenue, investment, and profitability.[52] Are these the most relevant operating and financial statistics for reporting the status of competition in the market for the delivery of video programming? Are there better statistics? If commenters suggest other statistics, we request data or identification of data sources that would allow us to report such statistics in the 16th Report, including sources that provide aggregated or industry-wide statistics on the cable, DBS, and telephone MVPD sectors in addition to statistics for individual MVPDs.

27. We seek data on the number of linear channels and VOD programs available. We also seek data on the number of housing units passed nationally, the number of subscribers, and the penetration rates.[53] Which MVPDs have the lowest level of "churn" (*i.e.*, consumer switching among MVPDs)? We seek data on MVPD subscriber losses and the factors leading to those losses, such as competition from OVDs, local or national economic conditions, or retransmission consent disputes. We request data on MVPD revenue, investment, and profitability. What are the major sources of video-related revenue for MVPDs? We recognize that many MVPDs also provide Internet and phone services. Our focus, however, is the market for the delivery of video programming, and 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 request comment on whether such changes reflect changes in the number of video subscribers, changes in the number of video services sold to subscribers, and/or changes in the price of video services. In the *15th Report*, we used operating cash flow and free cash flow as measures of MVPD profitability.[54] Are these the appropriate measures of

[50] In the 16th Report, we expect to include case studies similar to those in the *15th Report* that described cable, DBS, and telephone company MVPDs separately. *See 15th Report*, 28 FCC Rcd at 10540-51, ¶¶ 96-120.

[51] For example, Time Warner Cable announced new versions of its TWC TV product for the Roku Streaming Player, Samsung Smart TVs and Microsoft's Xbox. Time Warner Cable, *Time Warner Cable Reports 2013 Second-Quarter Results* (press release), Aug. 1, 2013.

[52] *Id*. at 10551-570, ¶¶ 125-44.

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

[54] *15th Report*, 28 FCC Rcd at 10568-70, ¶¶ 142-44.

profitability? We invite comment and the submission of data and information on other operating and financial statistics that will assist our understanding of competition in the market for the delivery of video programming.

B. Broadcast Television Stations

1. Broadcast Television Station Providers

28. Providers of broadcast television service include both individual and group-owned stations that hold licenses to broadcast video programming to consumers. Broadcast stations package video programming and deliver it directly over the air to consumers who do not subscribe to an MVPD, as well as to MVPD subscribers who own television sets that are not connected to an MVPD service. The Commission already collects data on the number of broadcast television stations in each designated market area ("DMA") and ownership of broadcast television stations using our CDBS database,[55] and purchases data from BIA/Kelsey[56] and The Nielsen Company.[57] We seek additional data concerning the number of households that rely on over-the-air broadcast television service, either exclusively or supplemented with OVD service. We request information regarding the demographic and geographic characteristics of such households. How many MVPD subscribers routinely view broadcast programming over-the-air on television sets that are not connected to their MVPD service?

29. *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.[58] 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 ownership of each station.[59] Are there other available data that can be used to inform our assessment of horizontal concentration? Does horizontal concentration strengthen the competitive position of group owned broadcast stations in the market for the delivery of video programming? Does group ownership increase advertising revenue for group owners? Does group ownership lower the price group owners pay for video programming? What is the impact of group ownership on the competitive position of independently-owned stations? We seek information regarding the number of existing joint sales agreements ("JSAs"),[60] local marketing agreements ("LMAs"),[61] and shared services agreements

---

[55] 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. We collect ownership data on FCC Form 323 – Ownership Report for Commercial Broadcast Station – and the data are available in CDBS.

[56] *See* BIA/Kelsey, Broadcast Media Resources, http://www.biakelsey.com/Research-and-Forecasts/Broadcast-Media-Resources/ (visited Aug. 28, 2013).

[57] Under Commission rules, broadcast television stations serve a community of license. However, Nielsen's DMA market definition is commonly used as the geographic coverage area for broadcast television stations. A DMA is a group of counties that form an exclusive geographic area in which the home market television stations hold a dominance of total hours viewed. There are 210 DMAs, covering the entire continental United States, Hawaii, and parts of Alaska.

[58] 47 C.F.R. § 73.3555. *See also* Telecommunications Act of 1996, Pub. L. No. 104-04, § 207, 110 Stat. 56, 114 (1996), § 202(h) (imposing a cap on the percentage of television households that one television station group can serve to 39 percent of U.S. television households).

[59] *See supra* ¶ 28. *See 15th Report*, 28 FCC Rcd at 10574-76, ¶¶ 155-160.

[60] A JSA is "an agreement with a licensee of a 'brokered station' that authorizes a 'broker' to sell advertising time for the 'brokered station.'" 47 C.F.R. § 73.3555, note 2(k).

[61] An LMA or time brokerage agreement refers to "the sale by a licensee of discrete blocks of time to a 'broker' that supplies the programming to fill that time and sells the commercial spot announcements in it." 47 C.F.R. § 73.3555, note 2(j).

("SSAs").[62] We also seek comment on the nature of these arrangements (*i.e.*, what business issues are covered by these arrangements) and the impact of these arrangements on the competitiveness of and service provided by broadcast stations?

30. *Vertical Integration*. We are interested in tracking the vertical integration of broadcast television stations with broadcast networks and cable 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.[63] 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 vertical integration between television stations and broadcast networks or cable networks. Does vertical integration strengthen a broadcast station's ability to negotiate carriage rights with MVPDs? Are broadcast stations that are vertically integrated with broadcast networks stronger competitors in the market for the delivery of video programming?

31. *Regulatory and Market Conditions Affecting Entry and Competition.* The Commission's spectrum allocation and licensing policies affect broadcast television by limiting the number of stations located in a given geographic area.[64] Commission rules limit the number of broadcast television stations an entity can own in a DMA as well as limit the aggregate national audience reach of commonly owned broadcast television stations.[65] The Commission's territorial exclusivity rule restricts the geographic area in which a television broadcast station may obtain exclusive rights to video programming.[66] We seek data, information, and comment on the impact of regulations on broadcast station entry and competition in the market for the delivery of video programming. The Middle Class Tax Relief and Job Creation Act of 2012 provides for voluntary participation of broadcast station licensees in "reverse auctions" in which they may offer to relinquish some or all of their licensed spectrum usage rights in exchange for a share of the proceeds from a "forward auction" of licenses for the use of any reallocated broadcast television spectrum.[67] Because this incentive auction may result in the elimination or the reduction in video services provided by some broadcast stations, we seek information and comment on the impact of the upcoming incentive auction on competition in the market for the delivery of video programming. Has the upcoming incentive auction impacted market activity already? For instance, is there any relationship between the upcoming incentive auction and recent broadcast station merger and acquisition activity? How has the upcoming incentive auction affected competition and entry in the market for the delivery of video programming?

32. We seek comment on the impact of market conditions on broadcast television station entry and competition. Market conditions include access to capital and access to programming. With respect to access to capital, we seek comment on the potential impact of our recent Declaratory Ruling regarding foreign broadcast investment.[68] We recognize that broadcast stations depend heavily on

---

[62] An SSA is an agreement to coordinate programming and/or operations between broadcast stations. *See, e.g.*, *Amendment of the Commission's Rules Related to Retransmission Consent*, MB Docket No. 10-71, Notice of Proposed Rulemaking, 26 FCC Rcd 2718, 2731, ¶ 23 n.74 (2011).

[63] *See id*. at 10686-88 & 10692, App. B, Table B-2 & App. C, Table C-2. *See also supra* Section II.A.1 (discussing MVPD vertical integration).

[64] *See generally* 47 C.F.R. Part 73, Subpart E.

[65] 47 C.F.R. § 73.3555.

[66] 47 C.F.R. § 73.658(b).

[67] *See* Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6401-05, 126 Stat. 156, 222-30 (2012).

[68] *Commission Policies and Procedures Under Section 310(b)(4) of the Communications Act, Foreign Investment in Broadcast Licensees*, MB Docket No. 13-50, Declaratory Ruling, FCC 13-150 (rel. Nov. 14, 2013).

advertising and their revenues can be impacted by local and national economic conditions as well as election cycles which can implicate the demand for political advertising. We seek comment on the impact of economic conditions on broadcast station entry and competition in the market for the delivery of video programming. We also seek specific comment on the impact of political advertising on broadcast station revenues. We also request information and comment on entities that have exited the broadcast station business.

2. Broadcast Television Station Business Models and Competitive Strategies

33. *Business Models and Competitive Strategies*. Broadcasters' business models and competitive strategies involve decisions about, for example, 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 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 whether they will participate in JSAs, LMAs, and SSAs. Broadcasters also make decisions regarding their websites and their involvement in mobile TV, which uses broadcast airwaves, not the Internet, to deliver video programming to mobile devices.[69] We seek comment on broadcast station business models and competitive strategies. What competitive strategies do broadcast television stations use to distinguish themselves from other broadcast television stations and other entities in the market for the delivery of video programming? Have there been significant changes in these models and strategies? How do the business models and competitive strategies of broadcast stations affect MVPDs and OVDs?

34. Broadcast television stations do not charge consumers directly for the delivery of their programming. Broadcast television is free to consumers who receive it over-the-air, and although MVPD subscribers indirectly pay for the video programming delivered by broadcast stations as part of their MVPD monthly service charges, which reflect the MVPD's retransmission consent fees paid to the stations, they do not pay monies directly to broadcast stations. Several MVPDs, however, including Comcast, Charter, and AT&T U-verse, itemize or have announced plans to itemize retransmission fees on consumers' monthly bills.[70] We seek comment on the impact of itemizing retransmission fees on monthly statements. What has been the response of consumers to this information? Commercial broadcast television stations have historically earned the bulk of their revenue from advertising.[71] What business models and competitive strategies are broadcast stations using to attract advertisers? Some commercial broadcast television stations also earn revenue in the form of retransmission consent fees from MVPDs in return for carriage of their stations.[72] We request comment on the business models and competitive strategies related to such fees. Which business models and competitive strategies result in the highest retransmission consent fees? What, if any, non-cash considerations are broadcast station licensees receiving in return for retransmission consent for carriage of their stations? We seek information on the revenue broadcast stations earn from selling their programming to OVDs. We ask commenters to provide information on the changing mix of broadcast station revenues. Are broadcast stations becoming less dependent on revenue from advertising and more dependent on revenue from retransmission consent and

[69] *See* http://www.nab.org/mobiletv/ (visited Aug. 29, 2013).

[70] *See* David Lieberman, *Comcast's 2014 Rates Will Include a $1.50 "Broadcast TV Fee*", Deadline Hollywood, Nov. 22, 2013, http://www.deadline.com/2013/11/comcasts-2014-rates-will-include-a-1.50-broadcast-tv-fee/ (visited Nov. 25, 2013).

[71] On-air advertising is the largest source of revenue for television stations even though the share of total revenue derived from on-air advertising is declining. Advertising represented 86 percent of the broadcast television station industry net revenues in 2011. *See 15th Report*, 28 FCC Rcd at 10595, ¶ 203.

[72] *See id*. at 10599-600, ¶ 209 (indicating that broadcast stations, like cable networks, are negotiating per-subscriber fees from MVPDs in exchange for carriage rights).

revenue from the sale of programming to OVDs?[73] What other competitive strategies are broadcast stations using to strengthen their competitive position in the market for the delivery of video programming?

35. Broadcast television stations can broadcast in HD, multicast, and provide mobile TV service.[74] We seek comment on the use of these capabilities as competitive strategies in the market for the delivery of video programming. We also seek comment on the considerations that might influence station decisions regarding these services. Specifically, how many broadcast television stations offer video content in HD, and is the amount of HD programming increasing? To what extent does a station's decision to air programming in HD depend on the type of programming content involved (*e.g.*, sporting events, news, movies)? What effect does the ability to offer video programming in HD have on broadcast stations' ability to compete against other broadcasters and attract viewers?

36. We also request information on the use of multicast streams. Is the number of stations airing multicast streams and the total number of available multicast streams increasing, nationally or on a DMA basis? Does the choice to multicast depend on the size, location, demographics, or other characteristics of a station's market? What types of programming are broadcasters carrying on their multicast streams? To what extent are broadcasters using multicast streams 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 (*e.g.*, Bounce TV, Retro TV), niche content, or independently and/or locally produced programming? We seek information and comment regarding the ability of broadcast stations to secure MVPD carriage of their multicast signals. What factors have allowed them to do so? To what extent have broadcast stations entered into channel sharing arrangements? Have channel sharing arrangements strengthened the competitive position of broadcast stations involved in these arrangements?

37. Further, we seek information on mobile TV. How many broadcast stations offer mobile TV? How much video programming is being offered on mobile TV? Are stations using their mobile TV signals to deliver the same content that they provide on their primary signals or do they use their mobile TV for specialized content? The mobile TV standard permits broadcasters to offer a subscription service.[75] To what extent are stations offering or planning to offer subscription content via the mobile TV standard? Do stations that do not currently provide mobile TV service plan to do so in the near future? How do economic, demographic, technological, and other considerations factor into a station's decision to offer mobile TV service? How do these same conditions factor into a consumer's decision to obtain mobile TV? In addition, we ask for information about broadcast stations' websites and whether broadcasters use them as part of their competitive strategies and if so how?

38. Has offering multiple program streams, HD, mobile TV, or websites led consumers to switch away from MVPD service to over-the-air service? What incentives do broadcast stations have to attract consumers away from MVPD video subscriptions to over-the-air service? Would switching increase or decrease the revenue of broadcast stations? Do broadcast stations use advertising or marketing to encourage consumers to switch to over-the-air video service?

---

[73] In an earnings call, CBS predicted that going forward, around half of CBS' revenue would come from sources other than advertising, driven largely by retransmission fees, as well as syndication and digital rights. Alex Weprin, *Les Moonves Tells Investors CBS Didn't Suffer A Bit From Time Warner Cable Blackout*, CAPITAL NEW YORK, Nov. 6, 2013, http://www.capitalnewyork.com/article/media/2013/11/8535675/les-moonves-tells-investors-cbs-didnt-suffer-bit-time-warner-cable-bla (visited Nov. 12, 2013).

[74] *15th Report*, 28 FCC Rcd at 10573 & 10590, ¶¶ 151 & 192.

[75] *See* Advanced Television Systems Committee A/153 Part 6:2011: "ATSC Mobile DTV Standard, Part 6:2011, 'Service Protection,'" May 23, 2011.

39. Broadcast stations remain important providers of local news.[76] We seek comment on the provision of local news as a competitive strategy in the market for the delivery of video programming. We also request comment on the partnerships among broadcast stations used to produce and deliver local news. Do JSAs, LMAs, and SSAs affect the provision of local news offered by broadcast stations, and if so, how? To what extent is local news programming available online? Has online delivery contributed to increased investment in broadcast station local news and information programming? To what extent are broadcast stations investing in local programming, other than news, to enhance their competitive position in the market for the delivery of video programming? To the extent that a station does air local news, is the news being produced by that station or by another station in the market pursuant to a SSA?

40. For many years, broadcast television networks used their local broadcast television-affiliated stations as their primary distributor of programming. What effects are OVDs and VOD having on this relationship? In what ways has the time lag shortened between a program's original showing on a broadcast station and its availability through OVD or VOD distribution? What competitive strategies are broadcast stations using to remain important to broadcast networks for program distribution? In addition, we invite comment and the submission of data and information on other issues that will assist our understanding of the business models and competitive strategies of broadcast stations.

41. We seek comment on broadcasters' interest in and development of new technologies. For example, the Advanced Television Systems Committee ("ATSC") is soliciting proposals for a third generation broadcast technology and is involved in an international effort to develop a future broadcasting standard.[77] Further, several US broadcast stations have sought waivers of Commission rules to test alternative broadcasting standards.[78] We seek comment on the extent to which these and other new developments in broadcast technology impact the market for the delivery of video programming.

3. Selected Broadcast Television Station Operating and Financial Statistics

42. In the *15th Report*, we reported the following broadcast television station operating and financial statistics: audiences for primary video streams, multicasting streams, websites, and mobile TV; revenue from local advertising, national advertising, political advertising, website advertising, and mobile TV advertising; revenue from network compensation, retransmission consent fees, and ancillary services; cash flow and pre-tax profits; and capital expenditures.[79] Are these the most relevant operating and

---

[76] A 2012 survey found that local television news remains a top news source for Americans with almost half saying they watched regularly, although its role with future demographics is unclear as the number of adults under 30 who are regular local news viewers has dropped from 42 percent in 2006 to 28 percent in 2012. Deborah Potter et al., Pew Research Center's Project for Excellence in Journalism, *Local TV: Audience Declines as Revenue Bounces Back,* State of the News Media 2013, at http://stateofthemedia.org/2013/local-tv-audience-declines-as-revenue-bounces-back/ (visited Sept. 6, 2013) ("*Pew State of the News Media Report*"). Local news also continues to be a major policy goal of the Commission's media ownership rules. *See 2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket No. 09-182, Notice of Proposed Rulemaking, 26 FCC Rcd 17489, 17492, ¶ 6 (2011).

[77] *See 3.0 Physical Layer Call for Proposals*, Aug. 13, 2013, *at* http://www.atsc.org/cms/index.php/standards/other-technical-documents/324-atsc-30-physical-layer-call-for-proposals. *See also, Future of Broadcast Television Initiative Launched*, Apr. 17, 2012, *at* http://www.atsc.org/cms/index.php/communications/press-releases/285-future-of-broadcast-television-initiative-launched.

[78] *See*, *e.g.*, Letter from Barbara Kreisman, Chief, Video Division to Miles Mason, et al., Pillsbury Winthrop Shaw Pittman LLP, Feb. 15, 2013, at http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=38917; Letter from Barbara Kreisman, Chief, Video Division to Peter Tannenwald, Esq., Fletcher, Heald & Hildreth, P.L.C, June 20, 2013, at http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=41825.

[79] *15th Report*, 28 FCC Rcd at 10591-606, ¶¶ 193-218.

financial statistics for reporting the status of competition in the market for the delivery of video programming? Are there additional or better statistics? If commenters suggest other statistics, we request data or identification of data sources that would allow us to report such statistics in the 16th Report, including sources that provide statistics on the broadcast station sector as a group, as well as statistics for individual broadcast station companies.

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

44. We seek data on broadcast television station revenues from advertising, network compensation, retransmission consent fees, and ancillary services. 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? 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 now pay "reverse compensation" to their networks and/or share retransmission consent revenues with the network. We seek information and comment on the impact, if any, of JSAs, LMAs and SSAs on retransmission consent negotiations and fees. 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.

45. We seek data on relevant measures of broadcast station profitability, such as cash flows and pre-tax profits. Are there any significant trends in the profitability of broadcast stations? Are there other measures of profitability that we should use in the 16th Report? If commenters suggest other measures of profitability, we request data or the identification of data sources that would allow us to report such measures in the 16th Report.

46. We seek data on investment by licensees in broadcast television stations. What types of investments are broadcast licensees making? What video services are associated with these investments? Has this investment strengthened the competitive position of broadcast television stations in the market for the delivery of video programming? In addition, we invite comment and the submission of data and information on other broadcast station operating and financial statistics that will assist our understanding of competition in the market for the delivery of video programming.

C. Online Video Distributors

1. OVD Providers

47. OVDs use the Internet to deliver video content to consumers.[80] Thus, to receive an OVD's video programming, a consumer must have access to high-speed Internet service. The Commission already collects data and produces reports on entities that provide fixed and mobile high-speed Internet access service.[81] Because OVDs are relatively new entities in the market for the delivery

[80] *See supra* note 8 (defining an OVD).

[81] The Commission has significant information regarding entities that offer Internet service, including the number and size of participants, the number of consumers with access to each provider's Internet service, the download and upload speeds, the services offered by providers of Internet service, and the prices charged for Internet service. *See* FCC Form 477 Broadband Data; *16th Mobile Wireless Report*; *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Amended by the Broadband Data Improvement Act*, GN Docket No. 11-121, Eighth Broadband Progress Report and Order on Reconsideration, 27 FCC Rcd 10342 (2012). *See also Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, Notice of Proposed Rulemaking, 26 FCC Rcd 1508 (2011).

of video programming, data regarding this category 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 most reliable data sources for OVDs, individually and as a group. The *15th Report* described the providers, business models and competitive strategies, and provided 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 16th Report.

48. In the *15th Report*, we categorized OVDs in terms of their affiliation with the primary business of a parent company.[82] We separately described and reported on OVDs affiliated with programmers and content producers/owners (*e.g.* broadcast and cable networks, sports leagues, movie studios), video sharing sites and social network services (*e.g.*, YouTube and Facebook), and manufacturers, retailers and other businesses (*e.g.*, Amazon.com and Walmart's Vudu). We seek comment on the value of categorizing OVDs in these terms. Is there a better way to categorize OVDs? We request data on the number and size of OVDs. We also seek comment on whether there are other or better ways to organize our discussion of OVD providers.

49. *Horizontal Concentration*. In the *15th Report*, we noted the difficulty of measuring horizontal concentration for the OVD group.[83] OVDs are the newest group in the market for the delivery of video programming, and no widely-recognized measure of horizontal concentration has been established. What is the appropriate measure of OVD horizontal concentration (*e.g.*, subscribers, viewers, revenue)? For any recommended measure of horizontal concentration, we seek relevant data for assessing the level of concentration. In contrast to cable MVPDs, telephone MVPDs, and broadcast stations, we assume that all OVDs operate nationally. Is this a correct assumption?

50. *Vertical Integration*. Many OVDs are vertically integrated with providers of key inputs to the market for the delivery of video programming.[84] Do these relationships strengthen the competitive positions of OVDs? Some OVDs have affiliations with retailers and/or manufacturers.[85] Do these relationships strengthen the competitive positions of OVDs? We seek data regarding OVDs vertical relationships that would permit us to assess OVD vertical integration.

51. *Regulatory and Market Conditions Affecting Entry and Competition*. We request comment on regulatory and market conditions that affect OVD entry and competition. What influence have the Commission's Open Internet rules and IP closed captioning requirements for video programming had on OVD entry and competition?[86] How does the relative lack of regulation for OVDs affect entry and competition?[87]

---

[82] *15th Report*, 28 FCC Rcd at 10607-17, ¶¶ 223-42. *See also Preserving the Open Internet; Broadband Industry Practices*, GN Docket No. 09-191, WC Docket No. 07-52, Report and Order, 25 FCC Rcd 17905, 17978, ¶ 132 n.421 (2010).

[83] *Id*. at 10617, ¶ 243.

[84] For example, Hulu is an OVD owned by News Corporation, NBCUniversal, The Walt Disney Company, and Providence Equity Partners. The four largest professional sports leagues – Major League Baseball, the National Football League, the National Basketball Association, and the National Hockey League – also provide a significant portion of their programming online through paid subscription services. *See 15th Report*, 28 FCC Rcd at 10609 & 10608, ¶¶ 226 & 228.

[85] For example, the OVD Amazon Prime Instant Video is affiliated with Amazon, which is primarily an online retailer. In addition, the OVD iTunes is affiliated with Apple, which designs, manufactures, and markets mobile communications and media devices, personal computers, and portable digital music players, and sells a variety of related software.

[86] *Preserving the Open Internet; Broadband Industry Practices*, GN Docket No. 09-191, WC Docket No. 07-52, Report and Order, 25 FCC Rcd 17905 (2010), *aff'd in part, vacated and remanded in part sub nom Verizon v. FCC*, No. 11-1355 at 56-62 (D.C. Cir. Jan. 15, 2014); *Closed Captioning of Internet Protocol-Delivered Video*

(continued….)

52. What market conditions affect OVD entry and competition? For example, OVDs depend on unaffiliated ISPs to deliver video content to consumers. Does this dependence hinder entry or weaken the ability of OVDs to compete in the market for the delivery of video programming? Does the growing amount of Internet traffic associated with the delivery of OVD video programming affect OVD entry and competition? What is the impact, if any, of ISP data caps, tiered pricing, or other user fees on OVD entry and competition? To what extent are OVDs developing content delivery networks ("CDNs") to ease Internet traffic congestion and to improve consumers' viewing experience?[88] Do OVDs encounter unique issues (relative to MVPDs and broadcast stations) when acquiring content rights that impact OVD entry and competition?[89] In the *15th Report*, we described specific new entrants to the market.[90] We request information on recent OVD entrants as well as new features of OVDs (*e.g.*, new devices for accessing OVD programming). What trends, if any, are evident with respect to OVD entry and competition? Are there any other market conditions that affect entry and competition? Are there market conditions that have resulted in OVDs exiting the video marketplace?

2. OVD Business Models and Competitive Strategies

53. OVDs are a relatively new group in the market for the delivery of video programming and their business models and competitive strategies are less established, relative to MVPDs and broadcast stations. 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. Some offer tens-of-thousands of video programs, others offer much fewer. 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. Some OVDs only distribute video programming previously available through other delivery technologies, while others are creating their own content. We seek comment on whether differences in business models should serve as a basis for organizing our discussion of OVD providers.

54. We seek information on the business models and competitive strategies OVDs use to compete in the market for the delivery of video programming. What are the key differences in terms of the video service offerings, picture quality, the ability to view programming on multiple devices (*e.g.*, televisions, computers, tablets, and smartphones), pricing, and revenue sources? What competitive

(Continued from previous page)
Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, MB Docket No. 11-154, Report and Order, 27 FCC Rcd 787 (2012).

[87] *But see* note 8 (defining an OVD).

[88] *See 15th Report*, 28 FCC Rcd at 10647-47, ¶ 308.

[89] Netflix has a number of agreements to acquire content rights. *See, e.g.,* Netflix, *Netflix and The Weinstein Company Announce Multi-Year Premium Pay TV Window Agreement in the United States* (press release), Aug. 20, 2013; *Disney's Marvel and Netflix Join Forces To Develop Historic Four Series Epic Plus A Miniseries Event Based on Renowned Marvel Characters* (press release), Nov. 7, 2013.

[90] *15th Report*, 28 FCC Rcd at 10625-626, ¶¶ 264-267 (describing the entry of Aereo, which packages broadcast signals for online viewing, Barnes & Noble's new tablet for viewing OVD, and other companies' plans to offer cable networks on an a la carte basis). Several broadcast television station owners and content creators have, so far unsuccessfully, sought an injunction barring Aereo from transmitting broadcast television programs to its subscribers while programs are airing on broadcast television. These petitioners have asked the Supreme Court to consider the matter, and on January 10, 2014, the Supreme Court granted petitioners' request. *See Am. Broad. Cos., Inc. v. Aereo, Inc.*, No. 13-461 (U.S. Jan. 10, 2014) (granting petition for a writ of certiorari). *See also Am. Broad. Cos. v. Aereo, Inc.*, 874 F. Supp. 2d 373 (S.D.N.Y. 2012), *aff'd sub nom. WNET v. Aereo, Inc.*, 712 F.3d 676 (2d Cir. 2013), *petition for cert. filed sub nom. Am. Broad. Cos., Inc. v. Aereo, Inc.*, No. 13-461 (U.S. Oct. 11, 2013). Aereo also is facing court challenges in other jurisdictions. *See, e.g.*, Joan E. Solsman, *Broadcasters Petition Supreme Court in Aereo Fight*, CNet.com, Oct. 11, 2013, at http://news.cnet.com/8301-1023_3-57607145-93/broadcasters-petition-supreme-court-in-aereo-fight/ (visited Nov. 21, 2013).

strategies do OVDs use to differentiate their services and attract consumers? How do OVDs differentiate their services based on program offerings, such as providing a mix of original and previously viewed programming or relying primarily or exclusively on previously viewed programming? Do the business models of OVDs that rely primarily on subscription revenue differ from the business models of OVDs that rely primarily on advertising revenue? In what significant ways do the business models and competitive strategies of OVDs that are vertically integrated with video content producers/owners (*e.g.*, Hulu) differ from the business models of OVDs that are much less vertically integrated (*e.g.*, Netflix)? In what ways do the business models and competitive strategies of OVDs that specialize in the delivery of sports programming (*e.g.*, MLB.TV, MLS Live) differ from those that do not specialize in sports? Which business models and competitive strategies are most successful? How do the business models and competitive strategies of OVDs affect MVPDs and broadcast stations?

55. We place entities that deliver video programming into three groups, in part, because entities within a group tend to list other entities in the same group as their foremost competitors when marketing delivered video programming, and when describing their business models to shareholders.[91] Is this generally true for OVDs as well? Do OVDs compete primarily against other OVDs or do they compete against MVPDs and broadcast stations as well? What incentives do OVDs have to attract consumers away from MVPD services and broadcast stations? Do OVDs encourage consumers to switch away from MVPD service to OVD service, or are OVDs viewed as a supplement to MVPD and broadcast service? Do OVDs increase the viewing of the programming transmitted by MVPDs and broadcast station by allowing consumers to catch up on past episodes of programs? How do these factors affect OVDs business models and competitive strategies? What characteristics should we consider in the 16th Report to determine whether we should discuss OVDs and MVPDs in separate groups or combine them into the same group?

56. We also request information regarding OVD investments and innovations. What types of investments are OVDs making (*e.g.*, original programming) to strengthen their competitive position in the market for the delivery of video programming? What innovative services or technologies are OVDs deploying? In addition, we invite comment and the submission of data and information on other issues that will assist our understanding of the business models and competitive strategies of OVDs.

3. Selected OVD Operating and Financial Statistics

57. In the *15th Report*, we provided the following OVD operating and financial statistics: audiences, number of subscribers, revenue, profitability, and investment.[92] Are these the appropriate statistics? What other types of statistics would be useful for us to compile, consider, and publish? What are the best sources of data for operating and financial statistics for OVDs as a group, as well as for individual OVDs?

58. 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. What, if any, trends can be identified in OVD audiences? We seek data on OVD revenue from subscriptions, advertising, and fees for video rentals and sales. Are there other important sources of OVD revenue? We seek data on relevant measures of OVD profitability. Are vertically integrated OVDs more profitable than non-vertically integrated OVDs? In addition, we invite comment and the submission of data and information on other OVD statistics that will assist our understanding competition in the market for the delivery of video programming.

[91] *See supra* ¶ 4.

[92] *15th Report*, 28 FCC Rcd at 10639-48, ¶¶ 292-309.

III. RURAL VERSUS URBAN COMPARISON

59. Section 628(a) of the Communications Act sets as a goal increasing the availability of video programming to persons in rural and underserved areas.[93] As in previous reports, we plan to compare competition in the market for the delivery of video in rural markets with that in urban markets.[94] Although the Communications Act does not include a definition of what constitutes a rural area, the Commission, in previous video competition reports, defined the term "rural" as a county with a population density of 100 persons or fewer per square mile.[95]

60. We seek data and comment on the competitive alternatives facing consumers in the market for the delivery of video programming in rural areas relative to those facing consumers in urban areas. Does the rural/urban distinction discussed in past reports remain relevant for the 16th Report? Are there major differences between the video services available in rural areas, relative to those available in urban areas? We recognize that most consumers in both rural and urban areas have access to DBS MVPDs. What percentage of consumers in rural areas lack access to a cable MVPD? How does this percentage compare to the availability of cable MVPDs in urban areas? How does access to broadcast television stations differ between rural and urban areas? Do consumers in rural areas rely more on over-the-air broadcast signals than urban consumers? Does access to high-speed Internet service needed to obtain OVD services differ between rural and urban areas?

61. We also request data and comment regarding the differences in the prices consumers pay for delivered video services in rural areas relative to urban areas. Do consumers in rural areas pay more than consumers in urban areas for similar MVPD video services?[96] Are there significant differences in the costs paid for key industry inputs in rural areas, relative to the costs paid for similar inputs in urban areas? Do rural MVPDs pay higher programming costs and retransmission consent fees?

IV. KEY INDUSTRY INPUTS

A. Video Content Creators and Aggregators

62. Creators of video programming are major production studios and independent production companies. Video content aggregators are entities that combine video content into packages of video programming for distribution. Video content aggregators include broadcast networks (*e.g.*, ABC), cable networks (*e.g.*, ABC Family), and broadcast stations (*e.g.*, WJLA-TV, Washington, DC). Many of the large entertainment conglomerates include subsidiaries that are both video content creators and aggregators.[97] As an initial matter, we seek comment on the value of continuing to discuss content aggregators and/or content creators in the 16th Report. Specifically, to what extent is such information duplicative of other information presented in this report? To the extent that this information continues to be relevant, we request information regarding the number and size of content creators and aggregators. We seek information concerning the relationships between content creators and aggregators (especially news, public interest, and sports) and MVPDs, broadcast stations, and OVDs. Do content creators and

[93] 47 U.S.C. § 548(a), (g).

[94] *See, e.g.*, *15th Report*, 28 FCC Rcd at 10652-55, ¶¶ 320-28.

[95] *See, e.g.*, *15th Report*, 28 FCC Rcd at 10652, ¶ 321.

[96] The Cable Price Survey Report provides information about national cable rates, but does not provide a comparison of rates in urban versus rural areas. *See Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Statistical Report on Average Rates for Basic Service, Cable Programming Service, and Equipment*, MM Docket No. 92-266, Report on Cable Industry Prices, 28 FCC Rcd 9857 (MB 2013).

[97] For example, Disney and its affiliated companies include movie and television production studios, as well as the ABC television network and several cable networks, including ESPN and ABC Family. The Walt Disney Company, *Corporate Information: Company Overview*, http://corporate.disney.go.com/corporate/overview.html (visited Sept. 9, 2013).

aggregators use different competitive strategies when dealing with MVPDs, broadcast stations, and OVDs? Is this a result of regulatory or market conditions? What factors influence OVDs' competitive and business strategies? We seek information on trends in vertical integration among studios and networks and any effects this has on MVPDs, broadcast television stations, and OVDs.

63. In recent years, some content owners have altered the timing of release of specific video content through the various delivery windows ("windowing"),[98] and the prices charged for content in each window. How have these windows changed in recent years? What effects have these changes had on competition in the market for the delivery of video programming? Do the creators of sports programming have different competitive strategies, relative to other video content creators? Have there been significant changes in the bargaining power between content owners and MVPDs, broadcast stations, and OVDs?

B. Consumer Premises Equipment

64. Consumer premises equipment ("CPE") refers to devices that enable consumers to watch video content delivered by MVPDs, broadcast stations, and OVDs. CPE 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, Roku, and DVD and Blu-Ray players), gateways (*i.e.*, modems and wireless routers), and antennas. We seek comment on the value of including a discussion of CPE in the 16th Report. Does a discussion of CPE contribute to an understanding of the status of competition in the market for the delivery of video programming? We seek comment on the major developments in CPE devices that affect competition in the market for the delivery of video programming. To what extent is IP connectivity being incorporated into CPE devices?

65. Although many CPE devices can be purchased at retail stores, a few CPE devices (*e.g.*, some MVPD set-top boxes) must be leased from the entity offering delivered video programming. We seek comment on the market conditions and any regulatory conditions that motivate leasing of some CPE devices. We also request comment on the potential impact of cable MVPDs' announced plans to allow consumers to replace set-top boxes with multi-purpose retail devices such as Roku or Xbox.[99] When consumers switch MVPD providers, some CPE devices may work with the new provider, while others may not. For example, a television may work, but a set-top box and gateway may not work. We seek comment on the market conditions and any regulatory conditions that explain the lack of interoperability among CPE devices. To what extent does leasing of some CPE devices and the lack of interoperability of some CPE devices affect competition in the market for the delivery of video programming?

66. In the *15th Report*, we discussed the development of CableCARDs, which are intended to reduce consumer dependence on MVPD-leased set-top boxes.[100] We also noted that, on January 15, 2013, the D.C. Circuit vacated the Order adopting the CableCARD standard, but not the Order that required cable operators to separate security and base that separate security on a commonly used interface or technical standard.[101] What effect, if any, has the D.C. Circuit's decision had on the deployment and support for CableCARDs? We note that this past fall, two new lines of retail CableCARD products have

[98] In addition to distributing movies in theaters, producers sell rights to distribute them on DVDs, on demand, pay television services (*e.g.*, HBO and Showtime), broadcast networks, and cable television networks. Likewise, television production companies have traditionally adhered to prescribed time gaps between the initial broadcast and cable distribution of a program series, DVDs, and syndication.

[99] *See* Joan E. Solsman, *Time Warner Cable Will Let You Junk Your Set-Top Box Next Year*, CNet News, Sept. 11, 2013, http://news.cnet.com/8301-1023_3-57602532-93/time-warner-cable-will-let-you-junk-your-set-top-box-next-year/ (visited Oct. 22, 2013).

[100] *15th Report*, 28 FCC Rcd at 10674-77, ¶¶ 360-65.

[101] *EchoStar Satellite, LLC v. FCC*, 704 F.3d 992 (D.C. Cir. 2013).

been released to the market.[102] What impact is the integration ban currently having on the cost and deployment of CPE devices? We seek information and comment regarding the market for retail set-top boxes.

67. We understand that there are certain things MVPDs, broadcasters, and OVDs must coordinate with electronics manufacturers (*e.g.*, DRM,[103] codecs,[104] and connectors[105]) in order to deliver video programming to consumers. How do these coordinating activities impact competition in the market for the delivery of video programming? Are these coordinating activities typically performed in multi-stakeholder forums or as bilateral arrangements?

V. CONSUMER BEHAVIOR

68. We seek information regarding trends in consumer behavior and their impact on the products and services entities offer in the market for the delivery of video programming. We request data on the number or percentage of households that have HD televisions, Internet-connected televisions, and/or DVRs. We also seek data on trends that compare consumer viewing of linear video programming with time-shifted programming. To what extent are consumers dropping ("cord cutting") or limiting ("cord shaving") MVPD service 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 service as a potential substitute for some or all MVPD video 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? We recognize that most consumers of OVD services also subscribe to MVPD services. Do these consumers view OVD services as a supplement to MVPD services or as a substitute for some or all MVPD services? We seek comment on the relationship between consumer behavior (*e.g.*, the practice of watching multiple episodes of a television show in one sitting, sometimes referred to as "binge viewing") and the business models and competitive strategies of entities in the market for the delivery of video programming.

69. Entities in the market for the delivery of video programming advertise using television, newspapers, mailings, and websites to reach potential consumers and provide information about services and prices. Do consumers have sufficient information to easily compare service 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 MVPDs or switching from MVPD service to reliance on broadcast stations and/or OVDs (*e.g.*, programming, price, customer service)?

VI. ADDITIONAL ISSUES

70. With this NOI, we seek data, information, and comment on a wide range of issues in order to report on the status of competition in the market for the delivery of video programming. To make the 16th Report as useful as possible, are there other issues, additional information, or data we

[102] Samsung is making available a low-cost CableCARD-based retail video device. Jeff Baumgartner, *Samsung Scores FCC Waiver For Retail-Focused CableCARD Device*, MULTICHANNEL NEWS, Sept. 9, 2013, http://www.multichannel.com/distribution/samsung-scores-fcc-waiver-retail-focused-cablecard-device/145341 (visited Nov. 14, 2013). TiVo released a line of DVRs, which feature the ability to stream MVPD programming inside and outside of a subscriber's home. *See* https://www.tivo.com/shop/roamio.

[103] Digital Rights Management ("DRM") systems encrypt content with software before delivering it down to an authorized consumer's device for descrambling.

[104] Codec is short for coder-decoder or compressor-decompressor. Codecs are software that take digital media data and either compress them (for transport and storage) or decompress them (for viewing or transcoding).

[105] Connectors are the part of a cable that plugs into a port or interface to link networks or devices together. Connectors attach to set top boxes, televisions, computers, etc.

should include in the report on competition in the market for the delivery of video programming? 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 report for evaluating the status state of competition in the market for the delivery of video programming.

VII. PROCEDURAL MATTERS

71. *Authority*. This *Notice* is issued pursuant to authority contained in Sections 4(i), 4(j), 403, and 628(g) of the Communications Act of 1934, as amended, 47 U.S.C §§ 154(i), 154(j), 403, and 548(g).

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

73. *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 Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). All filings concerning matters referenced in this Public Notice should refer to MB Docket No. 12-203.

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

75. 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.

76. *Accessibility Information*. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

77. For further information about this Notice of Inquiry, please contact Dan Bring at (202) 418-2164, danny.bring@fcc.gov, or Marcia Glauberman at (202) 418-7046, marcia.glauberman@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary