

nutrient enrichment on freshwater, marine, and estuarine ecosystems.

Request for Nominations

To augment expertise on the SAB EPEC for review of EPA's nutrient criteria guidance, the SAB Staff Office is seeking nominations of nationally and internationally recognized scientists in fields such as ecology, biology, environmental science, risk assessment, statistics, and zoology. We particularly seek scientists with specialized knowledge and expertise in the use of empirically-derived stressor-response relationships as the basis for developing nutrient assessment endpoints and criteria for the protection of aquatic life.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate individuals qualified in the area of science as described above to be considered for appointment to augment this SAB Committee. Candidates may also nominate themselves. Nominations should be submitted in electronic format (which is preferred over hard copy) following the instructions for "Nominating Experts to Advisory Panels and Ad Hoc Committees Being Formed" provided on the SAB Web site. The form can be accessed through the "Nomination of Experts" link on the blue navigational bar on the SAB Web site at <http://www.epa.gov/sab>. To receive full consideration, nominations should include all of the information requested, and should be submitted in time to arrive no later than May 18, 2009.

EPA's SAB Staff Office requests contact information about: the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vitae; sources of recent grant and/or contract support; and a biographical sketch of the nominee indicating current position, educational background, research activities, and recent service on other national advisory committees or national professional organizations.

Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact Dr. Thomas Armitage, DFO, at the contact information provided above in this notice. Non-electronic submissions must follow the same format and contain the same information as the electronic.

The SAB Staff Office will acknowledge receipt of the nomination and inform nominees of the Committee for which they have been nominated.

From the nominees identified by respondents to this **Federal Register** notice (termed the "Widecast") and other sources, the SAB Staff Office will develop a smaller subset (known as the "Short List") for more detailed consideration. The Short List will be posted on the SAB Web site at <http://www.epa.gov/sab> and will include, for each candidate, the nominee's name and biosketch. Public comments on the Short List will be accepted for 21 calendar days. During this comment period, the public will be requested to provide information, analysis, or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates for the Committee.

For the SAB, a balanced Committee is characterized by inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation) and the collective breadth of experience to adequately address the charge. Public responses to the Short List candidates will be considered in the selection of the Committee, along with information provided by candidates and information gathered by SAB Staff independently concerning the background of each candidate (e.g., financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluation of an individual Committee member include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) absence of financial conflicts of interest; (c) scientific credibility and impartiality; (d) availability and willingness to serve; and (e) ability to work constructively and effectively in committees.

Prospective candidates will be required to fill out the "Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency" (EPA Form 3110-48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. Ethics information, including EPA Form 3110-48, is available on the SAB Web site at <http://yosemite.epa.gov/sab/sabproduct.nsf/Web/ethics?OpenDocument>.

Dated: April 20, 2009.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

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FEDERAL COMMUNICATIONS COMMISSION

[MB Docket 07-269; FCC 09-32]

Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission is required to report annually to Congress on the status of competition in markets for the delivery of video programming. On January 16, 2009, the Commission released a *Notice of Inquiry* requesting data as of June 30, 2007. This document is a *Supplemental Notice of Inquiry* that solicits additional information from the public to ensure that the next report to Congress includes information as of June 30, 2008, and June 30, 2009. The Commission intends to bring its reporting up to date and submit a single report to Congress covering 2007, 2008, and 2009. We will use comments and data submitted by parties in conjunction with publicly available information and filings submitted in relevant Commission proceedings.

DATES: Interested parties may file comments for data through June 30, 2008, on or before May 20, 2009, and reply comments on or before June 20, 2009. Comments for data through June 30, 2009 information are due on or before July 29, 2009, and reply comments are due on or before August 28, 2009.

ADDRESSES: You may submit comments, identified by MB 07-269, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional

information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Dana Scherer, Media Bureau, (202) 418-2127, or by e-mail at Dana.Scherer@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Supplemental Notice of Inquiry* ("Supplemental Notice") in MB Docket No. 07-269, FCC 09-32, adopted on April 8, 2009, and released on April 9, 2009. The complete text of this *Supplemental Notice* is available for inspection and copying during regular business hours in the FCC's Reference Information Center, Room CY-A257, Portals II, 445 Twelfth Street, SW., Washington, DC 20554. The complete text is also available on the Commission's Internet Site at <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365. The complete text of the *Supplemental Notice* may also be purchased from the Commission's duplicating contractor, Best Company and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or by e-mail fcc@bcpiweb.com, or via its Web site <http://www.bcpiweb.com>.

Synopsis of Supplemental Notice of Inquiry

1. Section 628(g) of the Communications Act of 1934, as amended, directs the Commission to report to Congress annually on the status of competition in the market for the delivery of video programming. See Public Law 102-385, 106 Stat 1460 (1992). The *Supplemental Notice of Inquiry* ("Supplemental Notice") solicits additional data, comment, and analysis for the Commission's 14th annual report to Congress. On January 16, 2009, the Commission released a *Notice of Inquiry* ("Notice") seeking information, comments, and analyses that will allow us to evaluate the status of competition in the video marketplace, changes in the marketplace, prospects for new entrants, factors that have facilitated or impeded competition, and the effect these factors are having on consumers' access to video programming. See 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 (2009), 74 FR 6875 (Feb. 11, 2009) ("Notice"). The *Notice* requested data as of June 30, 2007. By this *Supplemental Notice*, we request additional

information to ensure that the 14th Annual Report includes information as of June 30, 2008, and June 30, 2009.

2. We seek updated information and comment on the questions and issues raised in the *Notice*. Where possible, we request data as of June 30, 2008, and June 30, 2009. Commenters should provide all of the information called for by the *Notice*, as well as the additional information described in the *Supplemental Notice*. As detailed in the *Notice*, we ask commenters to provide data on video programming distributors, including: (1) Cable systems; (2) direct-to-home satellite services, including direct broadcast satellite ("DBS") services and large home satellite dish ("C-Band") providers; (3) other wireline providers, including local exchange carriers ("LECs"), broadband service providers ("BSPs"), open video systems ("OVS"), and utility-operated systems; (4) over-the-air broadcast television stations; (5) other wireless service providers, including commercial mobile radio services ("CMRS") as well as wireless cable systems using frequencies in the broadband radio and educational broadband services; (6) private cable operators ("PCO" systems), also known as satellite master antenna television ("SMATV") systems; and (7) the Internet and Internet Protocol ("IP") networks.

Competition in the Market for the Delivery of Video Programming

Head to Head Competition

3. We seek data and comment regarding consumers' choices for access to video programming and how these choices have changed since June 30, 2007. Consumers generally have access to over-the-air broadcast television, a cable system, and at least two DBS providers. In some areas, consumers have access to video services provided by a second cable system, often operated by a company considered a LEC or BSP. In addition, some consumers have access to multichannel video programming through an emerging technology, such as digital broadcast spectrum and video over the Internet. What changes have occurred since June 30, 2007, with respect to the number and types of video delivery services available to consumers? To continue to report on market trends, we seek data on the number of subscribers and market share for each multichannel video programming distributor ("MVPD"), as of June 30, 2008, and June 30, 2009.

4. Since 2007, there have been a number of changes in the market for the delivery of video programming to consumers, including the expansion of

the areas where Verizon and AT&T compete with incumbent cable operators and an increase in the amount of video programming distributed over the Internet. Thus, we seek data and comment that will enable us to evaluate changes in competition in the video distribution marketplace on an annual basis since June 30, 2007. In particular, we request comment on incumbent MVPDs' responses to the entry of competitive alternatives for the delivery of video programming. Are incumbent MVPDs modifying their programming services or pricing policies in response to the entry of competing video providers? What changes have occurred with respect to program offerings and the pricing of contracts, including introductory discounts and cancellation penalties, as a result of competition among MVPDs? How does customer service impact the competitive dynamics among MVPDs? Is customer service a factor in subscribers' choices among MVPDs? What other factors affect consumers' decisions to subscribe to one MVPD rather than another?

Impact of Regulatory Environment and Barriers to Entry

5. We seek comment on the effect of recent Commission regulatory actions and their effect on competition. We also seek comment on Commission actions that have taken place since the *Notice* was adopted. To what extent have these actions affected competitive entry into the video marketplace? We note that a number of states have continued to enact franchising reform laws since the adoption of the *Notice*. How have these state laws facilitated or otherwise changed the prospects for new entrants into the field? We request information regarding the impact of new franchising requirements.

Impact of Economic Environment on Video Programming Services

6. *Access to Capital and Investment:* We seek comment on the impact of the current economic environment and its effect on access to capital on the market for the delivery of video programming. How have the economy, lending environment, and debt structures of media companies affected broadcasters' and MVPDs' ability to invest in new technologies and programming services? What effect does the current economic climate have on broadcasters' operations, especially their ability to provide local programming? Has the nationwide lack of access to financial resources slowed down MVPDs' capital investment and deployment of programming and/or services, including local programming? What impact will

financial difficulties have on MVPDs', broadcasters', and programmers' short-term and long-term economic and strategic decisions?

7. In previous reports, we have observed that cable operators, in particular, have invested significant capital upgrading their systems and adding new video and non-video services. Are cable operators and other MVPDs continuing to invest in system upgrades and service improvements? What effect has the recent economic climate had on cable operators' and other MVPDs' investments or plans to provide additional video and non-video services to their customers?

8. *Access to Revenues and Investment:* Broadcast stations and networks, non-broadcast networks, MVPDs, and Internet sites all derive revenue by selling time or space to advertisers, but some are more dependent on advertising revenue than others. We seek comment on whether shifts in advertising shares among media represent permanent, structural changes within the video distribution industries or temporary changes due to the cyclical nature of advertising and challenging economic conditions. How do the shifts impact program distributors' ability to invest in programming and new technology?

Digital Television

9. Since June 30, 2007, broadcasters have been transitioning from analog to digital broadcasting formats. In addition, MVPDs have increased the number of broadcast stations they carry in standard definition ("SD") and high-definition ("HD") formats as well as the number of non-broadcast networks they carry in HD. The DTV Delay Act, enacted on February 11, 2009, extended the date for the nationwide digital television ("DTV") transition from February 17, 2009, to June 12, 2009. *See* DTV Delay Act, Pub. L. 111-4, 123 Stat. 112 (2009) (to be codified at 47 U.S.C. 309 (j)(14) and 337(e)). We seek comment on the impact of the digital television transition on consumers, broadcast stations, and MVPDs. What has been the competitive impact on stations that have already ceased analog broadcasting? To what extent has the digital transition affected the number of households that subscribe to MVPDs?

10. How has the availability of national and local programming in HD formats affected the competitive dynamics between DBS, cable operators, LECs, and other MVPDs? How do MVPDs package and price HDTV programming? How many HDTV sets are sold each year and what percentage of TV set sales do they represent? What

percentage of set sales has built-in ATSC tuners and what percentage is pure monitors? Does the availability of HDTV programming drive sales of sets, or vice-versa?

11. How many television stations broadcast in HD, and what percentage of the programming day is offered in HD? Of those, how many are carried by MVPDs? Are network affiliates more likely to be carried in HD than unaffiliated stations? With respect to DBS operators, what percent of the broadcast stations carried in HD in a given market are carried pursuant to satellite "must carry" (carry-one, carry-all)? In what markets do MVPDs carry all stations in HD and not just those with major network affiliations? Does the availability of HDTV programming affect retransmission consent negotiations? We seek data and information on the non-broadcast networks and broadcast stations that cable operators offer in high-definition. What effect does the carriage of HD programming have on the bandwidth capacity of MVPDs? Are there differences among MVPDs in the quality of HD programming delivered to consumers? If so, have these differences had an effect on competition? Is the quality of HD programming an important competitive factor? How much capacity do MVPDs devote to HDTV programming, either as video-on-demand ("VOD") or as linear channels? We seek information about the extent to which broadcast stations offer multicast streams of digital programming, the programming broadcasters carry on the multicast channels, and whether MVPDs carry these channels.

Programming Issues

12. We seek updated data and information about the programming issues discussed in the *Notice*, including additional information about regional sports networks ("RSNs"). To continue to report on trends in vertical integration, we request information on the number and ownership of non-broadcast networks by cable operators, other MVPDs, and broadcasters as of June 2008 and June 2009. How does consolidation in the MVPD and broadcast markets impact the delivery of video programming? We also solicit comment on the ability of MVPDs to acquire specific programming services and the extent to which programming networks are able to obtain carriage by MVPDs. Has the entry of LECs, such as Verizon and AT&T, and other overbuilders in certain geographic markets affected the ability of programming networks to gain and/or retain carriage on other MVPDs?

Advanced Services: Bundling, HSD, Voice, Telephony, VOD, DVRs, and IPGs

13. In the *Notice*, we sought information on advanced service offerings by MVPDs. We seek updated information on the impact of the bundling of video services with voice and high-speed data services on competition in the market for the delivery of video programming services to consumers. In addition, we seek comment on developments since June 30, 2007, regarding video-on-demand ("VOD") services, digital video recorders ("DVRs") and services, and the role of interactive program guides ("IPGs").

14. *Bundling, High-Speed Data, and Voice Services:* We seek comment on the extent to which MVPDs are bundling voice and data services with video services in double, triple, or quadruple play packages and on the impact of such offerings on competition. We seek information about the types of services that MVPDs intend to offer using the 700 Megahertz frequency band.

15. *Impact of Video Services on Broadband Deployment:* We seek information on the extent to which the availability of video over the Internet—through services that require high bandwidth, such as YouTube, iTunes, and Amazon.com—has stimulated consumer demand for MVPDs' deployment of ultra-high-speed broadband service, and vice-versa. Do MVPDs expect to offer tiered high-speed data services (e.g., low-priced, slower speed versus higher-priced, faster speed service)? If so, how would such tiering impact consumers' access to video programming?

16. *Video-on-Demand:* We seek updated information on the use of VOD for video programming distribution. Are programmers using VOD in lieu of multiplexing their programming networks? If so, has VOD freed up capacity for new networks, or do MVPDs need higher capacity for VOD? How much VOD programming is locally originated or concerns local subject matter? Has the shift in movie release windows affected the viability of VOD programming?

17. *Digital Video Recorders:* What percentage of and types of programming do viewers watch live versus on a time-shifted basis via a DVR? How has time shifting affected the ability of programmers to generate advertising revenue? How have new audience measurement metrics impacted the ability of programming networks to serve niche audiences? How do trends

in DVR capabilities impact competition among MVPDs? Have services unaffiliated with MVPDs such as TiVo experienced difficulty with obtaining licensing agreements?

18. *Interactive Program Guides*: As interactive television has developed, the functionality of electronic programming guides ("EPGs") has evolved and they are now more commonly known as interactive program guides ("IPGs"). What role do IPGs play in consumers' viewing choices? How does the demise of TV program listings in newspapers impact the role of IPGs? Are IPGs now the primary source for viewers to obtain program listings? If so, how does this impact the market for the delivery of video programming?

Technical Issues

19. In the *Notice*, we sought information on developments as of June 30, 2007, covering technologies and technical standards developed by CableLabs, including middleware such as the Open Cable Application Platform ("OCAP"), CableCARDS, and PacketCable. We also sought comment on the status of navigation devices and the impact of the Commission integration ban separating security from non-security functions in system access devices. In addition, we requested information about advances in digital broadcasting, home networking, and content mobility developments as well as the impact of digital rights management on the deployment of new technologies. We seek similar information on the status of these technical issues as of June 2008 and June 2009, including analysis of the following developments.

Set-Top Boxes and Technology

20. *Technical Standards for MVPDs' Set-Top Boxes*: In 2004, CableLabs initiated Enhanced Television ("ETV") and the Enhanced Television Binary Interchange Format ("EBIF") to allow set-top boxes already installed in subscribers' households (*i.e.*, "legacy boxes") to receive interactive software and programming. In 2001, CableLabs introduced OCAP to make it easier to introduce new devices and to speed the availability of interactive applications to MVPDs' systems. In January 2008, the cable industry adopted the name "tru2way" to brand and market OCAP products. EBIF and tru2way are complementary middleware standards to promote interactive television on cable set-top boxes. We seek updated information on the availability of tru2way-compliant and EBIF-compliant devices, the merits and drawbacks of each standard, the number of such

devices in use by subscribers, and the types of services enabled by each middleware standard.

21. We also seek comment on the strategic implications of the availability of these enhanced services on the state of competition in the market for delivery of video programming. How will the ability to offer enhanced advertising and other interactive services impact MVPDs' ability to compete with each other and with broadcast television stations for audiences and advertising revenue? How does the availability of highly-targeted advertising affect MVPDs' and programmers' ability to offer local and niche programming for traditionally unserved and underserved audiences?

22. *CableCARDS*: In 2003, the Commission adopted rules that allow television sets to be built with "plug-and-play" functionality for one-way digital services. The adopted interface for the separation of the security elements is commonly referred to as a "CableCARD." Since our last report, cable operators have developed a multi-stream CableCARD (*i.e.*, CableCARDS that deliver more than one channel to subscribers at a time) and are in the process of testing retail two-way devices equipped with CableCARDS in certain trial markets. We request information on the status of these trials and the merits of multi-stream versus single-stream CableCARDS.

Competition Among Navigational Devices

23. *Technical Standards for Consumer Electronics*: CableLabs has established a private negotiation process by which individual consumer electronics manufacturers may develop two-way plug-and-play electronic devices, including HDTV sets, digital video recorders, mobile phones, and personal computers that are compatible with cable operators' technology through tru2way. We request updated information regarding applications using tru2way.

24. Since June 2007, several consumer electronics manufacturers have signed memorandums of understanding with CableLabs to implement OCAP. Has CableLabs's certification process for consumer electronic devices affected the deployment of two-way, multi-stream CableCARD devices? How do applications in electronic devices, including television sets, personal computers, digital video recorders, and mobile phones, compare with those leased by MVPDs to subscribers? How many electronic devices currently have multi-stream CableCARDS and tru2way middleware?

25. *Non-CableCARD Separated Security*: To promote a competitive market for set-top boxes, the Commission in 1998 required MVPDs to separate security in their leased devices and rely on the same conditional access mechanism that consumer electronics manufacturers use (frequently referred to as "common reliance"). In January 2007, the Commission reiterated that alternatives to CableCARDS that rely upon a commonly-used interface comply with the rule requiring separation of security elements from other elements of a set-top box. The Alliance for Telecommunications and Industry Solutions, CableLabs, Beyond Broadband Technology, and Widevine Technologies are working to develop downloadable solutions for separable security. We seek comment on these and any other downloadable security solutions. Are entities that are developing these downloadable solutions working with device manufacturers to ensure compatibility with retail devices? Are they working with one another to ensure that retail devices will allow for national portability as well as MVPD-to-MVPD portability?

Other Technical Issues

26. *Home Networking and Content Mobility*: Home networking allows consumers to connect multiple devices in the home (*e.g.*, set-top boxes, television sets, personal computers, and video game consoles). We seek updated information on the extent to which MVPDs are utilizing or supporting home networking technologies, such as those proposed by the High-Definition Audio-Video Network Alliance ("HANA") or the Digital Living Network Alliance ("DLNA").

27. *Content Protection and Digital Rights Management*: Digital content protection technology seeks to prevent the unauthorized copying and redistribution of digital media. We request an update on what content protection technologies are available or being developed to protect digital media. How have copyright and digital rights laws, regulations, or the lack thereof impacted the competitiveness of MVPDs and their access to programming?

Cable Systems

28. *Migration from Analog to Digital Tiers*: We request updated information on MVPDs, including changes in the manner in which video and non-video services are being packaged and priced. One recent trend is the migration of cable programming from analog tiers to digital tiers, or the elimination of analog

service in favor of all-digital systems. What percentage of cable subscribers subscribe to analog versus digital packages? What types of programming have been moved from analog tiers to digital tiers? How many cable operators have converted their systems to all-digital, and what percentage of each operator's systems do they represent? Does one system's decision to go all-digital drive competing systems in the same market to follow suit? What are the costs and benefits of digital migration to subscribers? When a system goes all digital, are basic tier subscribers required to lease or purchase set-top boxes? How does migration to an all-digital system affect the price of basic cable service? What effect does the offering of advanced services, such as DVR, IPG, and VOD, have on cable operators' decisions regarding increasing the movement of programming from analog to digital tiers or going all-digital?

29. *Switched Digital Video:* Traditionally, cable operators have delivered all programming feeds at the same time to all subscribers. Switched digital video is a method of delivering programming to subscribers only when those subscribers actively request that programming. What is the role of switched digital video in cable operators' operating strategies? How has the deployment of switched digital video impacted MVPDs' capacity and offering of programming services? To what extent has the deployment of switched digital video been successful? What efficiencies have cable operators realized through the deployment of switched digital and what challenges do they face? How does the deployment of switched digital video affect cable operators' distribution of programming networks? What are the costs and benefits of switched digital video to consumers?

30. *Carriage of Broadcast Stations in Standard and High Definition Digital Formats:* In September 2007, the Commission adopted a *Third Report and Order* and *Third Further Notice of Proposed Rulemaking* requiring cable operators to either (1) deliver must-carry stations' broadcast digital signals in digital format to all digital cable subscribers and convert the signals to analog format at their headends for all subscribers or (2) for all-digital systems, deliver the must-carry stations' broadcast signals in digital format to all subscribers in the systems. See *Carriage of Digital Broadcast Signals: Amendment to Part 76 of the Commission Rules*, CS Docket No. 98–120, Third Report and Order and Third Further Notice of Proposed Rulemaking,

FCC Rcd 21064 (2007). Small cable systems with 552 MHz or less bandwidth that lack the capacity to carry the additional digital must-carry stations may request a waiver of the carriage requirement. We seek comment on the extent to which systems down-convert DTV signals to analog to make them available to subscribers without the need for a set-top box. In September 2008, the Commission released a *Fourth Report and Order*, which, in part, exempts certain cable systems from the material degradation requirement to carry broadcast signals in HD format. See *Carriage of Digital Broadcast Signals: Amendment to Part 76 of the Commission Rules*, CS Docket No. 98–120, Fourth Report and Order, 23 FCC Rcd 13618 (2008). The systems must either 1) have 2,500 or fewer subscribers and be unaffiliated with a large cable operator, or 2) have an activated channel capacity of 552 MHz or less. How many systems with 552 MHz or less carry HDTV networks or stations? Is the lack of HD programming a competitive disadvantage?

Direct-To-Home Satellite Services

31. Direct-to-home satellite services include DBS and C-band. In addition to information requested in the *Notice*, we are interested in how the digital transition has affected competition between DBS and cable operators in markets where DBS does not offer local-into-local broadcast television service. How has the availability or lack of local-into-local service impacted consumers' readiness for the digital television transition? Do households drop DBS subscriptions in order to receive DTV programming from another MVPD? We also request information regarding how broadcast stations deliver their signals to DBS operators, e.g., over-the-air reception or alternative feeds, and we seek comment on the extent to which multiple DBS operators share local reception facilities. The number of subscribers to C-band video service has been declining in recent years. Does this trend continue? If so, is C-band still a viable option for multichannel video programming service?

Other Wireline Service Providers

32. The *Notice* solicited comments regarding other wireline video programming distributors, including local exchange carriers, broadband service providers, open video system operators, and electric and gas utilities. We seek information on these MVPD services for 2008 and 2009 as well as the following additional information.

33. *Local Exchange Carriers:* In the *13th Annual Report*, we observed that

LECs, most notably Verizon and AT&T, have expanded the areas where they provide facilities-based video services. What factors determine whether these companies or other LECs enter the video marketplace? Have the Commission's revised franchising rules or state franchising laws had an impact on LEC video services? In addition, several LECs offer video services through marketing agreements with DBS operators. We request updated information regarding these agreements as well as the bundles of services that LECs offer in competition with cable operators. Do LECs compete on price? If not, why not? Do they offer differentiated tiers? How does the amount of HD, VOD, and other programming offered by LECs compare with similar offerings from other MVPDs? Do LECs provide local programming? Do they offer any programming comparable to public, educational, and government access ("PEG") programming? How does the quality of LECs' customer service compare with that of other MVPDs? What percentage of new LEC customers come from other MVPDs versus households relying exclusively on over-the-air reception? We seek comments on what, if any, unique competitive advantages LECs have in comparison with other MVPDs.

Broadcast Television Service

34. *Over-the-Air-Only Households:* Consumers who do not subscribe to an MVPD service typically rely on over-the-air ("OTA") reception of local broadcast television signals. MVPD subscribers may rely on OTA reception on some of their television sets. How many television households rely exclusively on OTA reception, and how many MVPD subscribers rely on OTA reception for at least one television set? Of those television sets, how many are analog, digital-ready, or connected to a digital converter box? Some MVPDs are offering introductory discounts to attract new subscribers from OTA-only households. Is the digital transition driving such households to subscribe to MVPDs? On the other hand, is the digital transition causing MVPD subscribers to drop their service and rely on free, OTA television? Are broadcast-only households replacing analog sets with digital sets or HDTV sets? Does the need for consumers to upgrade broadcast antennas to receive DTV over-the-air in some situations affect consumers' decision to switch from OTA reception to MVPD subscribership?

35. *Multicasting:* Multicasting is the process by which multiple streams of

digital television programming are transmitted at the same time over a single 6 MHz broadcast channel. We seek information on the types of services and content that broadcasters are transmitting using multicasting. In addition, we seek information on whether multicasting is limited to large markets, or if stations in small and medium-sized markets are also using their multicasting capabilities. What types of multicast programming are available? How much multicast programming is locally produced or locally focused? To what extent is the provision of multicast service dependent upon its carriage by cable and other MVPD operators? In how many markets are cable operators and other MVPDs carrying broadcasters' multicast programming, and which markets are they doing so? How has the financial climate and postponement of the digital television transition impacted broadcasters' roll-out of multicast networks?

36. *Must-Carry and Retransmission Consent*: Every three years, broadcast stations elect whether they want to be carried on cable systems under must carry or retransmission consent. Similarly, broadcast stations may elect whether to be carried under must carry or retransmission consent in markets where DBS operators offer local-into-local service. The most recent election was on October 1, 2008, for carriage agreements beginning on January 1, 2009. What types of local stations receive compensation pursuant to retransmission consent versus carriage pursuant to must carry? What types of compensation do broadcasters receive from MVPDs in return for carriage? Are broadcasters compensated in cash or through in-kind arrangements? To what extent do broadcast station owners tie carriage of affiliated non-broadcast networks to carriage of their broadcast signals?

Other Wireless Service Providers

37. *Commercial Mobile Radio Service Providers*: As discussed in the *Notice*, major commercial mobile radio service ("CMRS") providers have begun offering video services to users of cell phones and other mobile services. We request updated information on the availability and deployment of mobile video services offered by CMRS providers as of June 30, 2008, and June 30, 2009. Specifically, how many mobile telephone users have access to, and subscribe to, such services? Has the availability of such services increased and how have subscription rates changed over time? To what extent are CMRS providers offering mobile video

services over their own spectrum licenses and networks, and to what extent are they partnering with third parties? We request information regarding programming agreements between video content providers and CMRS providers. Do current trends in mobile video suggest that we should classify CMRS providers that offer video programming as MVPDs?

38. We also request updated information on video distribution to wireless devices—including iPods, personal digital assistants, and portable media players—that are not connected to CMRS networks. To what extent do consumers use wireless connections, personal computer sideloading, and other methods to receive video content on wireless devices? How have the distribution methods and technologies changed since June 30, 2007? We seek updated information on how video programmers are re-purposing traditional broadcast and non-broadcast programming for viewing on these devices, and the extent to which programmers are creating content specifically for these new devices.

39. What types of programming do broadcasters intend to provide via mobile digital television? Do they plan to include local news and emergency broadcasting? What are the advantages of mobile video provided by broadcasters versus other providers? We also request information on whether and how video programmers will use new, IP-based wireless network technologies—such as Worldwide Interoperability for Microwave Access ("WiMAX") and Long Term Evolution ("LTE")—to deliver mobile video programming. We seek comment on the extent to which video services offered using these technologies will compete with those offered by traditional video providers.

40. *Wireless Cable Systems*: We seek updated information on existing wireless cable systems and the video and non-video services they offer. How many wireless cable systems remain, and how many customers do they serve? Do licensees in these services remain viable competitors in the market for the delivery of video programming?

41. *Private Cable Operators*: Private cable operator ("PCO") systems, also known as satellite master antenna ("SMATV") systems, are video distribution facilities that do not use any public rights-of-way. In the *13th Annual Report*, we reported that PCOs serve a decreasing number of subscribers, representing less than one percent of all MVPD subscribers as of June 2006. Has this trend continued into 2008 and 2009? Do PCOs remain viable

competitors in the market for the delivery of video programming?

Web-Based Internet Video

42. *Programming Network Delivery via Web Sites*: Programmers and content creators are offering an increasing amount of video programming over the Internet. How is the availability of traditional broadcast programming on other outlets affecting the role of broadcast stations and MVPDs as distributors? How do licensing and copyright issues impact competition for the distribution of video programming over the Internet? Has the availability of programming online led to consumers "cord cutting" (i.e., cancelling MVPD service subscriptions) or no longer viewing OTA broadcast television?

43. *Direct Streaming of Programming Networks to Consumer Electronics*: In early 2009, consumer electronics manufacturers announced that they plan to increase the number of television sets and DVD players that incorporate streaming technology to enable viewers to watch IP-delivered video. How does the ability to stream video programming over computers and television sets impact the demand for MVPD service? We seek information about developments relating to the distribution of Web-based Internet video.

A. Foreign Markets

44. In previous reports, we have examined foreign markets because developments in other countries can lend insight into the nature of competition in the United States and the relative efficiency of market structures and regulations within our nation. We again seek information and case studies on video delivery in foreign markets, including the transition to digital television, the emergence of IPTV as a competitor in the MVPD market, and the implications of both these trends for market structure and consumer choices. We also seek information regarding recent developments in pricing and packaging of programming, including a la carte offerings and the degree to which consumers can choose channels in bundles or singly; technological developments; developments in VoIP; and broadcast, cable, and satellite competition. We also ask commenters to provide comparisons of the video programming choices available to consumers between the United States and other countries. In addition, we seek comment about the impact of global technical standards on the development of video programming services and technology within the United States.

II. Procedural Matters

45. *Authority.* This *Supplemental 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).

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

47. *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 on the *Supplemental Notice of Inquiry*, MB Docket No. 07–269, for 2008 information, on or before May 20, 2009, and reply comments on or before June 20, 2009. For 2009 information, interested parties may file comments on or before July 29, 2009, and reply comments on or before August 28, 2009. Comments may be filed using: (1) The Commission's Electronic Comment Filing System ("ECFS"), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- **Paper Filers:** Parties who choose to file by paper must file an original and four copies 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

(although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes 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 should be addressed to 445 12th Street, SW., Washington, DC 20554.

- In addition, parties must serve the following with either an electronic copy via e-mail or a paper copy of each pleading: (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160, or via e-mail at <http://www.bcpweb.com>; (2) Marcia Glauber, Media Bureau, 445 12th Street, SW., Room 2-C264, Marcia.Glauber@fcc.gov; and (3) Dana Scherer, Media Bureau, 445 12th Street, SW., Room 2-C222, Dana.Scherer@fcc.gov.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9-9550 Filed 4-24-09; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[MB Docket 07–269; DA 09–794]

Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission is required to report annually to Congress on the status of competition in markets for the delivery of video programming. This document further extends the deadlines for filing comments and reply comments in response to the notice of inquiry for the 14th Annual Report to Congress,

which requested data as of June 2007. The Commission needs to bring its reporting up to date and will issue a single report for 2007, 2008, and 2009. The Commission previously announced that it would establish concurrent comment and reply deadlines for 2007 and 2008 data. On April 8, 2009 the Commission adopted a supplemental notice of inquiry to request information for 2008 and 2009. The supplemental notice established May 20, 2009 as the comment deadline for the filing of 2008 information, and June 20, 2009 as the reply comment deadline. This document adopts comment and reply comment deadlines for 2007 information that are concurrent with those filing dates. A single set of deadlines for 2007 and 2008 will avoid duplication of effort by commenters and streamline Commission review of the submitted information.

DATES: Interested parties may file comments on or before May 20, 2009, and reply comments on or before June 20, 2009.

ADDRESSES: You may submit comments, identified by MB 07–269, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Federal Communications Commission's Web site:** <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- **People with Disabilities:** Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: (202) 418-0530 or TTY: (202) 418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Dana Scherer, Media Bureau at (202) 418-2127.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Media Bureau's *Order* in MB Docket No. 07–269, DA 09–794, adopted and released on April 8, 2009. The complete text of this *Order* is available for inspection and copying during regular business hours in the FCC's Reference Information Center, Room CY-A257, Portals II, 445 Twelfth Street, SW., Washington, DC 20554. The complete text is also available on the Commission's Internet site at <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau at (202)