

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

In the Matter of)	
)	
Termination of Certain Proceedings as Dormant)	CG Docket No. 20-158
)	
Promoting Innovation and Competition in the)	MB Docket No. 14-261
Provision of Multichannel Video Programming)	
Distribution Services)	

**REPLY COMMENTS OF THE
ABC TELEVISION AFFILIATES ASSOCIATION,
CBS TELEVISION NETWORK AFFILIATES ASSOCIATION,
FBC TELEVISION AFFILIATES ASSOCIATION, AND
NBC TELEVISION AFFILIATES**

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The ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates¹ (collectively, “the Affiliates Associations”) respond to the Public Notice² in which the Consumer and Governmental Affairs Bureau proposes to terminate more than 500 open proceedings as dormant. Among the proceedings identified in the Attachment to the *Notice* is MB Docket No. 14-261, in which the Commission proposes to modernize the interpretation of the term “multichannel video programming distributor” (“MVPD”) to include services that distribute video programming via the Internet, i.e., “online video distributors” (“OVDs”). *See In the Matter of Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services*, Notice of Proposed Rulemaking, FCC 14-210 (Dec. 19, 2014) (the “OVD/MVPD Proceeding”).

The Affiliates Associations strongly object to the termination of the OVD/MVPD Proceeding.

First, the OVD/MVPD Proceeding is far from dormant. The active docket reflects more than 330 filings by a variety of industry participants and other stakeholders over the last several years, including opening and reply comments filed by the Affiliates Associations in 2015³ as well as additional comments filed by the NBC Television Affiliates and the ABC Television Affiliates

¹ Each of the ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates is a non-profit trade association whose members consist of local television broadcast stations throughout the country that are each affiliated with its respective broadcast television network.

² *Consumer and Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant*, CG Docket No. 20-158 (rel. June 2, 2020) (“*Notice*”).

³ *See* Comments of the ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates, MB Docket No. 14-261 (Mar. 3, 2015); Reply Comments of the ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates, MB Docket No. 14-261 (Apr. 3, 2015).

Association in May 2019.⁴ In just the last year, including in the last few months, multiple industry participants have filed *ex parte* notices in the docket, reflecting ongoing communications with the Commission on the critical issues raised in the OVD/MVPD Proceeding.

Second, the passage of time since the docket was opened in 2014 has not rendered the issues it raised moot or insignificant. Quite the contrary. Today, online video distributors play an increasingly significant role in the fast-changing video distribution marketplace. The arguments made by broadcasters in 2015 for treating OVDs as MVPDs for purposes of retransmission consent have even greater force and urgency today, as viewers increasingly turn to Internet-based services—and away from traditional MVPD platforms—for access to linear program streams. Indeed, the Commission has recognized as much.⁵

Those marketplace changes have substantial consequences for local broadcasters—both those affiliated with the national broadcast networks and independent stations—whose ability to negotiate with OVD services for the retransmission of their signals to subscribers is directly affected by the Commission’s decision whether to treat OVDs as MVPDs for purposes of the

⁴ See Reply Comments of the ABC Television Affiliates Association and NBC Television Affiliates, MB Docket Nos. 14-261 & 18-349 (May 29, 2019).

⁵ See, e.g., *Communications Marketplace Report*, FCC 18-181, 2018 WL 6839365 (rel. Dec. 26, 2018), ¶ 124 & Fig. B-6 (“In general, traditional cable, DBS, and telephone company MVPDs lost subscribers from 2016 and 2017, while virtual MVPDs and large OVDs offering VOD content gained subscribers.”); *id.* ¶ 125 & Fig. B-7 (“The trend for MVPDs, however, is downward, while the trend for virtual MVPDs, OVDs offering VOD content, and over-the-air broadcast service is upward.”); *2018 Quadrennial Regulatory Review—Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket No. 18-349, Notice of Proposed Rulemaking, FCC 18-179 (rel. Dec. 13, 2018), ¶ 83 (“One of the biggest changes in the video programming market has been online distribution of programming from a variety of sources. Today, OVDs—including linear multichannel streaming services, both those from social media companies and other online platforms, and direct-to-consumer offerings by broadcast networks themselves—reach millions of consumers.”).

retransmission consent regime. The Affiliates Associations, along with individual broadcast groups and stations, remain actively engaged in dialog with the Commission on the enormously important issues raised in the OVD/MVPD Proceeding.

In short, the OVD/MVPD Proceeding, in which the Commission continues to consider those issues and their significance to local broadcasters, remains active. It should not be terminated.

Respectfully submitted,

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