



Layer3 TV, Inc.  
1660 Wynkoop Street  
Suite 800  
Denver, Colorado 80202  
[www.layer3tv.com](http://www.layer3tv.com)  
Lauren E. Wallace, Esq.  
303.552.9618

July 22, 2015

**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street S.W.  
Washington, DC 20554

**Re: Notice of Ex Parte Communication, MB Docket No. 14-261, In the Matter of Promoting Competition and Innovation in the Provision of Multichannel Video Programming Distribution Services**

Dear Madam Secretary:

On Monday, July 20, 2015, Jeffrey Binder, David Fellows, Lindsay Gardner, Eric Kuhn and the undersigned, collectively representing Layer3 TV, Inc. ("**Layer3 TV**") met with Phil Verveer, Gigi Sohn, Maria Kirby and Crystal Evans of Chairman Wheeler's office; and Jonathan Sallet and Stephanie Weiner of General Counselor Sallet's Office for approximately 45 minutes; Mr. Fellows attended by telephone. Layer3 TV discussed the forthcoming launch of its multichannel video programming distribution ("**MVPD**") services, and clarification, changes, revisions and updates for which the Commission sought comment in its Notice of Proposed Rule Making ("**NPRM**") in MB Docket 14-261 on MVPDs.

At the request of Chairman Wheeler's office, Layer3 TV began with a discussion of its facilities-based architecture and the defined physical paths over which the company routes and controls distribution of multiple linear streams of traditional video programming.

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The Commission sought Layer3 TV's analysis of its NPRM; specifically, whether its proposal would give innovative companies access to programming that consumers desire or unduly burden companies seeking to offer new services. First, Layer3 TV asserted that innovative companies like itself, that control the selection, management and operation of the facilities over which traditional MVPD services are provided, are not unduly or unnecessarily burdened by the fundamental regulatory obligations imposed on it and other MVPDs; *provided that* such regulatory obligations recognize basic technical differences in Internet Protocol ("IP") delivery of linear channels versus quadrature amplitude modulation ("QAM") delivery of such linear channels by the same cable systems.

Layer3 TV proposed that an entirely technology-neutral regulatory construct could paradoxically inhibit competition and degrade the quality of content that consumers demand if those obligations aimed at protecting consumers' interests (e.g., Emergency Alert System ("EAS") requirements; public, educational and governmental ("PEG") access channels; closed captioning; commercial limits in children's programs; the loudness of commercials; access to programming) are jettisoned. Allowing certain Internet-based distributors of video programming ("OVDs") to avoid regulatory parity with existing MVPD competitors, while obtaining access to the benefits afforded to MVPDs, might run contrary to the Commission's intent to encourage innovation and provide competition with, and among, the numerous MVPD competitors benefiting from program access protections afforded to such MVPD competitors; further, determining how legacy regulations and similar obligations of traditional MVPDs would apply to OVDs is a complex task that could result in destabilization and confusion if not consistently applied, as applicable, to each form of technology addressed by the definition. Compliance with those legacy rights and obligations that remain applicable, regardless of the delivery technology, is neither impossible nor anticompetitive. Nor is such a requirement unduly burdensome for new entrants, as Layer3 TV said it would soon demonstrate.

Layer3 TV acknowledged the challenge of answering the Commission's questions with respect to specific privileges and obligations being made available on a technology-neutral basis or to MVPDs that can "choose" their own status. The company explained that while content providers are incited to make their content available on various platforms, it supported the Commission's judgment that the current rules would nevertheless benefit from clarification, changes, revisions and updates. Layer3 TV offered to provide more extensive input on the NPRM in a subsequent *ex parte* filing.

Layer3 TV took no position at this time with respect to programmers' distribution of content through their own applications, services or sites that such programmers use to exhibit their content to consumers. Layer3 TV desires that the new rules seek to

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safeguard consumers' interests and promote innovation and competition similar to that achieved by Layer3 TV as an MVPD, without eliminating or undermining the privileges and obligations designed to protect such interests.

This letter is filed pursuant to section 1.1206 of the Commission's rules and should be treated as a written *ex parte* communication.

Respectfully submitted,

/s/ Lauren Wallace  
Lauren Wallace  
Company Counsel  
**Layer3 TV, Inc.**

cc: Crystal Evans  
Maria Kirby  
Jonathan Sallet  
Gigi Sohn  
Phil Verveer  
Stephanie Weiner