

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2528]

### Petition for Reconsideration of Action in Rulemaking Proceeding

February 1, 2002.

Petition for Reconsideration has been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY-A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863-2893. Oppositions to this petition must be filed by February 21, 2002. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Telecommunications Industry's Environmental Civil Violations in U.S. Territorial Waters (South Florida and the Virgin Islands and along the Coastal Wetlands of Maine—FCC Accountability and Responsibility for Rulemaking regarding the NEPA, NHPA (RM-9913).

Number of Petitions Filed: 1.

William F. Caton,  
Acting Secretary.

[FR Doc. 02-2867 Filed 2-5-02; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL COMMUNICATIONS COMMISSION

[CS Docket No. 01-129, FCC 01-389]

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

AGENCY: Federal Communications Commission.

ACTION: Notice.

**SUMMARY:** This document is in compliance with the Communications Act of 1934, as amended, which requires the Commission to report annually to Congress on the status of competition in the market for the delivery of video programming. On December 27, 2001, the Commission adopted its eighth annual report ("2001 Report"). The 2001 Report contains data and information that summarize the status of competition in markets for the delivery of video programming and updates the Commission's prior reports.

**FOR FURTHER INFORMATION CONTACT:** Marcia Glauberman or Anne Levine,

Cable Services Bureau, (202) 418-7200, TTY (202) 418-7172.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's 2001 Report in CS Docket No. 01-129, FCC 01-389, adopted December 27, 2001, and released January 14, 2002. The complete text of the 2001 Report is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554, and may also 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) 863-2890, or e-mail at [qualex@aol.com](mailto:qualex@aol.com). In addition, the complete text of the 2001 Report is available on the Internet at <http://www.fcc.gov/csb>.

### Synopsis of the 2000 Report

1. The Commission's 2001 Report to Congress provides information about the cable television industry and other multichannel video programming distributors ("MVPDs"), including direct broadcast satellite ("DBS") service, home satellite dishes ("HSDs"), wireless cable systems using frequencies in the multichannel multipoint distribution service ("MMDS") and instructional television fixed service ("ITFS"), private cable or satellite master antenna television ("SMATV") systems, as well as broadcast television service. The Commission also considers several other existing and potential distribution technologies for video programming, including the Internet, home video sales and rentals, local exchange telephone carriers ("LECs"), and electric and gas utilities. In addition, for the first time, this year, the Commission addresses broadband service providers ("BSP"), a new category of entrant into the video marketplace.

2. The Commission also examines the market structure and competition. We evaluate horizontal concentration in the multichannel video marketplace and vertical integration between cable television systems and programming services. In addition, the 2001 Report addresses competitors serving multiple dwelling unit ("MDU") buildings, programming issues, technical issues, and examines communities where consumers have a choice between an incumbent cable operator and another MVPD and reports on the incumbent cable operator's response to such competition in several cases. The 2001 Report is based on publicly available data, filings in various Commission

rulemaking proceedings, and information submitted by commenters in response to a *Notice of Inquiry* (66 FR 35431) in this docket.

3. In the 2001 Report, the Commission finds that competitive alternatives and consumer choices continue to develop. Cable television still is the dominant technology for the delivery of video programming to consumers in the MVPD marketplace, although its market share continues to decline. As of June 2001, 78 percent of all MVPD subscribers received their video programming from a local franchised cable operator, compared to 80 percent a year earlier. There has been an increase in the total number of subscribers to non-cable MVPDs over the last year, which is primarily attributable to the growth of DBS service. However, generally, the number of subscribers to, and market shares of, MVPDs using other distribution technologies (i.e., MMDS, SMATV, and OVS) have remained stable, although the number of HSD subscribers continues to decline. Significant competition from local telephone companies has not generally developed even though the Telecommunications Act of 1996 ("1996 Act") removed some barriers to LEC entry into the video marketplace.

#### 4. Key Findings:

- **Industry Growth:** A total of 88.3 million households subscribed to multichannel video programming services as of June 2001, up 4.6 percent over the 84.4 million households subscribing to MVPDs in June 2000. This subscriber growth accompanied a 2.7 percentage point increase in multichannel video programming distributors' penetration of television households to 86.4 percent as of June 2001. The number of cable subscribers continued to grow, reaching 69 million as of June 2001, up about 1.9 percent over the 67.7 million cable subscribers in June 2000. The total number of non-cable MVPD households grew from 16.7 million as of June 2000 to 19.3 million homes as of June 2001, an increase of more than 15 percent. The growth of non-cable MVPD subscribers continues to be primarily attributable to the growth of DBS. Between June 2000 and June 2001, the number of DBS subscribers grew from almost 13 million households to about 16 million households, which is nearly two times the cable subscriber growth rate. DBS subscribers now represent 18.2 percent of all MVPD subscribers, up from 15.4 percent a year earlier.

- **Convergence of Cable and Other Services:** The 1996 Act removed barriers to LEC entry into the video marketplace

in order to facilitate competition between incumbent cable operators and telephone companies. It was expected that local exchange telephone carriers would begin to compete in video delivery markets, and cable operators would begin to provide local telephone exchange service. The Commission previously reported that there had been an increase in the amount of video programming provided to consumers by telephone companies, although the expected technological convergence that would permit use of telephone facilities for video service had not yet occurred. This year, we find that incumbent local exchange carriers ("ILECs") have largely exited the video business, instead mainly reselling DBS service. A few smaller LECs offer, or are preparing to offer, MVPD service over existing telephone lines. Alternatively, a few cable operators offer telephone service, but their strategies for deployment remain varied, with some companies deploying circuit-switched cable telephone service and others waiting until Internet Protocol ("IP") technology becomes available and continuing to test such service. The most significant convergence of service offerings continues to be the pairing of Internet service with other services. There is evidence that a wide variety of companies throughout the communications industries are attempting to become providers of multiple services, including data access.

- *Promotion of Entry and Competition:* Noncable MVPDs continue to report that regulatory and other barriers to entry limit their ability to compete with incumbent cable operators and to thereby provide consumers with additional choices. Non-cable MVPDs also continue to experience some difficulties in obtaining programming from both vertically integrated cable programmers and unaffiliated programmers who continue to make exclusive agreements with cable operators. In MDUs, potential entry may be discouraged or limited because an incumbent video programming distributor has a long-term and/or exclusive contract. Other issues also remain with respect to how, and under what circumstances, existing inside wiring in MDUs may be made available to alternative video service providers.

- *Horizontal Concentration:* Consolidations within the cable industry continue as cable operators acquire and trade systems. The ten largest operators now serve close to 87 percent of all U.S. cable subscribers. In terms of one traditional economic measure, the Herfindahl-Hirschman

Index or HHI, national concentration among the top MVPDs has decreased since last year, and remains below the levels reported in earlier years. DBS operators DirecTV and EchoStar rank among the ten largest MVPDs in terms of nationwide subscribership along with eight cable multiple system operators ("MSOs"). As a result of acquisitions and trades, cable MSOs have continued to increase the extent to which their systems form regional clusters. Currently, 55 million of the nation's cable subscribers are served by systems that are included in regional clusters. By clustering their systems, cable operators may be able to achieve efficiencies that facilitate the provision of cable and other services, such as telephony.

- *Vertical Integration:* The number of satellite-delivered programming networks has increased by 13 from 281 in 2000 to 294 in 2001. Vertical integration of national programming services between cable operators and programmers, measured in terms of the total number of services in operation, remained at 35 percent after several years of decline. The *2001 Report* also identifies 80 regional networks, 29 of which are sports channels, many owned at least in part by MSOs, and 29 regional and local news networks that compete with local broadcast stations and national cable networks.

- *Technological Issues:* Cable operators and other MVPDs continue to develop and deploy advanced technologies, especially digital compression techniques, to increase the capacity and enhance the capabilities of their transmission platforms. These technologies allow MVPDs to deliver additional video options and other services (e.g., data access, telephony, and interactive services) to their subscribers. As reported last year, MVPDs are beginning to develop and deploy interactive television ("ITV") services. In particular, this year, cable operators and other MVPDs have devoted most of their attention to the development of video-on-demand services. In the last year, there have been a number of developments regarding navigation devices and cable modems used to access a wide range of services offered by MVPDs. CableLabs is continuing its efforts to develop next generation navigation devices with its initiative for the OpenCable Application Platform ("OCAP") or "middleware" specification. The Consumer Electronics Association maintains that until this software standard is complete, manufacturers will not be able to build advanced set-top boxes for a retail market. In another effort intended to facilitate retail availability of set-top

boxes, cable operators announced an initiative to encourage their set-top box suppliers to make their digital set-top boxes with embedded security available at retail

#### *Ordering Clauses*

5. This *2001 Report* 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).

6. The Office of Legislative and Intergovernmental Affairs shall send copies of the *2001 Report* to the appropriate committees and subcommittees of the United States House of Representatives and United States Senate.

7. The proceeding in CS Docket No. 01-129 IS TERMINATED.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 02-2869 Filed 2-5-02; 8:45 am]

**BILLING CODE 6712-01-P**

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## **FEDERAL RESERVE SYSTEM**

### **Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained