

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

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

)  
)  
)  
)  
)  
)

MB Docket No. 04-227

---

**COMMENTS OF FOX CABLE NETWORKS GROUP**

Fox Cable Networks Group ("Fox Cable") hereby submits these comments in response to the Commission's *Notice of Inquiry*, released June 17, 2004, seeking data and information on the status of competition in the market for the delivery of video programming.<sup>1</sup> Fox Cable respectfully submits the enclosed data about its networks which is responsive to certain of the questions posed by the *Notice of Inquiry*.

**Information on Programming Services**

The *Notice of Inquiry* seeks information regarding multichannel video programming distributors ("MVPDs") and networks "to assess the changes in the amount and type of video programming available that have occurred in the past year."<sup>2</sup> In particular, the Commission requests information about "ownership, the type of programming services (*e.g.*, national, regional, local) and the genre of programming

---

<sup>1</sup> See *In Re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Notice of Inquiry, FCC 04-136, released June 17, 2004 (the "*Notice of Inquiry*").

<sup>2</sup> *Notice of Inquiry*, at ¶ 14.

services (e.g., sports, news, children's general entertainment and foreign language). . . . We also request data on the number of subscribers to each programming network."<sup>3</sup>

Attachment A hereto contains a chart listing each of the video programming services majority owned by Fox Cable, as well as those in which Fox Cable or its corporate affiliates hold a minority interest. Attachment A provides specific information about the services' ownership, distribution (e.g., national, regional or local), genre and number of subscribers.

The *Notice of Inquiry* also requests information regarding programmers' access to MVPDs and their "ability to gain carriage."<sup>4</sup> The Commission asks, for example, "[t]o what extent does the success of a new programming service depend on the tier of service in which it is placed?"<sup>5</sup> The *Notice of Inquiry* also seeks comment on "any difficulties programming networks encounter when launching a new service."<sup>6</sup>

Fox Cable answers these and a number of related questions in its *A La Carte Comments*.<sup>7</sup> In particular, Fox Cable demonstrated that video programming services have developed a business model that relies on carriage to as wide an audience as

---

<sup>3</sup> *Id.*, at ¶¶ 14-15.

<sup>4</sup> *Id.*, at ¶ 17.

<sup>5</sup> *Notice of Inquiry*, at ¶ 17.

<sup>6</sup> *Id.*

<sup>7</sup> See Comments of Fox Cable Networks Group, filed July 15, 2004, MB Docket No. 04-207, attached hereto as Attachment B (the "*A La Carte Comments*"), filed in response to the Commission's public notice seeking information about the impact that imposition of an a la carte or themed tier pricing regime would have on consumers, programming networks and MVPDs. See *Comment Requested on A La Carte and Themed Tier Programming and Pricing Options for Programming Distribution on Cable Television and Direct Broadcast Satellite Systems*, DA 04-1454, released May 25, 2004 (the "*A La Carte Public Notice*").

possible, thereby maximizing revenue while ensuring that license fees charged to MVPDs remain reasonable.<sup>8</sup> Supported by the statement of Dr. Gustavo Bamberger, Senior Vice President of the economic consulting firm Lexecon, Fox Cable explained to the Commission that bundling is ubiquitous in the U.S. economy, and that the practice generates efficiencies that have helped facilitate the growth of the many diverse programming networks available to American consumers today.<sup>9</sup> Fox Cable's comments also explained how the imposition of an a la carte or themed tier programming regime would threaten diversity and result in *higher* prices for consumers.<sup>10</sup> For all of these reasons, Fox Cable urged the Commission to allow marketplace negotiations to determine the most efficient and cost-effective way for consumers to receive a diverse array of programming services.<sup>11</sup> Given that so many of the issues presented in the *A La Carte Public Notice* have been raised again by the *Notice of Inquiry*, Fox Cable requests that the Commission incorporate its *A La Carte Comments* into the record of this proceeding.

### **Access to Programming by Persons With Disabilities**

The *Notice of Inquiry* also requests information "regarding the accessibility of closed captioning . . . to persons with disabilities."<sup>12</sup> The Commission asks about

---

<sup>8</sup> See *A La Carte Comments*, at 6-8.

<sup>9</sup> See *id.*, at 2-3; see also Statement of Gustavo Bamberger, Senior Vice President, Lexecon, attached as Appendix A to *A La Carte Comments*, at 2.

<sup>10</sup> See *A La Carte Comments*, at 9-11, 14-16.

<sup>11</sup> See *id.*, at 25.

<sup>12</sup> *Notice of Inquiry*, at ¶ 23.

"programming providers' . . . experiences with closed captioning," and inquires about the costs associated with captioning.<sup>13</sup>

The video programming services majority owned and operated by Fox Cable (the "Fox Cable O&Os") use several vendors to caption their originally-produced programming. The costs of captioning an hour of programming vary widely depending on whether the program is live or on tape (and depending on the timeframe in which the completed work is needed). When a video programming service purchases programming from a third party, that party often includes captioning as part of the delivered programming. In those cases, the costs of captioning are included in the overall cost to purchase the programming.

When the Fox Cable O&Os produce original programming, the costs specifically associated with captioning are more readily identifiable. Fox Cable's regional sports networks, for example, spend anywhere from \$105 to \$325 to caption a single hour of programming, with the higher fees typically associated with live sports events. Fox Cable attempts to find creative solutions to keep its closed captioning costs under control while providing service to Americans with hearing impairments. National Geographic Channel ("Nat Geo"), for instance, has obtained a grant from the Department of Education that has helped cover the costs of captioning some of Nat Geo's educational programming. Nat Geo typically spends about \$165 to caption each hour of its original

---

<sup>13</sup>

*Id.*

programming.<sup>14</sup> On an aggregate basis, Fox Cable spends hundreds of thousands of dollars each year to caption its programming.

The Fox Cable O&Os are not aware of any consumer complaints regarding their provision of closed captioning, and the Fox Cable O&Os believe that the current system is working well.

---

<sup>14</sup> Although Nat Geo is not yet four years old (and therefore is not yet subject to the closed captioning rules), the network nonetheless captions hundreds of hours of programming each quarter as a service to its viewers. Nat Geo intends to caption 100 percent of its programming beginning in 2005.

