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Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 03-172; FCC 03-185]

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

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 solicits information from the public for use in preparing the competition report that is to be submitted to Congress in December 2003. The document will provide parties with an opportunity to submit comments and information to be used in conjunction with publicly available information and filings submitted in relevant Commission proceedings to assess the extent of competition in the market for the delivery of video programming.

DATES: Comments are due on or before September 11, 2003, and reply comments are due on or before September 26, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION, CONTACT: Andrew Wise, Media Bureau at (202) 418-7026 or via e-mail at Andrew.Wise@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Inquiry* (NOI), MB Docket No. 03-172, adopted July 22, 2003, and released July 30, 2003. The full text of this NOI is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, and may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail

qualexint@aol.com or may be viewed via the Internet at <http://www.fcc.gov/mb/>.

Synopsis of the 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. This *Notice of Inquiry* (NOI) solicits data and information on the status of competition in the market for the delivery of video programming for our tenth annual report ("2003 Report"). We request information, comments, and analyses that will allow us to evaluate the status of competition in the video marketplace, prospects for new entrants to that market, and the effect of competition on the industry groups involved and on consumers.

2. In previous years, we have focused only on the current state of competition and changes in the competitive environment since the prior year's Report. Since the 2003 Report will be the tenth one, we have decided to take a broader view of the video marketplace, and to examine changes in the industry over the year since the last report, and in the period since the first report in 1994. Thus, we invite comments and submissions of data on the current state of competition in the video programming industry, prospects for future competition, and changes in the market since the *2002 Report*, over the last five years (*i.e.*, since 1998), and in the decade since 1994. We also seek comment, data and analyses on trends in the market, and comments on the factors that have facilitated or impeded changes in the competitive environment over these time periods.

3. The accuracy and usefulness of the 2003 Report is directly related to the data and information we receive from commenters that respond to this NOI. To facilitate our analysis of competitive trends over time, we request data as of June 30, 2003. For our historical review, we also request that, whenever possible, commenters submit data as of June 30 of the appropriate year. Comments submitted in this proceeding will be augmented with information from publicly available sources and submissions in other Commission proceedings.

Competition in the Market for the Delivery of Video Programming

4. Video distributors using both wired and wireless technologies serve the market for the delivery of video programming. Video programming distributors include cable systems,

direct broadcast satellite ("DBS") providers, home satellite dish ("HSD") providers, private cable or satellite master antenna television ("SMATV") systems, open video systems ("OVS"), multichannel multipoint distribution services ("MMDS"), broadband service providers ("BSPs"), and over-the-air broadcast television stations.

5. We ask commenters to provide information on the most significant changes or developments in the past year, last five years and ten years. Specifically, we seek information regarding each of the video programming distributors, including the number of homes passed, the number of subscribers, the services offered, the cost for various service options, financial information on each industry, ownership information, and data on investments in plant and facility upgrades.

6. We seek information on industry and market structure and the effect of existing Commission regulations and other provisions of the law on competition in the video marketplace. We seek comments and data on consumer access to more than one video programming distributor, such as homes passed, on the number of households subscribing to one or more multichannel video programming distributor ("MVPD"), and on the number of households relying on over-the-air broadcast television for one or more of their television sets. In this context, we seek comment on mechanisms for ascertaining or estimating the extent of "effective competition" beyond the statutory definition of this term. We also seek data on relative prices to help us investigate the substitution between MVPD technologies, and information on how competition has affected prices, service offerings, and quality of service.

7. We request comment on any factors that are unique to competition in the multiple dwelling units ("MDUs") submarket. We also seek information on what barriers to entry exist in the market. Specifically, we request comment on the ability of video programming distributors to gain access to programming, rights-of-way, pole attachments, conduits, and ducts for the delivery of their services to consumers.

8. We ask commenters to provide data on existing and planned national and local programming services, and their ownership. We seek information on the extent to which programmers are affiliated with video programming distributors and to what extent programming distributors, both broadcast and non-broadcast programming services, are involved in the production of the programming they

provide, vertically integrated or not. Further, we request data on programming services including the scope of service, launch date, identification of ownership, and number of subscribers. To what extent are video programming distributors able to acquire or license unaffiliated programming? What is the extent to which video programming distributors are and have been able to acquire or license non-vertically integrated programming? To what extent are non-cable MVPDs producing their own programming or securing exclusive rights to certain programming services? Are there certain programming services or types of services without which competitive video service providers may find themselves unable to compete effectively? We also ask for information on how video programming distributors package their programming. In addition, we seek comment as to whether non-vertically integrated programming channels and independently produced programming are able to gain distribution to consumers.

9. Further, we request comment regarding children's, locally-originated, local news, community affairs, and non-English programming. To what extent do cable operators offer public, educational, and governmental ("PEG") access and leased access channels? Commenters are asked to provide information regarding the programming provided by DBS operators in compliance with their public interest obligations. We request comment on the effectiveness of our program access, program carriage, and channel occupancy rules. We seek information regarding video programming providers' experiences offering closed captioning and video description.

10. We also ask for information on advanced service offerings (e.g., high-speed Internet access services, telephony, video-on-demand, high definition television, interactive television) and new ways of offering service (e.g., personal video recorders, streaming video) that are being deployed by video programming distributors. Specifically, we request information regarding the amount and type of programming being offered in high-definition television ("HDTV") format. We seek updated statistics such as the cost of such services, the subscribership to these services, and the number of homes to which each type of service is available. Further, we seek information on the impact that the availability of non-video services offered by video programming providers has on the nature of competition in the video marketplace. In addition, to what

extent do MVPDs offer video and non-video services together? How are the combined services offered and priced? We request comment on the number and types of electronic program guides ("EPGs") that video programming distributors offer or plan to offer and the technologies used to distribute them. We seek comment on the availability and compatibility of customer premises equipment used to provide video programming and other services. How many households have one or more devices? We seek information on the retail availability of navigation devices to consumers.

Cable Television Service

11. We plan to report on the performance of the cable television industry, and request data and comments on the current and historical state of competition in this segment of the market. We seek statistical information on the cable industry generally and specifically on the financial performance of the industry, capital acquisition and disposition, rates, channel capacity, programming costs, homes passed, subscribership, viewership, new service offerings, and the investments that cable operators have made to upgrade their plant and equipment.

12. We request information on the deployment of various technical methods used to increase capacity. For individual multiple system operators ("MSOs"), we request data on the number of systems upgraded, the analog channel capacity resulting from upgrades, the digital channel capacity resulting from upgrades, the number of systems with digital tiers, the number of households where digital services are available, and the number of subscribers to digital services. What types of programming are available on digital tiers?

13. We seek information on cable system transactions, including the names of the buyer and seller, the date of the transaction, type of transaction (i.e., sale, swap, or trade), name and location of the system, homes passed and number of subscribers, and the price. We seek similar information for non-cable video programming providers. We also request comment on the practice of clustering, whereby operators concentrate their operations in specific geographic areas. We request data regarding the effect of clustering by cable operators on competition in the video programming distribution market.

14. We seek comment on whether cable operators are changing the way they package programming. We also are interested in information on whether,

and if so how, cable operators are restructuring their programming packages and tiers of service as a result of actual or potential competition.

15. We further request information about the advanced services provided by cable operators, such as digital video, high-speed Internet access services, telephony, video-on-demand, and the amount and type of programming being offered in HDTV format. What is the status of the cable industry certification process for interoperable cable modems and to what extent are consumers now purchasing cable modem equipment certified by Cable Television Laboratories, Inc ("CableLabs") under their Certified Cable Modem Project, rather than renting from video programming distributors? We also seek the most recent information regarding the development of specifications for interoperable set-top boxes on CableLabs' OpenCable process. What percentage of existing equipment is compatible with the OpenCable standards? What developments have taken place in the last year relating to the POD-Host Interface, or PHI license, that affect the deployment of navigation devices or their availability at retail stores? Finally, we solicit updated information on PacketCable, a CableLabs project intended to develop interoperable interface specifications for delivering advanced, real-time multimedia services over two-way cable plant. What is the status of the testing and implementation of this standard?

16. Section 612(g) of the Communications Act provides that at such time as cable systems with 36 or more activated channels are available to 70% of households within the United States and are subscribed to by 70% of those households, the Commission may promulgate any additional rules necessary to promote diversity of information sources. We request comment and supporting data that to determine whether the criteria specified under section 612(g) have been met. Under sections 614 and 615 of the Communications Act, cable operators must set aside up to one third of their channel capacity for the carriage of commercial television stations and additional channels for noncommercial stations depending on the system's channel capacity. We seek information on the extent to which cable operators currently are using all their required set-aside channels for the carriage of local broadcast signals.

Direct-to-Home Satellite Services

17. We seek current and historical information about direct-to-home ("DTH") satellite services, which

includes direct broadcast satellite ("DBS") and home satellite dish ("HSD" or "C-Band") services. Are there identifiable differences between consumers who choose to subscribe to DBS rather than cable or another video programming distributor? How many or what percentage of households cannot receive DBS service because they are not within the line-of-sight of the satellite signal? We seek comment on the geographic locations of DBS and HSD subscribers, by state and type of area (*i.e.*, urban, suburban, rural). To what extent do DBS subscribers reside in areas not passed by cable systems?

18. We request information on the number of markets where local-into-local television service is offered, or will be offered in the near future, pursuant to Satellite Home Viewer Improvement Act of 1999 ("SHVIA"), including the number and affiliation of the stations carried. What percentage of DBS subscribers are opting for local programming packages where available? In cases in which additional equipment is needed to receive a full complement of local signals, what percentage of subscribers is obtaining this additional equipment? We also request information on the impact on DBS subscribership and penetration as well as its effect on the video programming market generally. What percentage of DBS subscribers continues to subscribe to cable in order to receive local broadcast signals?

19. We request current and historical data that will allow us to compare DBS and cable rates for programming packages and equipment. What is the typical cost of DBS equipment and installation? We request information regarding DBS operator equipment leasing program options, including the monthly rates charged for leasing equipment. To what extent do satellite operators subsidize equipment costs in order to attract subscribers? Have DBS rates for some programming packages increased over the last year? What factors affect changes in DBS prices?

20. We seek information on the status of Internet access services offered by the DBS industry. We seek information regarding other advanced services offered or co-marketed by DBS operators. To what extent are DBS operators offering programming in HDTV format? What marketing arrangements have non-DBS video programming distributors entered into to provide DBS service to their customers?

Broadcast Television Service

21. We seek information on the role of broadcast television in the market for

the delivery of video programming. We request information on the number and percentage of MVPD subscribers who rely on off-air reception for local broadcast service on one or more television sets, by type of MVPD service. In addition, what percentage of households has only over-the-air broadcast television reception on all television sets?

22. We request information regarding the amount and type of programming (*e.g.*, network, local, syndicated) being broadcast on digital channels, including the extent to which DTV channels are being used for HDTV, the extent to which they are being used for multichannel program offerings ("multicasting"), and the extent to which they are being planned as ancillary and supplementary services such as subscription services. We also seek information on DTV carriage agreements between broadcasters and cable operators and the status of any such negotiations. In addition, we request information on the sales of DTV consumer equipment and the factors affecting consumer adoption of DTV equipment.

Wireless Cable Systems

23. We seek information regarding the previously identified trend towards declining subscribership for wireless cable, also referred to as MMDS-provided video. What factors affect the health and viability of the MMDS industry? We seek information about the availability of advanced services, such as digital video, high-speed Internet access services, and telephony. Where are consumers able to access these services via MMDS and how does the availability of these services affect competition?

Private Cable Operators

24. We request current and historical information on the types of services offered by private cable operators, also known as SMATV systems. We request data for private cable systems, including subscribership levels, service areas, and the identities of the largest operators. How do the programming packages offered and the price of SMATV service compare to those of incumbent cable operators? Are there services that private cable operators provide their subscribers that cable, DBS, and other technologies do not?

Local Exchange Carriers and Utilities

25. We seek information, both current and historical, regarding local exchange carriers ("LECs"), long distance telephone companies, and utility companies that provide video services.

We request information on franchised cable systems operated by LECs, both within their telephone service areas and outside those regions. To what extent are LEC video programming services being bundled with telephone, Internet, or other utility services?

Broadband Service Providers, Open Video System Operators, and Overbuilders

26. We seek current and historical information regarding the provision of video, voice, and data services by broadband service providers ("BSPs"), open video system ("OVS") operators, and overbuilders. We ask commenters to provide information regarding the video service packages that are offered and the rates charged for the various packages. Are video services offered in combination with telephone and high speed Internet access? We further seek comment on the current, historical, and potential effect of BSPs, OVS operators, and overbuilders on the status of video competition. What are the technical and economic obstacles to the successful operation of systems of this type?

Home Video Sales and Rentals

27. We seek information regarding the home video sales and rental market. We request data on the number or percentage of households with videocassette recorders, laser disc players, DVD players, and personal video recorders ("PVRs"). We request information on the amount of programming available in VCR, DVD, and laser disc formats for sale and rental, the cost of rentals, and how this compares to the cost of pay-per-view, video-on-demand, or near video-on-demand movies. We seek information on the development of the Internet as a means through which some video retailers are selling their videos. Further, we seek information on the development of companies offering PVR services in conjunction with video programming distributors, equipment manufacturers, advertisers, and programmers.

Internet Video

28. We seek information on the types of video services currently being offered over the Internet and fact-based projections of when Internet video will become a viable competitor in the market for the delivery of video programming. We also solicit information on the technological, legal, and competitive factors that may promote or impede the provision of video over the Internet.

Foreign Markets

29. Finally, we seek information regarding the status of competition in the market for the delivery of video programming in markets outside of the United States that would provide insights regarding the nature of competition in the U.S. market. We seek information from these experiences that would be instructive as to the efficiency of market structures and regulations within the United States.

Procedural Matters

Ex Parte

30. There are no ex parte or disclosure requirements applicable to this proceeding pursuant to 47 CFR 1.1204(b)(1).

Filing of Comments and Reply Comments

31. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before September 11, 2003, and reply comments on or before September 26, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

32. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters 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 for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. 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, commenters 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). The Commission's contractor, Vistronix, Inc., 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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. The Media Bureau contact for this proceeding is Andrew Wise at (202) 418-7026, or at Andrew.Wise@fcc.gov.

33. *Availability of Documents.* Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418-0267 (voice), (202) 418-7365 (TTY), or bccline@fcc.gov. These documents also will be available electronically from the Commission's Electronic Comment Filing System. Documents are available electronically in ASCII text, Word 97, and Adobe Acrobat. Copies of filings in this proceeding may be obtained from Qualex International, Portals II, 445 12th Street, SW., Room, CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail at qualexint@aol.com. 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 and Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (TTY).

Ordering Clause

34. This NOI is issued pursuant to authority contained in Sections 4(i), 4(j), 403, and 628(g) of the Communications Act of 1934, as amended.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03-20038 Filed 8-5-03; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY:

Background

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Clearance Officer—Cindy Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829). OMB Desk Officer—Joseph Lackey—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Reports

1. *Report title:* Recordkeeping Requirements Associated with Changes in Foreign Investments (Made Pursuant to Regulation K).

Agency form number: FR 2064.

OMB control number: 7100-0109.

Frequency: On-occasion.

Reporters: State member banks (SMBs), Edge and agreement corporations, and bank holding companies (BHCs).

Annual reporting hours: 320 hours.

Estimated average hours per response: 2 hours.