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PUBLIC NOTICE

Federal Communications Commission
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DA 02-1304

June 3, 2002

MEDIA BUREAU SEEKS COMMENT ON EXPERIMENTAL ECONOMICS STUDY EXAMINING HORIZONTAL CONCENTRATION IN THE CABLE INDUSTRY

CS DOCKET NOS. 98-82, 96-85
MM DOCKET NOS. 92-264, 94-150, 92-51, 87-154
DA 02-733
MB DOCKET NO. 02-70

PLEADING CYCLE ESTABLISHED

COMMENTS: July 18, 2002 **REPLY COMMENTS: August 2, 2002**

The Federal Communications Commission recently commissioned a study regarding the extent to which different levels of horizontal concentration among multichannel video program distributors ("MVPDs") might affect the flow of video programming to consumers. The study utilized the methodology of experimental economics, which examines economic interactions among market participants in controlled laboratory settings. The study simulated a market environment in which buyers, implicitly representing cable and direct broadcast satellite distributors of multi-channel video programming, and sellers, implicitly representing programming networks, purchased and sold goods, representing programming, negotiated trades, implicitly representing affiliate fees that grant MVPDs the right to distribute the sellers' programming.

The Media Bureau is seeking comment on the study report, attached hereto, which is being released concurrently by the Office of Plans and Policy as OPP Working Paper No. 35, "Horizontal Concentration in the Cable Television Industry: An Experimental Analysis" by Mark Bykowsky, Anthony M. Kwasnica and William Sharkey ("Working Paper").[1]

Specifically, interested parties are asked to comment on the value of the study in providing empirical evidence relevant to the ownership issues raised in the Commission's pending cable ownership rulemaking proceeding[2] and the AT&T/Comcast license transfer proceeding.[3] Interested parties also are asked to address

[1] The spreadsheets with the parameter values that were used in each experimental session, and all of the data collected during the experiments that were used in preparing the Working Paper also are being released.

[2] *See Implementation of Section 11 of the Cable Television Consumer Protection and Competition Act of 1992, Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, Commission's Cable Horizontal and Vertical Limits and Attribution Rules, Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests, Review of the Commission's Regulations and Policies Affecting Investment in the Broadcast Industry, Reexamination of the Commission's Cross-Interest Policy*, Further Notice of Proposed Rulemaking, FCC 01-

the study's conceptualization, underlying assumptions, design, and methodology. Finally, interested parties are encouraged to examine the released data and draw their own conclusions, to explore additional avenues of research, and to consider further studies or analyses and submit their findings to the Commission in the interest of developing a complete evidentiary record and resolving the complicated issues posed by adoption of general ownership standards and grant of specific ownership approvals.

Interested parties may file comments on the Working Paper on or before July 18, 2002, and may file reply comments on or before August 2, 2002. Comments may be filed using the Commission's Electronic Filing System (ECFS), at **<http://www.fcc.gov/e-file/ecfs.html>**, or by filing paper copies. All filings must reference **CS Docket Nos. 98-82, 96-85, MM Docket Nos. 92-264, 94-150, 92-51, 87-154, and MB Docket No. 02-70.**

Interested parties filing paper copies must send an original and sixteen copies, and reference the above designated dockets. 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 8:00 a.m. to 7:00 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. Interested parties also must send either one electronic copy via e-mail or a paper copy of each filing to Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or email at qualexint@aol.com; ten (10) paper copies of their filing to Linda Senecal, Industry Analysis Division, Media Bureau, Federal Communications Commission, 445 12th Street, SW, Room 2-C438, Washington, DC 20554; and one electronic copy via e-mail to lsenecal@fcc.gov.

Interested parties using the ECFS must file seven copies of electronic submissions (one for each docket referenced in the caption). In completing the transmittal screen, they should include their full name, postal service mailing address, and the applicable dockets. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, including "get form your e-mail address" in the body of the message. A sample form and directions will be sent in reply.

Both the rulemaking and the transfer proceedings are "permit-but-disclose" for purposes of the Commission's *ex parte* rules.[4] *Ex parte* communications will be governed by section 1.206(b) of the Commission's rules.[5] We urge interested parties submitting written *ex parte* presentations or summaries of oral

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263, CS Docket Nos. 98-82, 96-85, MM Docket Nos. 92-264, 94-150, 92-51, 87-154, 16 FCC Rcd 17312 (2001) ("*Further Notice*"). The *Further Notice* also examines attribution rules applicable to cable operators and broadcasters.

[3] *See Applications for Consent to the Transfer of Control of Licenses, Comcast Corporation and AT&T Corp., Transferors, to AT&T Comcast Corporation, Transferee,* Public Notice, DA 02-733, MB Docket No. 02-70 (rel. March 29, 2002).

[4] *See generally* 47 C.F.R. §§1.1200-1.1216.

[5] 47 C.F.R. § 1.1206(b).

cable ownership proceeding[6] and its March 29, 2002 Public Notice in the AT&T/Comcast license transfer proceeding.[7]

Copies of the Working Paper and other materials being released by this Public Notice may be obtained from Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, and will also be available through ECFS. These documents are also available for public inspection and copying during normal reference room hours at the Commission's Reference Information Center, 445 12th Street, SW, CY-A257, Washington, DC 20554. The documents will be posted on the Media Bureau's website at <http://www.fcc.gov/mb>, and on the Office of Plans and Policy's website at <http://www.fcc.gov/opp/workingp.html>.

Alternate formats of this public notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 voice, (202) 418-7365 TTY, or email at bmillin@fcc.gov.

The media contacts for this Public Notice are Michelle Russo, (202) 418-2358, and Margo Domon Davenport, (202) 418-2949. The Media Bureau contact is Royce Sherlock, (202) 418-2330. The Office of Plans and Policy contact is Mark Bykowsky, (202) 418-1695.

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[6] *See Further Notice,* 16 FCC Rcd at 17371 ¶ 132.

[7] *See* Public Notice, *AT&T Corp. and Comcast Corp. Seek FCC Consent for a Proposed Transfer of Control*, MB Docket No. 02-70, DA 02-733 (rel. March 29, 2001), *as modified by* Public Notice, *Erratum and Order Extending Filing Deadline*, MB Docket No. 02-70, DA 02-70 (rel. May 3, 2002).