

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

In the Matter of)
)
Status of Competition in the Market for) MB Docket No. 17-214
the Delivery of Video Programming)
)

COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS

Rick Kaplan
Jerianne Timmerman
Patrick McFadden

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The National Association of Broadcasters (NAB)¹ responds in these comments to the FCC's request for data and information on the status of competition in the market for the delivery of video programming.² In this proceeding, the FCC seeks to better understand competitive conditions in the video marketplace and their implications for consumers.

I. INTRODUCTION AND SUMMARY

The video programming and delivery options for viewers have vastly expanded since the FCC began reporting on these issues to Congress in the 1990s. Today, television broadcasters, multichannel video programming distributors (MVPDs) and online video distributors (OVDs) offer a growing array of choices to consumers and compete fiercely for viewers and advertisers. Due to this competition, MVPDs have experienced an accelerating loss of subscribers, as consumers embrace free, over-the-air (OTA) broadcast service and an increasing variety of online video alternatives offered by a range of new entrants and

¹ The National Association of Broadcasters is a nonprofit trade association that advocates on behalf of local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² *Media Bureau Seeks Comment on the Status of Competition in the Market for the Delivery of Video Programming*, Public Notice, MB Docket No. 17-214, DA 17-797 (Aug. 24, 2017) (Notice).

traditional providers, including broadcasters. Recent surveys have reconfirmed that consumers – especially younger and diverse households – increasingly rely on OTA broadcast television. The increased competition in the video marketplace has significantly benefited consumers, with the amount, variety and quality of TV programming growing exponentially in recent years, and the number of original scripted TV series set another new record in 2016.

Beyond their traditional OTA services, TV broadcasters are utilizing digital technology and online platforms to provide viewers increased informational and entertainment options. In 2016, the amount of local news aired by TV stations hit a new record high. Stations' newsrooms continue to enhance their online presence, including by live streaming their local news, developing online-only content, enhancing their mobile offerings and increasing their use of a range of social media. These digital offerings are necessary in today's marketplace to compete against a growing number of online news alternatives and to serve viewers who want to access news and information via a variety of platforms and devices. TV broadcasters also have increased their entertainment programming options, including by expanding their multicast channels, many of which target underserved audiences and demographic groups.

Broadcasters' ability to compete effectively in the future, however, depends upon their ability to embrace new technologies and offer innovative services. Given consumers' increasing acquisition of multiple devices for accessing the Internet and online programming, the ability of broadcasters to reach viewers via a range of platforms and devices will become even more vital. Commission approval of the Next Generation TV standard, which integrates seamlessly with IP, will enhance broadcasters' capabilities to serve the viewing public, as well as promote competition, in an Internet-centric media marketplace.

II. STRONG AND GROWING COMPETITION BETWEEN BROADCASTERS, MVPDS AND OVDs CHARACTERIZES THE CURRENT VIDEO MARKETPLACE

The Notice (at 8) asks numerous questions about “intergroup competition” between the video services offered by MVPDs, OVDs and broadcast TV stations and the extent to which consumers view these services as “alternatives.” No one today should retain any doubts that TV broadcasters, MVPDs and OVDs offer competing alternatives to consumers. Indeed, a study last year estimated that Netflix *alone* had caused 50 percent of the overall decline in linear (*i.e.*, live-plus-7) television viewing reported by Nielsen for 2015.³ More recent data confirm that TV stations, MVPDs and OVDs compete directly for viewers’ time and attention and that competition from proliferating online and OTA viewing options have led to accelerated cord-cutting and rising numbers of cord-nevers.

In 2016, pay TV operators (cable, satellite and telco combined) lost more than 1.8 million video subscribers; twice as many subscribers downgraded (12 percent) their pay-TV service than upgraded it (six percent); and the number of cord-never households grew by about 2.2 million.⁴ As a result, the percent of U.S. households with a pay TV subscription declined from 81.3 percent in the first quarter of 2015 to 77.5 percent by the end of 2016.⁵ These competitive trends accelerated in 2017, with MVPD subscriber losses now

³ Todd Spangler, *Netflix Caused 50% of U.S. TV Viewing Drop in 2015 (Study)*, Variety (Mar. 3, 2016) (discussing study by MoffettNathanson).

⁴ Troy Dreier, *Pay TV Lost 1.8M Subscribers in 2016 as Cord-Cutting Accelerates*, streamingmedia.com (Mar. 10, 2017); *Kagan Releases 4th Quarter U.S. Multichannel Subscriber Report*, marketintelligence.spglobal.com (Mar. 10, 2017); Parks Associates, *15% of U.S. broadband households have antenna-only TV service*, parksassociates.com (Jan. 18, 2017); Keith Nissen, *2017 U.S. video cord cutting update: Reaching critical mass*, SNL Kagan (May 2, 2017).

⁵ Dreier, *Pay TV Lost 1.8 M Subscribers in 2016; Kagan Releases 4th Quarter U.S. Multichannel Subscriber Report*, marketintelligence.spglobal.com (Mar. 10, 2017).

approaching one million *per quarter*.⁶ In June 2017, Kagan predicted that the traditional MVPD industry will lose 10.8 million subscribers through 2021, and that by 2021 one-third of TV homes will rely on one or more “nontraditional” options (over-the-top (OTT), OTA and/or “virtual” pay TV services (e.g., PlayStation Vue, Sling TV)).⁷

Industry analysts and observers uniformly conclude that competition from other viewing alternatives has caused this decline in traditional MVPD subscribership.⁸ Kagan has observed that streaming/online services and “over-the-air delivery are playing more prominent roles” in a fragmenting video landscape where MVPDs are ceding ground.⁹ MoffetNathanson similarly explained that the “root of cord-cutting acceleration is not demand, but supply, as would-be cord-cutters now have many options at hand.”¹⁰ Younger audiences in particular continue to switch from MVPDs to OTT video and watching OTT “in

⁶ In the first quarter of 2017, nearly one million homes either cut the cord (about 762,000) or chose not to take one in the first place. Jeff Baumgartner, *Analyst: The Cord-Cutting Future Has Arrived*, multichannelnews.com (May 3, 2017) (citing MoffetNathanson report). The rate of pay TV subscriber erosion accelerated to a record pace in the second quarter, with pay TV distributors losing around 941,000-976,000 subscribers, according to different estimates. Daniel Frankel, *Cord cutting climbs to 976K users, SNL Kagan’s official tally says*, fiercecable.com (Aug. 17, 2017); Jeff Baumgartner, *Traditional MVPDs Lose Record 941K Subs in Q2: Analyst*, Multichannel News (Aug. 3, 2017) (citing MoffetNathanson report); Paul Bond, *Cable TV Cord-Cutting Reaches “Fastest Rate of Decline on Record,”* hollywoodreporter.com (Aug. 9, 2017).

⁷ Daniel Frankel, *U.S. pay TV business to lose 10.8 more subscribers by 2021, Kagan predicts*, fiercecable.com (June 26, 2017); Georg Szalai, *Pay TV Industry to Lose 10.8M Subscribers by 2021, Kagan Forecasts*, hollywoodreporter.com (June 27, 2017); Wayne Friedman, *By 2021, One-Third of TV Homes Will Carry Nontraditional Services*, mediapost.com (June 26, 2017).

⁸ See, e.g., Clair Shaffer, *Cut the Cord: Cable Subscriptions, Replaced by Streaming, Experience the Fastest Rate of Decline in History*, newsweek.com (Aug. 9, 2017); *Competitive Info: Over-the-Top’s Gains Are Cable’s Losses*, insideradio.com (June 27, 2017); Ali Choukeir, Chris Young and Ian Olgeirson, *Multichannel cedes ground to OTT, VSPs in US video segmentation outlook*, SNL Kagan (June 19, 2017).

⁹ Szalai, *Pay TV Industry to Lose 10.8M Subscribers by 2021* (quoting Kagan forecast).

¹⁰ Jeff Baumgartner, *Analyst: The Cord-Cutting Future Has Arrived*, multichannelnews.com (May 3, 2017) (discussing MoffetNathanson report).

combination with free-TV options.”¹¹ And TiVo’s quarterly video trends reports have consistently found that the top reasons given by consumers for cutting the cord, following the price/expense of MVPD subscriptions, are their use of Internet streaming services (e.g., Netflix, Hulu, etc.) and their use of antennas to get TV channels.¹²

Further demonstrating that broadcast TV stations, MVPDs and OVDs offer competing alternatives to consumers, the decline in MVPD subscribership has been accompanied by growing consumer reliance on OTA broadcast TV and increasing use of OTT services. See Notice at 6-7. According to GfK’s 2017 home technology report, broadcast-only households (*i.e.*, those receiving programming exclusively through OTA reception or a combination of broadcast OTA and Internet) rose to 18 percent of all U.S. TV households (an increase from 17 percent reported in GfK’s 2016 report and 14.7 percent reported in 2015).¹³ Broadcast-any households, defined by GfK as homes with at least one TV set receiving OTA signals, stood at 25.1 percent of all TV households (up from 22.6 percent reported by GfK in 2016 and 21.0 percent reported in 2015).¹⁴ Households relying on OTA broadcasting are generally younger and lower income.¹⁵ Broadcast reliant households are also more diverse, with relatively greater numbers of African-American and Hispanic households.¹⁶ In total,

¹¹ Todd Spangler, *Cord-Cutting Explodes: 22 Million U.S. Adults Will Have Canceled Cable, Satellite TV by End of 2017*, variety.com (Sept. 13, 2017) (citing research firm eMarketer).

¹² TiVo, *Q2 2017 Video Trends Report: Consumer Behavior Across Pay-TV, PVOD, OTT, TVE, Streaming Devices and Content Discovery*, at 2 (2017) (*TiVo 2017 Q2 Video Trends Report*).

¹³ This 18 percent figure represents 22 million broadcast-only households and 51.4 million viewers. GfK, *Home Technology Monitor 2017 Ownership and Trend Report* (June 2017).

¹⁴ This 25.1 percent figure represents 30.6 million broadcast-any households and 77.2 million viewers. *Id.*

¹⁵ Among households headed by those ages 18-34, 23.7 percent are broadcast-only and 29.9 percent are broadcast-any. Among households with incomes of less than \$30,000, 28.5 percent are broadcast-only and 36.9 percent are broadcast-any. *Id.*

¹⁶ Among African-American households, 23.0 percent are broadcast-only and 30.8 percent are broadcast-any. Among Hispanic households, 19.4 percent are broadcast-only (rising to

38.3 percent of broadcast-only households and 39.0 percent of broadcast-any households are minority households. Confirming these trends, Nielsen recently found that broadcast-only homes have increased 41 percent in the past five years,¹⁷ and TiVo's most recent video trends survey found that, of those respondents without traditional pay-TV service, 45.7 percent use an antenna to watch television OTA – a figure “that has increased 12.4 percentage points over two years.”¹⁸

While increasing their reliance on OTA television, U.S. households at the same time have steadily increased their use of online video options. For example, 64 percent of U.S. households now subscribe to Netflix, Amazon Prime and/or Hulu, up from 47 percent in 2014.¹⁹ Sixty-nine percent of U.S. households have at least one TV set connected to the Internet (via a smart TV or other device, such as Roku or Apple TV, or a gaming system), up from only 24 percent in 2010.²⁰ There are more connected TV devices in U.S. households than pay-TV set-top boxes, and more broadband subscribers than pay-TV subscribers in the U.S.²¹ As of late 2016, Leichtman Research Group reported that 81 percent of all U.S. households got a broadband Internet service – and that was before the largest cable and

26.4 percent in Spanish-language dominant homes) and 26.7 percent are broadcast-any (rising to 33.4 percent in Spanish-language dominant homes). *Id.*

¹⁷ Mark K. Miller, *Broadcast-Only TV Homes Up 41% in 5 Years*, TVNewsCheck (Sept. 11, 2017) (also finding that broadcast-only homes are younger and more diverse).

¹⁸ *TiVo 2017 Q2 Video Trends Report* at 2. A report citing data from the third quarter of 2016 found that 15 percent of “broadband households ha[d] antenna-only TV service,” up from less than nine percent in 2013. *15% of U.S. broadband households have antenna-only TV service*, parksassociates.com (Jan. 18, 2017).

¹⁹ Leichtman Research Group, Press Release, *64% of U.S. Households Have an SVOD Service; 29% of all Adults Stream an SVOD Service Daily* (July 24, 2017).

²⁰ Leichtman Research Group, Press Release, *69% of U.S. TV Households Have a Connected TV; 25% of all Adults in TV Households Watch Video via a Connected TV Device Daily* (Apr. 27, 2017).

²¹ Leichtman Research Group, Press Release, *About 960,000 Added Broadband in 1Q 2017* (May 19, 2017).

telephone providers in the U.S. acquired nearly 1.2 million net additional high-speed Internet subscribers in the first two quarters of 2017.²² As of early 2017, the percentage of consumers ages 12 and older owning smartphones and tablets reached 81 percent and 53 percent, respectively.²³ Given consumers' increasing acquisition of multiple devices for accessing the Internet and online video sources, current trends away from pay-TV subscribership and toward other viewing options will continue, if not accelerate.

III. CONSUMERS AND ADVERTISERS HAVE BENEFITED FROM INCREASED VIDEO COMPETITION

It hardly needs stating that increased competition in the video marketplace has significantly benefited consumers. The amount, variety and quality of TV programming have grown exponentially, with a record 455 scripted original series available to viewers in 2016, an increase of eight percent over 2015, a remarkable 71 percent increase since 2011 and a stunning 137 percent increase from a decade ago.²⁴ Broadcasters, basic and premium cable services and streaming platforms have all increased their original scripted offerings.

Competition also has enabled viewers to more flexibly select the programming and services they want, at prices acceptable to them. In addition to broadcast stations always available for free,²⁵ consumers today can choose from over 130 streaming services that

²² *Id.*; Leichtman Research Group, Press Release, *About 230,000 Added Broadband in 2Q 2017* (Aug. 18, 2017); Leichtman Research Group, Press Release, *83% of U.S. Households Get an Internet Service at Home* (Dec. 14, 2016).

²³ Edison Research and Triton Digital, *The Infinite Dial 2017*. Consumers have rapidly adopted these devices, with smartphone ownership growing from only 10 percent in 2009 and tablet ownership increasing from 29 percent in 2013. *Id.*

²⁴ See Michael Malone, *Scripted Originals Hit 455 in 2016, Says FX Networks*, *Broadcasting & Cable* (Dec. 21, 2016).

²⁵ Numerous sources have documented the increasing sales and use of TV antennas. See, e.g., *TV antenna use makes comeback in US*, *america.cgtn.com* (Sept. 25, 2017); Jared Newman, *For cord cutters, 2017 will be the year of the antenna*, *TechHive* (Jan. 12, 2017); James Willcox, *Is Now the Time to Get a TV Antenna?*, *Consumer Reports* (Aug. 8, 2017).

range in the amount and variety of programming they offer and the prices they charge.²⁶ Responding to competition from popular streaming services such as Netflix, Amazon Prime and the broadcast network-owned Hulu, some large MVPDs, including AT&T/DirectTV and DISH, now offer their own streaming services with programming bundles skinnier and cheaper than traditional pay-TV bundles.²⁷ These options, moreover, seem to increase almost weekly. Social media giants Facebook and YouTube entered the streaming video market in earnest in 2017, including with plans for their own original scripted programming,²⁸ and the broadcast networks are also increasing their streaming offerings.²⁹ While MVPDs – particularly those able to discount bundles of video with broadband – retain many competitive strengths in today’s video marketplace and currently serve the considerable majority (over three-quarters) of U.S. households, millions of consumers have already benefited from combining video alternatives made possible by the Internet with OTA broadcast services, and many more will likely do so in the future.

Unsurprisingly, advertisers also have benefited from the development of online and mobile platforms. Advertisers now have additional ways to reach consumers, particularly

²⁶ 9 Cord-Cutting Statistics that Show How Video Streaming Is the Future, mediakix.com (July 6, 2017); see also *Best Movie & TV Streaming Services 2017: Which is the Best TV Streaming Service for You?*, newtechnologytv.com (Oct. 1, 2017).

²⁷ See, e.g., Chris Brantner, *Cut the Cord: Here’s a guide to every live streaming service on the market or coming soon*, Business Insider (Jan. 21, 2017) (discussing DirectTV Now and Sling TV, among other services).

²⁸ Joe Flint and Deepa Seetharaman, *Facebook Is Going Hollywood, Seeking Scripted TV Programming*, The Wall Street Journal (June 25, 2017); James McQuivey, *YouTube Is the First Digital Platform to Take on Live TV*, forrester.com (Mar. 1, 2017).

²⁹ For example, Hulu’s Live TV streaming service now includes five broadcast networks (NBC, Fox, ABC, CBS and CW). Sarah Perez, *Hulu’s Live TV service to have all five major broadcast network with addition of The CW*, techcrunch.com (Aug. 28, 2017). See also, e.g., Meg James, *CBS plans to go global with its All Access streaming service; earnings easily top forecasts*, latimes.com (Aug. 7, 2017).

younger and tech-savvy ones, with video advertisements as well as other types of ads. NAB has previously documented the significant decline in the competitive position of TV stations in the advertising market; the growth of local advertising on MVPDs; the explosion of digital (Internet and mobile) advertising; and the emergence of digital as a leading form of advertising both nationally and in local markets.³⁰

More recent reports on the advertising marketplace found that digital (Internet and mobile) was the strongest local ad sector in 2016, dwarfing local TV ad revenues, and that digital ad revenues are expected to continue to grow substantially during the next decade.³¹ Other advertising forecasts estimate that annual U.S. mobile ad spending will grow from \$33 billion in 2016 to \$72 billion by 2021 (a 17 percent compound annual growth rate), and that location-targeted mobile ad spending specifically will grow from \$12.4 billion in 2016 to \$32.4 billion in 2021.³² Moreover, as advertiser-supported TV content becomes increasingly available on digital platforms via livestreaming services such as DirecTV Now and YouTube TV, online video advertising will likely grow significantly.³³ Given current trends in the video marketplace, advertisers, as well as consumers, can expect to further benefit from the continuing growth of competing alternative programming sources.

³⁰ See, e.g., NAB *Ex Parte* Letter, MB Docket Nos. 14-50, 09-182, at 6-9 (June 6, 2016).

³¹ See Derek Baine, *Domestic advertising market hits level not seen since 2008, up 5.2% to \$240B in 2016*, SNL Kagan (Jan. 10, 2017).

³² BIA Kelsey, Press Release, *Location-Targeted Mobile Ad Spend to Reach over \$32 Billion in 2021* (Jan. 24, 2017).

³³ See, e.g., Michelle Clancy, *Forrester: 2017 could be the year for OTT advertising*, rapidtvnews.com (Feb. 5, 2017); Brandon Verblow, *The Data Digest: Online Video Ad Spending Is Set to Make a Splash in 2017*, forrester.com (Feb. 2, 2017).

IV. TV BROADCASTING IS A VITAL AND GROWING PART OF TODAY'S VIDEO MARKETPLACE

Not only do growing numbers of households rely on OTA TV, broadcasters are utilizing digital technology and online platforms to provide viewers increased informational and entertainment options. As the Notice requests (at 7-8), NAB discusses recent developments in several of these areas below.

Local news production by TV stations. Facing intense and growing competition from digital sources, TV stations continue to invest in local news production that serves their viewers and communities. In 2016, the amount of local news offered by broadcast TV stations hit a new record high, with stations providing an average of 5.7 hours on weekdays and a median of six hours of news per weekday.³⁴ As usual, stations in large markets aired more local news than those in smaller markets, with stations in the top 25 markets offering an average of 6.6 hours of local news on weekdays and stations in markets 151-210 airing a weekday average of 4.4 hours of local news.³⁵ RTDNA research estimated total TV newsroom employment in 2016 at 27,600, which tied 2012 for the third highest total staffing ever; peak employment in TV newsrooms “came in the dot-com bubble of 2001.”³⁶

TV broadcasters also continue to provide their viewers with vital emergency information and other locally-oriented programming important to their communities. For example, a survey conducted by Research Now following Hurricane Harvey found that Texas communities “overwhelmingly chose local broadcast television as their preferred news source for storm coverage over all other media,” with 89 percent of respondents citing local

³⁴ Bob Papper, *RTDNA Research: Local news by the numbers*, rtdna.org (June 5, 2017).

³⁵ *Id.*

³⁶ Bob Papper, *RTDNA Research: Newsroom staffing*, rtdna.org (June 19, 2017) (also noting the consistent declines in newspaper employment and stating that the “average TV newsroom already has more staffers than the average daily newspaper”).

broadcast TV news as their top choice for information.³⁷ Just last month, TV station groups, including Hearst and Graham Media, aired prime-time specials about the opioid crisis in America, with these specials focusing on local content and material supplied by other stations in their groups.³⁸ The specials were just part of the comprehensive initiatives Hearst and Graham Media have launched to address the opioid epidemic harming many local communities.³⁹ These examples illustrate only a few of the ways that TV broadcasters serve their viewers with important informational programming beyond traditional newscasts.⁴⁰

Competition in the provision of news and information. As NAB has previously documented, the Internet, mobile devices and social media have significantly impacted competition in the media marketplace and news consumption.⁴¹ More recent data confirms the continuation of these trends.

According to the Pew Research Center, Americans' online news use "is closing in on TV news use," with 43 percent of Americans (including increasing numbers over the age of 50) now reporting that they "often" obtain news online, just seven percentage points lower than the 50 percent who "often" get news on television (counting local and national

³⁷ TVB, *Study Reveals Texas Communities Impacted by Hurricane Harvey Choose Local Broadcast Television News Coverage Over All Other Media*, BusinessWire (Aug. 30, 2017).

³⁸ Hal Boedeker, *Opioid crisis: WKMG, WESH work to get people talking*, Orlando Sentinel (Sept. 5, 2017); Bethany Ao, *Perspective and solutions in upcoming TV special on the opioid crisis*, Boston Globe (Sept. 6, 2017).

³⁹ Hearst's "State of Addiction" initiative began in January 2017 and, as of last month, their stations had produced and aired over 1,600 related stories. *Id.* In August 2017, Graham launched "Opioid Nation: An American Epidemic," a multiplatform commitment to address the opioid crisis, focusing on the local communities the station group serves. Diana Marszalek, *Graham Stations Take on Opioid Crisis*, Broadcasting & Cable (Aug. 23, 2017).

⁴⁰ NAB documents a selection of local broadcasters' service to their communities in *Licensed to Serve*, available at www.nab.org. In August 2017, for example, NAB documented local stations' investigative reporting, critical emergency information, their support of local non-profit organizations, and other direct support for community members and groups.

⁴¹ See, e.g., NAB *Ex Parte* Communication, MB Docket Nos. 14-50, 09-182 (July 7, 2016).

broadcast TV and cable TV). The gap between the two news platforms in early 2016 was 19 points, more than twice as large.⁴² As of August 2017, 67 percent of Americans overall reported that they get at least some of their news on social media, with well over half (55 percent) of Americans ages 50 and older now obtaining news on social media sites (up from 45 percent of older Americans in 2016).⁴³ Eighty-five percent of U.S. adults now get news on a mobile device, compared with 72 percent just a year ago and slightly more than half in 2013, and this growth has been fueled by large increases in the number of older adults using mobile devices to access news.⁴⁴ Overall, 93 percent of adults now get at least some news online, either via a mobile or a desktop device, and “digital native” news outlets continue to increase their audiences.⁴⁵ Given this ever-increasing competition, viewership of TV stations’ local news programming unsurprisingly has declined in several time slots in 2015 and 2016, including morning, early evening and late night.⁴⁶

TV stations’ use of websites, mobile, apps and social media. To compete more effectively and serve viewers who want to access news via a variety of platforms and devices, TV stations continue to enhance their online presence in a variety of ways. In

⁴² Jeffrey Gottfried and Elisa Shearer, *Americans’ online news use is closing in on TV news use*, Pew Research Center (Sept. 7, 2017).

⁴³ Elisa Shearer and Jeffrey Gottfried, *News Use Across Social Media Platforms 2017*, Pew Research Center (Sept. 7, 2017).

⁴⁴ Kristine Lu, *Growth in mobile news use driven by older adults*, Pew Research Center (June 12, 2017) (reporting that 67 percent of those ages 65 and older now get news via a mobile device, a 24 percentage point increase over the past year).

⁴⁵ *Digital News Fact Sheet*, State of the News Media, Pew Research Center (Aug. 7, 2017) (analyzing the growth in monthly unique visitors to the highest-traffic digital-native news outlets).

⁴⁶ *Local TV News Fact Sheet*, State of the News Media, Pew Research Center (July 13, 2017); K.E. Matsa, *Local TV News Fact Sheet*, State of the News Media, Pew Research Center (June 15, 2016). The combined audience of the ABC, CBS and NBC evening newscasts has remained stable in recent years. See *Network News Fact Sheet*, State of the News Media, Pew Research Center (June 16, 2017).

response to an RTDNA survey, 77.6 percent of TV news directors said that they did “something new and important online” in 2016. These actions included making more newscasts available online; increasing the amount of content designed specifically for the web and for mobile; providing digital-only newscasts, interview programs and/or long-form storytelling; designing new websites for millennials; offering more user-generated content; and making “digital hires” (reporters, producers and executive producers).⁴⁷ It is now routine for TV stations’ websites to offer news video, live streaming and, increasingly, to live stream their newscasts.⁴⁸

In 2016, 85.7 percent of news directors surveyed said they did “something new in social media” and 68.7 percent reported “doing something new in mobile.”⁴⁹ In particular, TV stations have expanded their use of Facebook Live, especially for breaking news. Stations also reported efforts at greater interactivity and live chats with viewers and the use of other social media to interact with viewers. Nearly 96 percent of all TV newsrooms reported using Twitter “constantly” or “daily,” and nearly 76 percent of news directors reported that they use social media beyond Facebook and Twitter, with Instagram the leading choice by far, followed by Snapchat.⁵⁰ Stations’ efforts relating to mobile included

⁴⁷ Bob Papper, *RTDNA Research: What stations are doing online*, rtdna.org (Mar. 27, 2017). For six straight years this report has found that all TV stations that air local news have websites and that, for the past seven years, every website (of stations that air local news) includes local news.

⁴⁸ The websites of 98.3 percent of TV stations with newsrooms include video. Nearly 83 percent of all TV stations’ websites offer live streaming and 62 percent offer live streamed newscasts. These percentages tend to be higher in larger markets. For example, 82.5 percent of the TV station websites in DMAs 26-50 offer live streamed newscasts, while only 32.6 percent of stations’ websites in DMAs 151-210 do so. *Id.*

⁴⁹ Bob Papper, *RTDNA Research: What’s new in social and mobile*, rtdna.org (Apr. 10, 2017).

⁵⁰ *Id.* (reporting that stations use Instagram to “share behind the scenes or powerful imagery captured by our crews”).

app development, including special severe weather and radar apps; streaming, including newscasts and more live events; and push alerts and notifications, including for specific news categories. TV stations' use of apps is now nearly ubiquitous, with 95.8 percent of stations reporting that they have apps, with the average station having two apps. Only 4.4 percent of stations charged consumers for apps in 2016, down from six percent three years ago.⁵¹

TV stations are also utilizing online platforms more broadly. Some stations continuously stream newscasts via OTT, and station groups, including Tegna, Dispatch, Raycom, Graham Media and Scripps, are experimenting with local or regional OTT services. These services may include linear channels of news and other content often locally produced (such as sports and magazine/lifestyle programming), combined with video on demand offerings.⁵² In early January 2017, NewsON announced the launch of its new website, WatchNewsON.com, featuring news broadcasts from 175 TV stations around the country. The website provides access to free live, local news from any web browser on a variety of desktop and mobile devices and smart TVs.⁵³ NewsON launched its original, ad-supported app in late 2015, which provides consumers access to live and on-demand local newscasts and local news clips on mobile, web and connected TV devices. On its first anniversary in November 2016, NewsON's lineup of local news had grown from 118 participating stations covering 75 percent of the U.S. to 170 stations covering 83 percent of

⁵¹ *Id.*

⁵² Michael Depp, *OTT: Local TV's Latest Growth Opportunity*, TVNewsCheck (Mar. 29, 2017).

⁵³ *NewsON Launches WatchNewsOn.com, Streaming Live Local News Online from Over 175 U.S. TV Stations; Free NewsON Site Gives Local News Devotees a Place to View Live Broadcasts from Any PC or Mobile Device, Complementing NewsON App*, Business Wire (Jan. 4, 2017).

the U.S. population.⁵⁴ Even as this brief overview shows, broadcasters continue to innovate in their provision of news and information to reach consumers through a variety of platforms in the home and on the go.

Multicasting. In addition to increasing their local news production, TV stations have enhanced their entertainment programming options. The total number of OTA channels aired by full-power, Class A and low-power TV stations in the U.S. grew to 6,109 in January 2017, up from 5,905 in February 2016 and only 2,518 at the end of 2010.⁵⁵ The top digital broadcast networks aired on station's multicast channels include those offering classic TV shows and movies; those focusing on specific genres (e.g., comedy, science fiction); and those targeting specific demographic groups (e.g., women, African Americans, Hispanics).⁵⁶ Recently launched diginets have been designed to reach underserved and newer audience segments. For example, Light TV, a multicast network devoted to family and faith-based programming, launched in December 2016, and in the spring of 2017, the millennial-targeted diginet TBD began its roll out, focusing on the delivery of internet content, including web series, short films, comedy, music and viral content, via over-the-air TV.⁵⁷ Broadcast stations continue to add multicast programming with specialized focus that serve local communities. For example, the diginet Justice Network, which reaches more than 73 percent of U.S. households, combines mystery, crime and investigation programming with BeSafe, a first-of-its-kind initiative to make communities safer that uses the network's

⁵⁴ Mark Miller, *NewsON Celebrates First Anniversary*, TVNewsCheck (Nov. 4, 2016).

⁵⁵ Atif Zubair and Peter Leitzinger, *TV station multiplatform analysis 2017 update: New audiences targeted*, SNL Kagan (Jan. 31, 2017).

⁵⁶ Janet Stilson, *Optimistic Outlook on Multicast's Prospects*, TVNewsCheck (July 18, 2017).

⁵⁷ Diana Marszalek, *Multicast Nets Extend Reach into New Niches*, Broadcasting & Cable (Jan. 9, 2017); Lorraine Mirabella, *Sinclair Broadcast rolls out TBD network targeting millennials*, Baltimore Sun (Mar. 8, 2017).

localized servers to feature local most-wanted fugitives and missing children.⁵⁸ After two and a half years on the air, 103 missing children and 101 most-wanted fugitives have been returned to their families or captured.⁵⁹ Consumers have clearly benefited from this significant expansion in the number and diversity of free OTA broadcast channels and will continue to do so in the future.⁶⁰

Multicasting is also beginning to generate important revenue for stations, as diginets have drawn the attention of general market advertisers.⁶¹ Recently, Scripps announced that it had purchased four diginets from Katz Broadcasting in a transaction valued at \$302 million, a deal that has been called “an authentication of the entire multicasting business.”⁶² According to reports, more diginets are in the planning stage, and “they are looking forward to the rollout of the upcoming ATSC 3.0 broadcast standard with its expanded capacity,” which will enable stations to carry additional program streams and offer increased opportunities for content creators.⁶³

V. BROADCASTERS SHOULD BE PERMITTED TO TRANSITION TO THE NEXT GENERATION TV STANDARD SO THEY CAN COMPETE EFFECTIVELY AND SERVE VIEWERS IN AN INTERNET-CENTRIC MEDIA LANDSCAPE

Commission approval of the voluntary deployment of the Next Generation TV standard (ATSC 3.0) will potentially enhance the competitiveness of the video marketplace

⁵⁸ Mark Miller, *Univision Adds Justice Network in 11 Markets*, TVNewsCheck (Sept. 6, 2017).

⁵⁹ Mark Miller, *Justice Network Reaches Big Milestone*, TVNewsCheck (Aug. 28, 2017).

⁶⁰ See, e.g., Debra Bass, *Who needs cable or satellite? Your TV probably gets 50-plus free channels*, St. Louis Post-Dispatch (Aug. 11, 2017).

⁶¹ Janet Stilson, *Optimistic Outlook on Multicast’s Prospects*, TVNewsCheck (July 18, 2017) (quoting broadcasters as saying that multicast revenue, while not “huge,” is “important” and “growing,” and describing multicast revenue as a new revenue stream that has “grown in nice increments over the past few years”).

⁶² Harry Jessell, *Scripps’ Katz Buy Puts Diginets on the Map*, TVNewsCheck (Aug. 11, 2017) (quoting a competitor of Katz).

⁶³ Janet Stilson, *Optimistic Outlook on Multicast’s Prospects*, TVNewsCheck (July 18, 2017).

by allowing broadcasters to offer viewers improved and expanded services. In addition to providing broadcasters with the capacity to air more streams of programming, as referenced above, Next Generation TV will give broadcasters the capability to match evolving standards for programming.

For example, some streaming services, including Netflix and Amazon, currently offer 4K programming.⁶⁴ DirecTV also transmits some programming in 4K, particularly live sports.⁶⁵ Other MVPDs also have announced ambitious plans for expanded 4K programming.⁶⁶ These services all can take advantage of the growing proliferation of 4K-capable television sets. A consumer survey released in spring 2017 reported that “4K Ultra HD (UHD) television is experiencing the fastest growth in ownership among emerging technologies,” with 16 percent of U.S. households currently owning a 4K UHD set and another 11 percent planning to purchase one in the coming year.⁶⁷ But unlike other service providers with whom they compete, broadcasters lack the ability to transmit 4K programming using their current transmission standard. Preventing broadcasters from

⁶⁴ Nick Pino and Jon Porter, *4K and Ultra HD: Everything you need to know about the hot new resolution*, techradar.com (Sept. 21, 2017).

⁶⁵ Timothy J. Seppala, *DirecTV doubles its live 4K broadcasts for this year’s Masters*, engadget.com (Apr. 5, 2017); Laura Hamilton, *Two NASCAR Races Offered in 4K UHD by DirecTV*, cedmagazine.com (Mar. 31, 2017).

⁶⁶ Jeff Baumgartner, *NAB 2017: Two MVPDs Roll Out 4K with SES, Vivicast*, Multichannel News (Apr. 24, 2017).

⁶⁷ Laura Hamilton, *CTA Survey Shows 4K UHD TV Ownership on the Rise in the United States*, cedmagazine.com (May 26, 2017). A 2016 study predicted that, by 2020, “all 40-inch and bigger TVs sold in North America” will be Ultra HD and “almost half of all North American homes will own at least one Ultra HD TV.” John Archer, *Everybody Wants 4K: New Research Shows Massive UHD TV Sales Surge*, forbes.com (May 25, 2016) (discussing report from Strategy Analytics).

providing 4K programming to the rapidly growing number of consumers who have or will soon purchase 4K-capable sets does not serve the public interest.

Notably, the Next Generation TV standard also integrates seamlessly with IP. The standard therefore will allow broadcasters to offer innovative and interactive services to viewers with broadband connections. The flexibility offered by the Next Generation Standard – permitting mobile, HD, Ultra HD, expanded multicasting, improved emergency information, interactivity and data delivery – is its real strength, enabling broadcasters to develop different combinations of offerings that serve the needs and interests of consumers and communities across the country. For all of these reasons, swift approval of the voluntary deployment of the Next Gen standard, without unduly burdensome regulatory requirements, will help ensure that broadcasters can continue to offer a competitive alternative in the digital marketplace.

VI. CONCLUSION

Television broadcasting remains at the center of the video programming distribution marketplace, as today's consumers seek new ways to access and combine a growing array of video services that best serve their needs, interests and pocketbooks. In this competitive landscape, consumers are increasing their use of free, over-the-air TV broadcasting, and stations are providing greater amounts of multicast programming and local news and information. Broadcasters also are working hard to ensure that consumers can access broadcast informational and entertainment content via a range of platforms and devices. But TV broadcasters' ability to compete effectively in the future depends upon their ability to embrace new technologies and offer innovative services. Commission authorization of

broadcasters' voluntary use of the Next Generation TV standard will both benefit the viewing public and promote competition in the video marketplace.

Respectfully submitted,

**NATIONAL ASSOCIATION OF
BROADCASTERS**

1771 N Street, NW
Washington, DC 20036
(202) 429-5430

A handwritten signature in black ink that reads "Jerianne Timmerman". The signature is written in a cursive style with a long horizontal flourish at the end.

Rick Kaplan
Jerianne Timmerman
Patrick McFadden

October 10, 2017