

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
Annual Assessment of the Status of) MB Docket No. 05-255
Competition in the Market for the)
Delivery of Video Programming)

COMMENTS OF COMCAST CORPORATION

Joseph W. Waz, Jr.
COMCAST CORPORATION
1500 Market Street
Philadelphia, Pennsylvania 19102

James R. Coltharp
COMCAST CORPORATION
2001 Pennsylvania Avenue, N.W.
Suite 500
Washington, D.C. 20006

Thomas R. Nathan
COMCAST CABLE COMMUNICATIONS, LLC
1500 Market Street
Philadelphia, Pennsylvania 19102

James L. Casserly
Ryan G. Wallach
Stephanie L. Podey
WILLKIE FARR & GALLAGHER LLP
1875 K Street, N.W.
Washington, D.C. 20006-1238

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Comcast Corporation (“Comcast”) hereby responds to the Commission’s Notice of Inquiry (“*Notice*”) in the above-captioned proceeding.¹ These comments document the intense and still growing competition among established players and new entrants to deliver video programming to American consumers, as well as the many ways in which Comcast, as the nation’s leading cable operator, is continuing its efforts to offer consumers the most compelling entertainment and communications services.

I. INTRODUCTION AND SUMMARY

Beginning with its *First Report*, the Commission has consistently recognized that the video programming choices available to consumers are not limited to those available from “multichannel video programming distributors,” or “MVPDs,” but also include a variety of other delivery modalities.² Nonetheless, the *First Report* and subsequent reports have focused mainly on MVPDs, especially, cable operators, overbuilders, direct broadcast satellite (“DBS”) and C-

¹ *In re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Notice of Inquiry, MB Docket No. 05-255, FCC 05-155 (Aug. 12, 2005) (“*Notice*”).

² *See generally In re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, First Report, 9 FCC Rcd. 7442 (1994) (“*First Report*”).

band satellite providers, local exchange carriers (“LECs”), Multichannel Multipoint Distribution Service (“MMDS”), electric utilities, and satellite master antenna TV (“SMATV”) systems. The Commission foresaw significant *potential* competition from these providers of multichannel video programming services but also concluded that “[p]roviders using alternative video programming distribution media have not yet reached the subscribership levels necessary for the Commission to conclude that vigorous rivalry currently exists in the market for multichannel video programming distribution.”³ In subsequent years, considerable efforts have been made to promote alternative distribution modalities -- not just the ones listed above but also others such as Interactive Video and Data Services (“IVDS”), Local Multipoint Distribution Service (“LMDS”), and open video systems.

Year after year, the Commission has tracked new, old, and future competitors, and while some have failed to establish themselves in the marketplace -- e.g., video dialtone, LMDS, and IVDS -- others have turned out to be sustained and effective competitors. This is especially true in the case of DBS, whose two leading providers offer services ubiquitously throughout the continental United States (and to a lesser degree in Hawaii and Alaska) and have captured over 26 million customers (and counting!). Meanwhile, over-the-air broadcasting remains a viable alternative for millions of households, home video sales and rentals have boomed beyond anyone’s wildest predictions, the Internet is emerging as the most abundant source of video programming options ever, and after several false starts it now appears that the deep-pocketed Bell companies (having extinguished much of the local phone competition that was intended to result from the Telecommunications Act of 1996 but facing unanticipated challenges from

³ *Id.* ¶ 15.

wireless and cable companies for phone customers) are investing heavily to challenge cable and DBS for multichannel video customers.

In short, today's competitive marketplace far exceeds the hopes expressed at the time of the *First Report*. Consumers in every community have true alternatives for how, where, and from whom they obtain their video programming, with even more alternatives on the horizon.⁴

Competition is robust and choice abounds. As discussed in greater detail below:

- DBS competition continues to grow and shows no sign of abating.
- LECs, especially the gigantic Bell companies, have joined with DBS operators to market video services to consumers while the LECs continue to build out advanced fiber networks to neighborhoods and homes around the country. The Bell companies' offering of video services over fiber networks is imminent.
- Consumer adoption of video via the Internet has skyrocketed. The availability of video streaming and downloads, and improvements in the quality of transmission and picture signal, has made the Internet a genuine multichannel alternative.
- Broadcast stations are well on their way to becoming full-fledged multichannel alternatives. And more consumers than ever are obtaining huge quantities of video programming from home video rentals and sales.
- Overbuilders, now reborn as broadband service providers ("BSPs"), have solidified their position in the marketplace, and are now looking to further expand their footprints.
- New video programming distribution alternatives, such as video via mobile phones and broadband over power line transmission, show promise for consumers. Investment and innovation in these new, but yet to be proven, technologies -- and in the more established technologies -- is continuing.

⁴ As the Commission recently recognized: "Today, almost all consumers have the choice between over-the-air broadcast television, a cable service, and at least two DBS providers. In some areas, consumers may also choose between other traditional (*e.g.*, broadcasting, cable, DBS) and emerging (*e.g.*, use of digital broadcast spectrum, fiber to the home, video over the Internet) delivery technologies as well." See *In re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Eleventh Annual Report, 20 FCC Rcd. 2755 ¶ 4 (2005) ("*11th Annual Report*"). In the months since those words were written, consumers' choices have continued to grow.

The video distribution marketplace is more competitive and diverse than ever, and a focus solely on traditional MVPDs and traditional services misses a significant portion of the dynamic competition that has developed and continues to develop. The reality now is that “[t]elephone giants, cable titans, computer companies and consumer-electronics makers are all vying to provide the next generation of high-tech entertainment -- a single network of gadgets that lets you view photos, listen to music, record DVDs and tune into whatever TV programs you want to watch, whenever you feel like watching them.”⁵

In such a dynamic marketplace, Comcast and other established MVPDs cannot afford to rest for a moment. With its commitment to “be the company that people turn to first for the communications products and services that connect people to what’s important in their lives,”⁶ Comcast continues its rapid development and deployment of advanced services, including new digital and high-definition television (“HDTV”) programming, video-on-demand (“VOD”) service with thousands of hours of content, digital video recorder (“DVR”) service, high-speed Internet service, and telephone service. In every respect, Comcast’s marketplace behavior shows the powerful effects of vibrant marketplace competition. That behavior also demonstrates Comcast’s determination to be the provider of choice despite the growing options available to consumers.

The comments that follow focus on factual information regarding video competition, first describing the many different companies, services, and technologies -- other than cable -- that

⁵ Michael Totty, *Who’s Going To Win the Living-Room Wars?*, Wall St. J., Apr. 25, 2005, at R1.

⁶ Comcast Corp., *The Comcast Credo -- Turn to Us First*, at <http://www.comcast.com/diversity/Credo.html> (last visited Sept. 19, 2005).

provide consumers with video programming options, and then discussing the ways in which Comcast has responded to competition by continuously expanding the options that it makes available.⁷ The policy implications of the facts presented here will be discussed at greater length in reply comments, especially if (as too often occurs in these proceedings) other parties use this opportunity to plead for increased governmental intervention in the marketplace. For now, it suffices to observe that competition and deregulation in the video marketplace are both integral parts of a virtuous circle that yields greater viewing choices for consumers, with increased competition justifying more deregulation, and more deregulation leading to increased investment, innovation, and competition. In light of these marketplace facts, the Commission should step up its efforts to take additional and even-handed *deregulatory* steps -- treating like services alike -- for this dynamic and intensely competitive marketplace.⁸

II. CONSUMERS IN THE UNITED STATES TODAY ENJOY ABUNDANT CHOICES AMONG VIDEO PROGRAMMING DELIVERY MEDIA.

A. DIRECTV and EchoStar Are Providing Fierce Competition in the Video Marketplace.

For over a decade now, DBS providers have offered consumers a wide array of video programming options. The two current DBS providers, DIRECTV and EchoStar, have grown from obscurity to being the second and third largest MVPDs in the Nation. Together they offer

⁷ Certain of the other questions posed in the *Notice* are addressed in the comments being filed by the National Cable & Telecommunications Association (“NCTA”).

⁸ It might be observed that the Commission has expended much greater resources in adopting deregulatory measures for incumbent telephone companies than for cable companies, even though the former face much less competition and have maintained much higher market shares in their core business.

service to virtually every community in the United States, and serve over 26 million subscribers,⁹ or approximately 28% of all MVPD subscribers nationwide.¹⁰ As the Commission has noted, “DBS operators are the most robust competitors to incumbent cable operators.”¹¹

DBS providers aggressively market their video services. For example, in May, DIRECTV launched a promotion that included its Total Choice package for \$29 per month for the first 3 months, as well as free standard equipment and installation for four rooms.¹² This Summer, EchoStar debuted a promotion offering a 60-channel digital video package for up to four rooms for 3 months at \$19.99 per month, plus three free months of HBO and Showtime, a free DVR upgrade, no extra equipment to buy, and free standard installation.¹³ In August, EchoStar kicked off a nationwide advertising campaign with the offensive theme that “cable

⁹ See Press Release, The DIRECTV Group, Inc., *The DIRECTV Group Announces Second Quarter 2005 Results* (Aug. 4, 2005) (“*DIRECTV 2Q05 Earnings Release*”) (reporting 14.67 million subscribers as of June 30, 2005), available at [http://phx.corporate-ir.net/phoenix.zhtml?c=127160&p=irol-newsArticle&ID=739619&highlight=](http://phx.corporate-ir.net/phoenix.zhtml?c=127160&p=irol-newsArticle&ID=739619&highlight=;); Press Release, EchoStar Communications Corp., *EchoStar Reports Second Quarter 2005 Financial Results* (Aug. 9, 2005) (“*EchoStar 2Q05 Earnings Release*”) (reporting 11.46 million subscribers as of June 30, 2005), available at http://www.corporate-ir.net/ireye/ir_site.zhtml?ticker=dish&script=410&layout=-6&item_id=741012.

¹⁰ See Kagan Research LLC, *Kagan Media Index*, Kagan Media Money, Aug. 30, 2005, at 8 (reporting 93.5 million MVPD subscribers nationwide).

¹¹ Notice ¶ 43. Commissioner Adelstein shares this view, referring to DBS as “one of the great success stories of the FCC in terms of providing competition” in video distribution. Adrienne Kroepsch, *FCC Wants DBS and Satellite Radio to Compete with Terrestrials, Others*, Communications Daily, June 2, 2005, at 3.

¹² The Total Choice package normally costs \$41.99 per month. The promotion ran through July 31, 2005. See Adrienne Kroepsch, *EchoStar Wants To ‘See the Playing Field’ Before Making HDTV and Broadband Bets*, Communications Daily, May 6, 2005, at 3.

¹³ See *Current Promotions from DISH, DIRECTV, SKYREPORT*, July 19, 2005, available at <http://www.dbstalk.com/showthread.php?t=44150&goto=nextoldest>.

sucks,” and “depict[ing] unnamed other television providers that literally suck household items -- a purse, dinner and even the cat -- into [their] vortex of poor service and higher prices.”¹⁴

DBS providers’ marketing has been successful. DBS providers continue to experience explosive subscriber growth. During 2004, DIRECTV added more new customers “than any other pay television service in the country,”¹⁵ and in the first six months of 2005, it grossed more than 2.1 million new subscribers (730,000 net subscribers after accounting for churn).¹⁶ EchoStar also made significant subscriber gains, adding a total of 550,000 net new subscribers during the first two quarters of 2005,¹⁷ and more than 7.6 million customers over the last five years.¹⁸ When last reported, the two DBS companies were attracting eight out of every ten new multichannel television subscribers.¹⁹ In May 2005, Springfield, Missouri became the first market to have a greater household penetration for satellite TV (39.6%) than cable (39.2%).²⁰

¹⁴ Joyzelle Davis, *EchoStar Takes Off Gloves in Latest Ads*, Rocky Mt. News, Aug. 16, 2005, available at http://www.rockymountainnews.com/drmn/business/article/0,1299,DRMN_4_4005019,00.html.

¹⁵ See Press Release, DIRECTV, Inc., *The DIRECTV Group Announces Full Year and Fourth Quarter 2004 Results 1* (Jan. 27, 2005) (quoting Chase Carey, president and CEO of The DIRECTV Group), available at http://media.corporate-ir.net/media_files/irol/12/127160/pdf/Q404EarningsRelease.pdf. DIRECTV’s new customer additions in the fourth quarter of 2004 totaled more than 1.1 million -- marking “the second consecutive quarter in which [DIRECTV] added more than 1 million gross new subscribers.” *Id.*

¹⁶ See *DIRECTV 2Q05 Earnings Release*.

¹⁷ See *EchoStar 2Q05 Earnings Release*.

¹⁸ Press Release, EchoStar Communications Corp., *DISH Network Passes 11 Million Customer Milestone; Company Now Third Largest Pay-TV Provider* (Jan. 31, 2005), available at http://www.corporate-ir.net/ireve/ir_site.zhtml?ticker=dish&script=410&layout=-6&item_id=668247.

¹⁹ See Eleanor Laise & William Mauldin, *Cutting the Cord*, Smart Money, July 1, 2004, at 68 (reporting that DIRECTV and EchoStar attracted more than 80% of all new MVPD subscribers in 2003).

²⁰ See *Satellite TV First: Dish Dominates Cable in DMA*, SKYREPORT, May 10, 2005 (also noting that Meridian, Mississippi became the first DMA to have a satellite penetration of 40%).

Finally, DBS providers are finding ways to simplify MDU delivery, which will help bring DBS video services to even more consumers.²¹

To make their services even more attractive, DBS providers have started to roll-out advanced services, including HDTV, DVRs, and interactive television (“ITV”).²² Both DBS providers have announced plans to expand their HDTV offerings. In fact, EchoStar’s Charlie Ergen has stated that “satellite is in a better position than cable on HD offerings in the medium and long terms,”²³ and that DISH Network plans to “deliver more HDTV than anybody else.”²⁴ EchoStar anticipates carrying 50 national and 20 local HD channels, as well as Voom’s 21 national HD channels, when it switches to MPEG-4 technology early next year.²⁵ DIRECTV already counts approximately 600,000 HD subscribers and,²⁶ with the launch of two high-

²¹ For example, DIRECTV has said it will “target [MDUs in] major urban markets for ‘single wire’ installation.” Adrienne Kroepsch, *DirecTV Says Single Wire Simplifies MDO Delivery*, Communications Daily, Aug. 19, 2005, at 3 (noting that the MDU market is “potentially a 26-million residence market” that has been difficult for DBS operators to access for technical reasons).

²² Satellite-delivered broadband services are presently offered by DIRECWAY, Skyway, StarBand, and Wildblue. EchoStar company officials are also “taking a serious look at the satellite broadband business” and have stated that EchoStar Broadband will “seek to provide services including VoIP, Sirius over IP streaming, 2-way satellite Internet Access, broadband over powerline and Wi-Fi.” Kroepsch, *supra* note 11, at 3; *see also* Adrienne Kroepsch, *EchoStar Dishes on Management Maneuvers; HD, Broadband Plans Still Blurry*, Communications Daily, Aug. 10, 2005, at 2 (reporting that EchoStar is looking at offering broadband, including WiMAX). According to CEO Chase Carey, DIRECTV is “actively engaged in talking to an array of parties that are participating in (wireless) broadband . . . about various forms of relationships.” Carol Wilson, *DirecTV Explores Wireless Broadband*, Telephony Online, Aug. 5, 2005, at http://telephonyonline.com/broadband/news/DirecTV_wireless_broadband_080505/.

²³ Adrienne Kroepsch, *EchoStar Dishes on Management Maneuvers; HD, Broadband Plans Still Blurry*, Communications Daily, Aug. 10, 2005, at 2.

²⁴ *DISH Network Preparing for More HDTV*, SKYREPORT, June 15, 2005, available at <http://www.skyretailer.com/view.cfm?ReleaseID=697>.

²⁵ *See id.*

²⁶ Monica Hogan, *Sharper Vision for Local Ambitions*, Multichannel News, May 23, 2005, at 68.

powered satellites, plans to have local HD channels available in 30-40 markets by the end of 2005.²⁷

DIRECTV recently announced it will be the first nationwide distributor of ESPN2 HD, and that customers who subscribe to its exclusive NFL SUNDAY TICKET SuperFan package will receive, among other things, “access to more than 100 NFL SUNDAY TICKET broadcasts in HD.”²⁸ The NFL SUNDAY TICKET SuperFan package affords consumers the “ability to show eight live NFL games at a time on one screen, interactive statistical feeds, [and] condensed-game replays.”²⁹ The \$99 SuperFan package also provides access to “100 games in high definition and has become the only way to get high definition games” as an NFL SUNDAY TICKET subscriber.³⁰ In addition, DIRECTV plans to launch four satellites in the next two

²⁷ See Mark Seavy, *DirecTV Expects to Have Local HD Available in 30-40 Markets*, Communications Daily, June 2, 2005, at 6; see also Press Release, DIRECTV Inc., *DIRECTV 8 Satellite Will Strengthen Service to DIRECTV Customers* (May 21, 2005), available at <http://www.directv.com/DTVAPP/aboutus/headline.dsp?id=05-21-2005A>.

²⁸ Press Release, DIRECTV, Inc., *DIRECTV's New NFL SUNDAY TICKET Superfan Offers "Immaculate Reception" for Football Fans* (Aug. 1, 2005), available at <http://phx.corporate-ir.net/phoenix.zhtml?c=127160&p=irol-newsArticle&ID=737886&highlight=>; see Press Release, DIRECTV, Inc., *DIRECTV Delivers First Nationwide Distribution of ESPN2 HD* (Aug. 24, 2005), available at <http://phx.corporate-ir.net/phoenix.zhtml?c=127160&p=irol-newsArticle&ID=749496&highlight=>.

²⁹ Don Steinberg, *For NFL Fans, Highest-Tech - at a Price*, Phil. Inquirer, Sept. 10, 2005 (noting that “[t]he NFL Sunday Ticket package is the reason many football fanatics subscribe to DirecTV”), available at <http://www.philly.com/mld/inquirer/sports/12606803.htm>. The Game Mix channel “puts live video of eight games at a time on one screen. . . . Using the remote, you can highlight any small box of video to select the game you want to hear the audio from, and you can blow up any game to full-screen by selecting it.” *Id.* The Red Zone Channel “stays full-screen all the time, continually switching to the game where the most exciting stuff is about to happen.” *Id.* An Enhanced Games element incorporates “Internet features to TV, pulling up real-time statistics about the game being watched, or any other game, while the TV picture remains visible. There are game highlights ‘on demand,’ . . . and also . . . condensed, commercial-free versions of games showing only the action.” *Id.*

³⁰ *Id.*

years that will enable it to deliver more than 1,500 local and more than 150 national HD channels by 2007.³¹

Both EchoStar and DIRECTV are also intensifying competition on the DVR front. According to DIRECTV CEO Chase Carey, by “early October the company will launch its own DVR product containing a video-on-demand type service.”³² EchoStar is seeking to provide a VOD-like experience and has begun uploading up to 30 Hollywood titles per month for download by its subscribers with DVR receivers; EchoStar anticipates eventually downloading hundreds of hours of pay and free movies and television programs to its subscribers’ receivers.³³ DIRECTV is also utilizing DVR technology to try and counter cable operators’ VOD offerings; DIRECTV plans to download content to its DVRs and “devote 60 hrs of [its DVR’s] 160-hr capacity to pushing content consumers can pull down and watch at will.”³⁴ DIRECTV currently has more than 2 million subscribers using the TiVo DVR service,³⁵ and will be launching its own

³¹ *Second Spaceway Bird Getting Ready for Launch*, SKYREPORT, May 26, 2005, available at <http://www.skyreport.com/view.cfm?ReleaseID=1667&SearchCriteria=wildblue#Story1>. Local signals will be delivered to 12 major markets including New York, Los Angeles, Chicago, Philadelphia, Boston, San Francisco, Dallas, Washington, Atlanta, Detroit, Houston, and Tampa beginning in September 2005. See Hogan, *supra* note 26, at 68.

³² *DIRECTV Dishing DVRs, HD*, SKYREPORT, Aug. 8, 2005, available at <http://www.skyretailer.com/view.cfm?ReleaseID=727#Story3>. In addition, DIRECTV has “dropped the price for current DVRs in the market to zero dollars.” *Id.*

³³ See R. Thomas Umstead, *DBS Tries PPV Discounts, Downloads*, Multichannel News, May 23, 2005, at 10.

³⁴ *War Strategies: DBS, Telco and Cable Share Stage, Game Plans*, CableFAX Daily, Sept. 15, 2005, at 1.

³⁵ *Satellite*, Communications Daily, July 26, 2005, at 12 (explaining that DIRECTV is “readying download-on-demand programming, including previews of fall primetime network TV line-ups and HBO and Showtime content, in a move that stakes out new ground for its TiVo-equipped PVR/satellite receivers”).

DVR product, “DirecTV Plus DVR,” which is being designed and manufactured by its affiliate, NDS Group, in the near future.³⁶

ITV features are another service being developed and deployed by DBS providers. EchoStar claims it is the “largest U.S. provider of interactive TV programs and the world leader in the number of ITV-enabled homes, with more than 20 interactive channels, serving over 10 million customers.”³⁷ EchoStar recently announced the addition of a new feature that will give customers the ability to simultaneously watch six TV channels and use an interactive menu to switch between channels.³⁸ In May 2005, DIRECTV launched “DIRECTV Active,” offering a variety of interactive options including instant access to local weather, horoscopes, lottery updates, “Mix Channels” (“mosaic screens” with interactive links to several networks within a given programming genre), and an enhanced programming guide with video previews.³⁹ Eric Shanks, DIRECTV’s Senior Vice President of advanced services and content, said that the company will “work on probably 10 killer applications” and predicts that the interactive component of the NFL SUNDAY TICKET will be an “unbelievable killer app.”⁴⁰

³⁶ See David Lieberman, *DirecTV Poised To Take on TiVo*, USA Today, Aug. 24, 2005, at B3. As DIRECTV CEO Chase Carrey explains, “We want to create a DirecTV experience. . . . In the past, there’ve been too many variations.” *Id.* (quoting Chase Carey).

³⁷ Press Release, EchoStar Communications Corp., *DISH Network Delivers Six Networks Simultaneously to Interactive TV Viewers; Mosaic of Popular TV Channels and Interactive Features Entice Viewers* (Aug. 30, 2005), available at http://www.corporate-ir.net/ireye/ir_site.zhtml?ticker=dish&script=410&layout=-6&item_id=750438.

³⁸ See *id.*

³⁹ See Monica Hogan, *The ITV Super Drive*, Multichannel News, May 23, 2005, at 70 (noting that DIRECTV plans to add a game service and movie trailers later this year, and is also considering adding local traffic reports).

⁴⁰ *Id.*

B. LECs Offer Consumers Yet Another Alternative Source for Video Programming, and Even More Competition Is Imminent.

LEC entry into the MVPD industry has ebbed and flowed with changes in technologies and regulatory regimes. Over the past decade, LECs have experimented with video dialtone, satellite, wireless cable, OVS, and now fiber technologies. This experimentation has *occasionally* found success, but it has *always* held out promise. Today, the prospect for significant LEC competition in the video business is greater than ever.

In the past year, a tremendous amount of attention has been focused on Bell companies' entry into the video marketplace, with numerous forecasts of when the Bells will become full-fledged wireline video competitors. Far less attention, however, has been paid to the fact that numerous LECs, including the Bell companies, are already offering alternatives to cable through a variety of distribution methods. For instance, many small, rural LECs (and Qwest) already provide video programming over wireline networks that compete head-to-head with cable systems and DBS providers. And each of the Bell companies, as well as many smaller LECs, continues to foster marketing relationships with one of the nation's two DBS providers, enabling them to offer the coveted triple play of voice, video, and data now, even as their fiber networks are being developed and deployed.

1. Numerous LECs Already Provide Video Services and Are Formidable Competitors to Cable and DBS.

Numerous LECs, large and small, have already deployed video services over their own networks and are quickly attracting customers. Last year, the National Telecommunications Cooperative Association ("NTCA") reported that 216 of its members were providing cable

television service.⁴¹ NTCA's May 2004 survey also found that an additional ten percent of members planned to offer cable service by the end of 2004, and 23% more planned to do so by 2006.⁴² LECs have utilized a variety of technologies to deliver video, including video-over-DSL, video via IP, and others. The small size of many of these LECs is not hampering them from gaining a substantial foothold in the markets they serve.

One LEC already offering video via IP service is Pioneer Telephone Cooperative, based in Kingfisher, Oklahoma. "Pioneer . . . began building its network in phases a year ago and is ahead of schedule in the buildout."⁴³ Pioneer currently offers subscribers a basic digital package for \$42.95 per month.⁴⁴ For that amount, customers receive "local networks, 60 channels, an interactive program guide, on-screen Caller ID, parental controls, access to pay-per-view, and a local community channel."⁴⁵ Pioneer also offers a deluxe package for \$5.00 more, which includes 80 more channels and CD-quality music channels.⁴⁶ After one year in service, Pioneer boasts 2,600 video via IP customers with 270 more awaiting installation.⁴⁷ The company

⁴¹ Comments of the National Telecomm. Coop. Ass'n, filed in MB Docket. No. 04-227, at 1 (July 23, 2004).

⁴² *Id.* at 2.

⁴³ Carol Wilson, *Telco Video: Is the Third Time Charmed?*, *Telephony*, July 11, 2005, at 20.

⁴⁴ Leslie Cauley, *Telecoms' Quest for Customers Leads to IPTV*, *USA Today*, Aug. 16, 2005, at 2B, available at http://www.usatoday.com/tech/products/services/2005-08-16-telecoms-iptv_x.htm.

⁴⁵ *Id.*

⁴⁶ *See id.*

⁴⁷ *See id.*

forecasts that 35% of its 35,000 telephone customers (or about 12,000 subscribers) will sign up within two years, and it projects 50% penetration in four years.⁴⁸

Another rural LEC, Progressive Rural Telephone in central Georgia, plans to offer its customers 141 programming networks, six local channels, and 35 music channels, all via MPEG-2 technology.⁴⁹ Larry Stevenson, central office supervisor at Progressive, says that a survey of existing customers “found that more than 80% of respondents were interested in replacing their current TV service with one from the local phone company.”⁵⁰

Beyond Communications (formerly DSSI Technologies) deployed UTStarcom’s end-to-end video solution in Alabama and along the Gulf Coast, achieving 95% to 100% penetration of its services in MDUs.⁵¹ The company’s success led it to plan deployment of fiber-to-the home networks into nearby rural communities. Beyond will offer a “118-channel package that doesn’t require a set-top box” via analog, digital, and video via IP.⁵²

Current video offerings are not limited to small, rural providers. Qwest provides its Choice TV product, which utilizes VDSL and fiber-to-the neighborhood technologies, to approximately 43,000 customers in Phoenix, Arizona, Highlands Ranch and Boulder, Colorado,

⁴⁸ *Id.*; Wilson, *supra* note 43, at 20.

⁴⁹ Ken Kerschbaumer, *Telco TV: Smaller Is Quicker*, *Broad. & Cable*, June 13, 2005, at 28, *available at* <http://www.broadcastingcable.com/article/CA607718.html?display=Search+Results&text=telco+tv>.

⁵⁰ *Id.* Farmer’s Telephone Cooperative in Kingstree, S.C., plans on providing its 60,000 customers with a similar service using MPEG-4 technology. *See id.*

⁵¹ *See* Wilson, *supra* note 43, at 20.

⁵² *Id.* (quoting Gary Stepanian, DSSI’s chief technology officer).

and Omaha, Nebraska.⁵³ Choice TV delivers more than 200 channels of digital programming via a digital gateway box that interconnects individual TV sets, personal computers, telephones, and audio equipment to deliver a “whole house digital solution.”⁵⁴ Choice TV also integrates video and voice features. For instance, caller ID numbers appear on the TV screen, and voice messages are indicated by a light on the digital gateway box.⁵⁵

2. LECs’ Partnerships with DBS Providers Have Been a Success.

Although many LECs have yet to deploy their own video delivery systems, they have already found ways to offer customers the “triple play” of video, voice, and data. All four of the regional Bell companies have reached agreements with DBS providers to provide bundled packages of services (often including wireless phone service) to the Bell companies’ customers.⁵⁶ BellSouth, Qwest, and Verizon have partnered with DIRECTV,⁵⁷ while SBC has partnered with EchoStar.⁵⁸

⁵³ See Carol Wilson, *DSL Video: Here Today, Tomorrow, Next Year?*, Telephony Online, Feb. 14, 2005, at http://telephonyonline.com/mag/telecom_dsl_video_today/; see generally Qwest, *Qwest Choice TV & Online - VDSL Technology, Overview*, at <http://www.qwest.com/vdsl/learn/overview.html> (last visited Sept. 6, 2005); Qwest, *Qwest Choice TV & Online - VDSL Technology, Current Markets*, at <http://www.qwest.com/vdsl/learn/markets.html> (last visited Sept. 6, 2005).

⁵⁴ See Qwest, *Qwest Choice TV & Online - VDSL Technology, Product Features*, at <http://www.qwest.com/vdsl/learn/features.html> (last visited Sept. 6, 2005). The digital gateway delivers multiple and independent video streams to all TVs in the home simultaneously, allowing customers to simultaneously accomplish multiple tasks through a single phone line, including viewing video programming, accessing the Internet, and talking on the phone.

⁵⁵ See Qwest, *Qwest Choice TV & Online - VDSL Technology, Overview*, at <http://www.qwest.com/vdsl/learn/overview.html> (last visited Sept. 6, 2005).

⁵⁶ This strategy is not limited to the Bell companies; NTCA reported last year that 79 of its member companies offered DBS services. NTCA Comments at 1.

⁵⁷ See Press Release, DIRECTV, Inc., *BellSouth and DIRECTV Announce Agreement to Sell Digital Satellite Television Service as Part of BellSouth Answers Bundle* (Aug. 27, 2003), available at http://www.directv.com/DTVAPP/aboutus/headline.dsp?id=08_27_2003A; Press Release, DIRECTV, Inc., *Qwest and DIRECTV to Deliver Fully-Integrated Satellite TV Services to Customers* (Oct. 7, 2004), available at (footnoted continued...)

The Bell companies have specifically targeted existing cable customers with their video offerings. SBC has offered customers switching from cable three free months of Yahoo! DSL and DISH Network services.⁵⁹ BellSouth has tried to lure cable customers with a suite of deeply discounted services, providing a cash refund of up to \$125 to those who sign up for its quadruple play of DSL, DIRECTV, traditional phone service, and Cingular wireless.⁶⁰ These promotions have succeeded in attracting hundreds of thousands of new DBS subscribers. For instance, BellSouth announced in July 2005 that more than 394,000 customers had added DIRECTV service to their BellSouth packages, with 80,000 subscribing in the second quarter of 2005.⁶¹ Similarly, SBC added 10,000 EchoStar subscribers in the second quarter, bringing its total EchoStar additions to approximately 406,000.⁶²

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http://www.directv.com/DTVAPP/aboutus/headline.dsp?id=10_07_2004A; Press Release, DIRECTV, Inc., *Verizon Adds DIRECTV Service, Creating the Most Comprehensive, Top-Quality Service Bundle in the Market* (Jan. 29, 2004), available at http://www.directv.com/DTVAPP/aboutus/headline.dsp?id=01_29_2004A.

⁵⁸ See Paula Bernier, *Building on Bundles: SBC, Qwest Significantly Expand Resale of Satellite TV*, xchange, Sept. 1, 2003, at <http://www.xchangemag.com/articles/391consumer1.html>.

⁵⁹ See Press Release, SBC Communications Inc., *SBC Communications Offers Relief for Consumers Fed Up with Pricey Cable TV Bills* (June 7, 2005), available at <http://www.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=21700>.

⁶⁰ *Bellheads*, CableFAX Daily, Jan. 4, 2005, at 2.

⁶¹ *BellSouth Talks Fiber, DSL Adds for 2Q*, Telco Media News, July 26, 2005, at <http://www.telcotvnews.com/view.cfm?ReleaseID=30>.

⁶² See *DISH Deceleration*, CableFAX Daily, July 22, 2005, at 1; *Telco Competition*, CableFAX Daily, Jan. 27, 2005, at 3.

3. Bell Companies Are Making Substantial Progress on Fiber Deployments, Positioning Them To Compete with Cable and DBS in Even More Markets.

The Bell companies' joint marketing relationships with DBS providers appear to be placeholders, pending a much more direct and substantial entry into the video business. Having achieved substantial reductions in their unbundling and other market-opening obligations, the Bells now have an unprecedented opportunity to move aggressively into the video business. At the same time, with their wireline phone business losing customers to wireless and now cable competition, the Bells now face a new imperative to market the so-called "triple play" of voice, data, and video.

In the coming months, Verizon and SBC are expected to offer video programming over fiber networks. Both companies report that they are spending billions of dollars to expand fiber networks and improve technology in order to offer video. The Bell companies are also acquiring programming rights, obtaining franchises to provide video service, contracting with major consumer electronics manufacturers for necessary hardware, and hiring talent with MVPD and programming experience. The level of effort underway is quite significant, and so is the expected payoff; according to PricewaterhouseCoopers, "By 2009, seven million subscribers are expected to get TV programs from a phone company."⁶³

Verizon is aggressively deploying fiber-to-the-premises ("FTTP") in 15 states to offer its FiOS TV service.⁶⁴ Verizon states that FiOS TV will deliver hundreds of channels of digital

⁶³ Matt Richtel & Ken Belson, *Increasingly, the Bells See Their Future on a Screen*, N.Y. Times, Apr. 4, 2005, at C4.

⁶⁴ See Press Release, Verizon Communications Inc., *Verizon Signs Distribution Deal with Black Family Channel* (July 25, 2005), at <http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=92763>; *Verizon Expands FTTH in New Jersey*, Telco Media News, Sept. 19, 2005 (reporting that Verizon is currently building its
(footnoted continued...)

video and music, HD programming, VOD content, an interactive programming guide, and other user-friendly features.⁶⁵ Verizon also states that FiOS TV will offer multimedia and interactive capabilities to share family videos, play 3-D games, and set camera angles for sporting events.⁶⁶ Despite the use of fiber, Verizon is following a standard cable bandwidth scheme, with frequencies below 550 MHz used for delivery of analog channels and digital services being delivered using 550-860 MHz.⁶⁷

Verizon is rapidly obtaining local franchises for FiOS TV, boasting agreements in Northern Virginia (including Herndon and the Quantico Marine Corps Base), North Texas (including Sachse, Keller/Westlake, and Wylie), California (Beaumont and Murrieta), and Florida (Temple Terrace and Manatee County).⁶⁸ Verizon also has applications pending in a number of other municipalities including Fairfax County, Virginia, Bowie, Maryland, and

(...footnote continued)

FTTP in 66 New Jersey communities), *available at* <http://www.telcomedianews.com/>. “Verizon alone accounted for about half of the 1.9 million homes passed by FTTP last year, and the carrier’s stated goal is to literally double its efforts” in 2005. Ed Gubbins, *FTTP Awakening*, *Telephony*, May 9, 2005, at 40. FTTP deployment, especially on the scale of Verizon’s efforts, is lowering the cost of the technology. “Generally speaking the cost of connecting a home with fiber in 2004 was about 60% of what it cost in 2002.” *Id.*

⁶⁵ See Press Release, Verizon Communications Inc., *Verizon Signs Distribution Deal with Black Family Channel* (July 25, 2005), *available at* <http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=92763>. Verizon recently launched its broadband-based computer gaming services, which are tailored for gaming enthusiasts of all ages and levels. See *Verizon Gets into Video Games, Inks GSN Deal*, *Telco Media News*, Sept. 14, 2005, *available at* <http://www.telcomedianews.com/view.cfm?ReleaseID=59>. Computer gaming, especially online gaming, is for many consumers increasingly substitutable for more traditional forms of video programming.

⁶⁶ See Press Release, Verizon Communications Inc., *Verizon FiOS TV Will Offer a New Customer Experience, Seidenberg Says* (Apr. 18, 2005), *available at* <http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=90601>.

⁶⁷ See Verizon Ex Parte, filed in WC Docket No. 04-242 attachment 2, at 3 (Mar. 1, 2005).

⁶⁸ See generally Verizon Communications Inc., *News Archive* (FiOS TV press releases from September 7, August 30, July 28, July 20, and May 18, 2005), *at* <http://newscenter.verizon.com/nr/>; Steve Donohue, *FiOS TV’s \$50 Factor*, *Multichannel News*, May 2, 2005, at 1, *at* <http://multichannel.com/article/CA528840.html>. The Manatee County, FL franchise will bring FiOS TV services to 235,000 residents.

Howard County, Maryland.⁶⁹ “By year’s end, [Verizon] will likely have filed for franchises in 250 municipalities.”⁷⁰ Recent studies predict “an initial take rate of 15% in the early years and 37.5% in 2010. That will produce 13 million homes passed by that date and 4.875 million video service subscribers.”⁷¹

Verizon has aggressively pursued carriage agreements, and to date reports agreements with Discovery Networks, Turner Broadcasting System, Inc., Starz Entertainment Group, NBC Universal, A&E Television Networks, and Showtime Networks, among others, with new agreements being announced on a regular basis.⁷² FiOS TV is well on its way to “offer[ing] about 300 video and audio channels, along with about 2,000 video-on-demand titles, by the time it launches.”⁷³

Verizon is not waiting until the roll out of FiOS TV to initiate a marketing war with cable and DBS providers. Rather, Verizon appears to be following a “seize and freeze” marketing strategy in which it lures customers in with promotional offerings for voice, DBS video, and

⁶⁹ See *State Telecom Activities*, Communications Daily, July 21, 2005, at 8; Press Release, Verizon Communications Inc., *Verizon Seeks Franchise to Bring Fairfax County Residents Choice for Their Cable TV Service* (July 28, 2005), at <http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=92782>; Steve Donohue, *Wealthy Targets*, Multichannel News, Apr. 18, 2005 (noting that initial FiOS rollouts are “taking place in some of the most prosperous cities of the country”), available at <http://www.multichannel.com/article/CA525531.html?display=Search+Results&text=wealthy+targets>.

⁷⁰ Jon Van, *Telecom Giants May Seek U.S. Help*, Chi. Trib., June 2, 2005, at C1.

⁷¹ See Wilson, *supra* note 43, at 20.

⁷² See generally Verizon Communications Inc., *News Archive* (FiOS TV press releases from July 6, May 17, May 4, April 29, April 26, April 22, April 18, and April 14, 2005 and December 15, 2004), at <http://newscenter.verizon.com/nr/>; *Verizon Gets into Video Games, Inks GSN Deal*, *supra* note 65 (reporting a new carriage agreement for distribution of both GSN (Game Show Network) and GSNi, GSN’s new interactive service).

⁷³ *Verizon Signs First Video Deal with Time Warner*, Reuters, July 6, 2005 (quoting Terry Denson, vice president of programming and marketing for FiOS TV). A copy of Verizon’s Keller/Westlake, Texas channel lineup is attached as Exhibit 1.

existing FiOS-branded high-speed data services, and “freezes” them in long-term contracts with the promise of a superior video offering in the near future. This strategy helps to explain Verizon’s recent introduction of a \$15-per-month DSL service with a one-year contract.⁷⁴ Verizon also has created three low-priced programming packages for FiOS TV in an attempt to “provide a better value proposition . . . at more attractive price points by offering premium content at a price that most cable operators charge for digital basic.”⁷⁵

Project Lightspeed is SBC’s \$4 billion capital initiative to expand its fiber network further into selected neighborhoods.⁷⁶ SBC will use the network to deliver “U-Verse” TV, voice, and high-speed Internet access services via fiber-to-the node (“FTTN”) and FTTP technologies.⁷⁷ SBC plans to use FTTN architecture in existing neighborhoods, allowing for simultaneous delivery to each home of four streams of TV programming (including HDTV), Internet access, and IP voice on a single IP network platform. FTTP architecture will be used in new housing developments and some MDUs.⁷⁸ SBC plans an initial controlled market entry for U-Verse TV

⁷⁴ Dionne Searcey, *Verizon Cuts Price of Internet Plan*, Wall St. J., Aug. 24, 2005, at D5.

⁷⁵ Steve Donohue, *FiOS TV’s \$50 Factor*, Multichannel News, May 2, 2005, at 1, available at <http://multichannel.com/article/CA528840.html>. A copy of Verizon’s rate card in Keller/Westlake, Texas is attached as Exhibit 2.

⁷⁶ See Leslie Cauley, *SBC’s \$4 Billion IPTV Investment ‘Not Much Money’*, USA Today, Aug. 16, 2005, available at http://www.usatoday.com/tech/products/gear/2005-08-16-iptv-sbc_x.htm; Investor Presentation, SBC Communications, *Project Lightspeed, SBC Communications Conference Call* slide 14 (Nov. 11, 2004) (reporting that Project Lightspeed “deployment will cover approximately 90% of high-value and 70% of medium-value customers,” but only 5% of “low value” customers).

⁷⁷ See Press Release, SBC Communications Inc., *SBC Communications Selects Amdocs for Project Lightspeed* (May 4, 2005), available at <http://www.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=21663>.

⁷⁸ See Press Release, SBC Communications Inc., *SBC Communications to Detail Plans for New IP-Based Advanced Television, Data and Voice Network* (Nov. 11, 2004), available at <http://www.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=21458>.

in late 2005 or early 2006, with entry to more markets scheduled for mid-2006.⁷⁹ SBC will also add more features and functionality in mid-2006, including whole-home DVR and HD functionality, and projects that 18 million households in 13 states will have access to U-Verse TV by the end of 2007.⁸⁰

SBC has reached numerous agreements with major consumer electronics and software manufacturers to ensure that its video services will be comparable to those of cable operators. On November 17, 2004, SBC announced that Microsoft Corp. will provide next-generation TV services using Microsoft TV IPTV Edition software platform.⁸¹ On March 31, 2005, SBC awarded a \$195 million, multi-year contract to Scientific Atlanta to provide IP-based video equipment, encoders, satellite dishes, video routers, and professional services.⁸² And on August 18, 2005, SBC announced that Scientific Atlanta and Motorola would produce next-generation set-top boxes to enable consumers to access multiple video streams.⁸³

BellSouth also is expanding its fiber network and has laid more than 5.4 million miles of fiber to pass more than 1.1 million homes.⁸⁴ BellSouth is currently testing ADSL2+ technology

⁷⁹ See Press Release, SBC Communications Inc., *SBC Communications Selects Motorola and Scientific-Atlanta as Set-Top Box Suppliers for SBC U-Verse TV* (Aug. 18, 2005), available at <http://www.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=21772>.

⁸⁰ See *id.*; SBC Press Release, *supra* note 77.

⁸¹ See Press Release, SBC Communications Inc., *SBC Communications Selects Microsoft TV for Advanced IP Television Service* (Nov. 17, 2004), available at <http://www.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=21463>.

⁸² See SBC Communications Inc., *SBC Communications Chooses Scientific-Atlanta as IP Video Equipment Supplier for Project Lightspeed* (Mar. 31, 2005), available at <http://www.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=21633>.

⁸³ See SBC Press Release, *supra* note 79.

⁸⁴ *BellSouth Talks Fiber, DSL Adds for 2Q*, Telco Media News, July 26, 2005, at <http://www.telcotvnews.com/view.cfm?ReleaseID=30>.

for video offerings, as well as examining video via IP.⁸⁵ Industry analysts predict that BellSouth will pass 500,000 homes with a video offering by the end of 2006, but will then dramatically ramp up its rollout to “reach 9.5 million homes by 2010” and will achieve a video “take rate . . . of 35% to achieve 3.325 million video services customers.”⁸⁶ Meanwhile, Qwest is “continuing to evaluate whether or not to expand” its video service offerings.⁸⁷ Although Qwest has not announced specific plans, industry analysts predict that the company will begin a video-over-IP rollout in 2008 and pass 2.5 million homes by 2010, achieving a take rate of 25% to reach 625,000 video subscribers.⁸⁸

C. Internet Video Has Become a Significant Competitor in the Video Marketplace.

In last year’s video competition report, the Commission noted that video provided over the Internet “promises to become an increasingly strong participant in the market for the delivery of video programming.”⁸⁹ During the past year, this “promise” has become a reality: “The rapid growth of high-speed Internet access is turning your computer into a TV alternative.”⁹⁰ There

⁸⁵ See *id.* France Telecom recently announced that it has successfully achieved data transmission at speeds of up to 100Mbps over traditional copper wires using VDSL2 technology. See Press Release, France Telecom, *VDSL2 World Preview* (June 30, 2005) (reporting that “implementation of a pre-VDSL2 transmission device is being tested that can be used simultaneously for TV reception, video calls and Internet”), available at http://www.francetelecom.com/en/group/rd/news/inshort/CP_old/b20050630.html.

⁸⁶ Wilson, *supra* note 43, at 20 (citing a report by Clif Holiday of B&C Consulting).

⁸⁷ Wilson, *supra* note 53.

⁸⁸ Wilson, *supra* note 43, at 20.

⁸⁹ Notice ¶ 61; *11th Annual Report* ¶ 113. Last year’s report provided several examples of video content already being streamed on the Web, including sports, news, and entertainment programming. See *id.* ¶ 116.

⁹⁰ David Hiltbrand, *Log On, Tune In*, Phil. Inquirer, July 31, 2005, at A1 (noting that there are now 35 million broadband subscribers in the U.S. and 100 million worldwide), available at <http://www.philly.com/mld/philly/entertainment/12264906.htm?template=contentModules/printstory.jsp>; see

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are now over 35 million broadband subscribers in the United States, all of whom have access to video over the Internet, and many of whom access such video on a daily basis.⁹¹ Moreover, the widespread availability of broadband access combined with innovative technologies that have made video via the Internet “approach[] TV-like quality” are setting the stage for even broader consumer adoption.⁹² “Even as the old television networks adjust to the impact of multichannel distribution alternatives such as cable and satellite, these new players are looking over their shoulder at the Internet and the telephone companies as potential competitors.”⁹³

Established media players are moving quickly to make video available over the Internet. “Virtually every major media company is recognizing that as people begin to feed Internet signals to TV sets as well as computers, millions may want to pick news, entertainment and sports they want to see off the Web rather than from packages of conventional TV channels offered by a cable, satellite, or phone company.”⁹⁴ For example:

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Benjamin M. Compaine, *The Media Monopoly Myth: How New Competition Is Expanding Our Sources of Information and Entertainment* 27 (2005) (“*Compaine Study*”) (“Both the absolute numbers and the steep positive trends on adoption, penetration and broadband validates the use of the Internet as a serious avenue for distributing and accessing what have collectively been called the mass media: news, entertainment, information and commerce -- as text, audio and video -- bypassing many of the geographic, regulatory and capital barriers associated with older processes of distributing the same type of content.”), *available at* http://www.thenmrc.org/archive/Final_Compaine_Paper_050205.pdf.

⁹¹ See Hiltbrand, *supra* note 90.

⁹² David Lieberman, *Can the Future of TV Be Seen on the Web?*, USA Today, July 12, 2005 (quoting Paul Saga, CEO of Internet service company Akamai).

⁹³ *Compaine Study* at 31.

⁹⁴ See Lieberman, *supra* note 92. Major news events have accelerated consumer adoption of video via the Internet. See Mike Shields, *Online Video Grows Up in the Shadow of Katrina*, MediaWeek.com, Sept. 19, 2005 (quoting Bert Solivan, executive vice president, Fox Interactive Media as stating that “with every big event, you get these new eyeballs, and you retain a percentage of them”). During the week of August 29, 2005, when Hurricane Katrina struck the Gulf Coast, “[h]urricane video shattered streaming records for nearly every major news
(footnoted continued...)

- CBS News has announced a 24-hour, Internet-based video news service from which viewers can choose the stories they want to watch.⁹⁵
- Scripps Networks, the owner of HGTV and the Food Network, has announced that it will launch ten Web channels by the end of 2006.⁹⁶
- Nickelodeon recently created TurboNick, a free Internet service that offers 24-hour access to popular programs like SpongeBob SquarePants and Jimmy Neutron, as well as original Internet programming.⁹⁷
- ESPN.com is partnering with Major League Baseball (“MLB”) to stream MLB games to fans.⁹⁸ Fans can access streams of complete baseball games, condensed versions, expanded highlights, and individual play highlights.⁹⁹ In addition, the games are archived so they can be accessed at any time.¹⁰⁰ MLB Advanced Media is also branching out into other sports programming, most recently, announcing that it will carry video of the World Track & Field Championships.¹⁰¹
- CSTV (College Sports TV) has begun streaming live video feeds of some college football games as part of its College Football All-Access package, which also offers over 100 live audio broadcasts of football games as well as on-demand video and audio clips.¹⁰²
- CNN is now offering an advertiser-supported video service.¹⁰³ According to Jim Walton, the president of CNN News Group, “There is critical mass with high-speed Internet

(...footnote continued)

organizations’ Web site. . . . For example, 4.6 million users streamed nearly 50 million videos on MSNBC.com that week, three times the number streamed on 9/11, the previous record holder.” *Id.*

⁹⁵ See Lieberman, *supra* note 92.

⁹⁶ See *id.*

⁹⁷ See Viacom Int’l Inc., *TurboNick*, at http://www.nick.com/all_nick/turbonick/index.jhtml (last visited Sept. 1, 2005).

⁹⁸ See ESPN Internet Ventures, *MLB.TV*, at http://mlb.mlb.com/NASApp/mlb/mlb/video/mlb_tv.jsp (last visited Sept. 1, 2005).

⁹⁹ See *id.*

¹⁰⁰ See *id.*

¹⁰¹ See Press Release, World Championships Sports Network LLC, *Groundbreaking Webcast of World Track & Field Championships To Be Available* (July 22, 2005), available at http://www.wcsn.com/news/press_release.jsp?ymd=20050722&content_id=0001.

¹⁰² See CSTV Networks, Inc., *CSTV All-Access*, at <http://allaccess.cstv.com/media/index.jsp?gSportId=9&ngSportId=9> (last visited Sept. 19, 2005).

connections, so video is a good user experience. And that means there can be critical mass for advertisers.”¹⁰⁴

- MTV has launched an advertiser-supported Web service, known as MTV Overdrive, featuring music videos, newscasts, artist interviews, and supplements to hit programs like “The Real World.”¹⁰⁵
- Content from Comedy Central’s hit program “The Daily Show” is being accessed via the Internet by hundreds of thousands of people. Jon Stewart, host of the program, notes that “[e]verything is geared toward more individualized consumption. Getting it off the Internet is no different than getting it off TV.”¹⁰⁶
- Time Warner recently teamed up with RealNetworks, to make “the convergence of the TV and the PC real” by providing 9,000 of its high-speed Internet customers in San Diego access to up to 75 cable channels, including CNN, MTV, and ESPN, on their computers.¹⁰⁷

Positioning themselves to compete with these established media players, the major web portals are also rapidly entering the Internet video distribution business. For example:

- AOL’s live webcasts of the Live 8 concert series in July 2005 drew five million viewers. Those viewers could instantly flip among the concerts in London, Paris, Philadelphia, Toronto, Rome, and Berlin.¹⁰⁸ A recent *Wired* article noted that more music videos are being watched on AOL than on MTV.¹⁰⁹

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¹⁰³ See Cable News Network, *Video*, at <http://www.cnn.com/video/player/player.html?url=/video/nitn/latest> (last visited Sept. 1, 2005).

¹⁰⁴ Saul Hansell, *More People Turn to the Web to Watch TV*, NY Times, Aug. 1, 2005, at C1 (“Internet commercials typically cost about \$15 to \$20 for each 1,000 viewers, nearly as much as broadcast networks charge.”); see also Hiltbrand, *supra* note 90 (noting that advertising revenue for Internet TV will reach \$1.15 billion this year, and quoting Lee Westerfield, media analyst for investment bank Harris Nesbitt, as saying: “It’s the fastest-growing major segment of Internet advertising. And all of that is money that would have been spent on traditional television.”).

¹⁰⁵ See MTV Networks, *MTV Overdrive*, at <http://www.mtv.com/overdrive/> (last visited Sept. 1, 2005).

¹⁰⁶ Thomas Goetz, *Reinventing Television*, *Wired*, Sept. 2005, at 102.

¹⁰⁷ Ken Kerschbaumer, *TV on the PC Gets Real, Time Warner Launches Trial in San Diego*, *Broad. & Cable*, Aug. 8, 2005, available at <http://www.broadcastingcable.com/index.asp?layout=articlePrint&articleID=CA632697>.

¹⁰⁸ See Hansell, *supra* note 104 (also noting that consumers rated AOL’s coverage of the Live 8 concerts more highly than MTV’s competing coverage).

¹⁰⁹ See Josh McHugh, *The Super Network*, *Wired*, Sept. 2005, at 106.

- Lloyd Braun, Yahoo!'s director of programming development (and the former head of ABC Television), said he is "exploring dozens of video ideas, including original Internet programming in nearly every genre that has worked on television, including news, sports, game shows, dramas, sitcoms, and talk shows."¹¹⁰ Yahoo! recently announced agreements to use video content from CNN.com and ABC News.¹¹¹ It also served as the online host for *The Apprentice*, streaming clips of the show via the Internet,¹¹² and carried Pepsi Smash, a TV music concert series aired on the WB Network the past two summers.¹¹³ Jeremy Allaire, founder of Brightcove, a new video distribution startup, noted that Yahoo! is "clearly thinking of themselves as the fifth network."¹¹⁴
- Google is actively recruiting networks and producers to participate in "Google Video."¹¹⁵ Google's recent investment in a broadband-over-power line service provider is fueling speculation that the company is building a network capable of carrying vast amounts of video programming.¹¹⁶
- Time Warner recently announced a joint venture with AOL, AEG (a "world-leading" sports and entertainment presenter), and XM Satellite Radio to create "Network Live," the first multi-platform digital entertainment company that will deliver live programming

¹¹⁰ Hansell, *supra* note 104.

¹¹¹ See *Yahoo to Partner With CNN, ABC for Video*, Associated Press, Aug. 1, 2005, available at <http://abcnews.go.com/Technology/wireStory?id=996057>.

¹¹² See McHugh, *supra* note 109 (noting that Yahoo! is also delivering fans to advertisers who have contracted with Yahoo!, Mark Burnett Productions, and NBC). Yahoo! will also stream and promote *Fat Actress*, the Showtime faux-reality show. See *id.*

¹¹³ See Jefferson Graham, *Major Sites Hope to Keep Users 'Tuned in'*, USA Today, June 15, 2005 (quoting Katie Lacey, a Pepsi marketing executive, as saying that the fact that a TV show, even a low-rated one such as Pepsi Smash, could move from the television to the Internet "shows that the Internet has really transformed from an information exchange into an entertainment medium"), available at http://www.usatoday.com/money/industries/technology/2005-06-15-webnetworks_x.htm.

¹¹⁴ See McHugh, *supra* note 109, at 106.

¹¹⁵ See Graham, *supra* note 113.

¹¹⁶ See, e.g., Jennifer Mears & John Fontana, *Google Dives Deeper Into Networking*, Network World, Aug. 29, 2005, at 1 (reporting that "Google executives would not comment on the reasoning behind that investment, nor would they comment on rumors that the company is buying up dark fiber to ultimately create a nationwide broadband network, which some speculate would eventually support free Wi-Fi, as well as a plethora of multimedia services such as on-demand television"); Michael Bazeley, *'Father Of Internet' Returns To Roots with New Google Job*, San Jose Mercury News (Cal.), Sept. 9, 2005, at 1 ("They're thinking 10 years from now, you don't turn to channel 4 or whatever on your TV, you log on to Google and find whatever you want.") (quoting Dave Burstein, editor of the DSL Prime newsletter).

focusing on music and comedy performances through the Internet, satellite, and other third party global media platforms.¹¹⁷

- AOL Video now offers a service enabling users to create and display their own video channels using a Webcam and easy-to-use software from WinAmp.¹¹⁸ According to one industry provider, “With WinAmp, AOL has allowed users to create bootleg television stations. That’s grown faster than anything I’ve seen in five years. A few months ago, it was a handful. Now there are hundreds.”¹¹⁹

New entrants in the Internet video space are constantly emerging to offer innovative services, including niche services tailored to the interests of particular consumers.¹²⁰ Akimbo, a California-based company that provides video programming content over a broadband connection, offers over 75 channels, including many well-known networks, (*e.g.*, CNN, BBC, A&E, Cartoon Network), as well as lesser-known, niche programming (*e.g.*, Baby Channel, sail.tv, VegTV).¹²¹ Recently, Akimbo announced that it will deliver Major League Baseball highlights and condensed games.¹²² DaveTV, an Atlanta-based media distributor, will soon begin offering over 100,000 hours of niche video programming over broadband Internet

¹¹⁷ See Press Release, Time Warner Inc., *AEG, America Online and XM Satellite Radio Join Forces with Executive Producer of Live 8, Kevin Wall, to Create ‘Network Live,’ the First Multi-Platform Digital Entertainment Company for Live Programming* (July 13, 2005), available at <http://www.timewarner.com/corp/newsroom/pr/0,20812,1083088,00.html>.

¹¹⁸ See Graham, *supra* note 113.

¹¹⁹ See Hiltbrand, *supra* note 90 (quoting Craig Stadler, CEO of East Bay Technology, which manufactures a popular video-content finder).

¹²⁰ See Sean Captain, *TV 2.0, Six New Ways To Watch*, *Wired*, Sept. 2005, at 105 (“A host of new startups -- led by Akimbo, Brightcove, and DaveTV -- have cut deals with copyright owners for video clips that viewers can download over the Internet to a TV or a PC.”).

¹²¹ See Akimbo Systems, *What’s On*, at <http://www.akimbo.com/whatson.html> (last visited Sept. 9, 2005); see also Matt Stump, *Akimbo Makes Full Cable Pitch*, *Multichannel News*, Aug. 1, 2005, at 59 (noting that Akimbo has collected 3,500 programs from 140 producers, including a “bevy of independent video content”), available at <http://www.multichannel.com/index.asp?layout=articlePrint&articleid=CA630915>.

¹²² See Ken Kerschbaumer, *Akimbo Hits Home Run*, *Broad. & Cable*, Aug. 22, 2005, available at <http://www.broadcastingcable.com/index.asp?layout=articlePrint&articleID=CA6250170>. Akimbo has also introduced the ability for video bloggers to upload their content onto the Akimbo service. See Vince Vittore, *Akimbo Puts Bloggers on TV*, *Telephony*, July 11, 2005, at 8.

connections.¹²³ Brightcove promises that, with its service, “[v]iewers will get access to an online service that offers new levels of control over their use of video and television.”¹²⁴ Wi-FiTV launched a Web site that offers 200 live TV channels from around the world (including TBN, BYU TV, and a live Web Cam from Times Square).¹²⁵

Another rapidly growing Web-based video delivery option, downloadable video, is also gaining in popularity.¹²⁶ For example, CinemaNow offers “approximately 7,500 feature-length films, shorts, music concerts and television programs from more than 250 content licensors, including 20th Century Fox, ABC News, Disney, Endemol, MGM, Miramax, NBC Universal, Sony, Sundance Channel, Warner Bros. and Lions Gate Entertainment,” on a pay-per-view, download-to-own (also known as “digital sell-through”), or subscription basis.¹²⁷ Starz Ticket, another downloadable video provider, gives consumers access to unlimited movie downloads in

¹²³ See Mark Jewell, *Next on Internet: Niche TV; Several Small Firms Offer Programming To Fit Any Taste*, *Columbian* (Vancouver, WA), May 16, 2005, at E1.

¹²⁴ *Brightcove*, at <http://www.brightcove.com/>. Brightcove also notes that, with its service, “[c]ontent owners, video rights-holders and independent producers will get an empowering new direct-to-consumer distribution channel.” *Id.*

¹²⁵ *Broadband*, *CableFAX Daily*, Aug. 23, 2005, at 1. The site also features free PC-to-PC and PC-to-phone VoIP calls. *See id.*

¹²⁶ See *Compaine Study* at 45 (“Video and film via the Internet are on the verge of becoming more mainstream. As some of the local telephone carriers upgrade their systems with fiber optic cable to the curb or the home, the transmission speed of downloads will be competitive with cable and satellite services.”).

¹²⁷ CinemaNow, Inc., *About CinemaNow*, at <http://www.cinemanow.com/AboutUs-Background.aspx> (last visited Sept. 9, 2005). CinemaNow recently reached a deal to distribute programming from HDNet, marking the first time HD content has been available for downloading over the Internet. See Ken Kerschbaumer, *CinemaNow Adds High-Def*, *Broad. & Cable*, July 27, 2005, available at <http://www.broadcastingcable.com/index.asp?layout=articlePrint&articleID=CA630101>.

addition to a streaming version of the Starz linear service.¹²⁸ Greencine, primarily a DVD rental business, also offers downloadable versions of alternative films.¹²⁹

And additional sources for video programming over the Internet are constantly being created. Netflix, an extremely popular DVD rental service described below, recently announced that it plans to offer downloadable movies by the end of the year.¹³⁰ TiVo will soon allow customers to download certain TV shows via the Internet, even before the shows air on TV.¹³¹ ClickStar, a joint venture announced by actor Morgan Freeman and Intel Corp., was formed recently to focus on the distribution of premium movies directly to consumers over the Internet.¹³² One industry observer described the sea change this way: “The attitude used to be that the Internet is the place to go for information. It’s changing to the notion that the Internet is the place you go to watch things.”¹³³

¹²⁸ See Press Release, Starz Entertainment Group LLC, *Starz and RealNetworks Launch First Subscription Premium Movie Service for Broadband* (June 14, 2004), available at http://www.prnewswire.com/cgi-bin/micro_stories.pl?ACCT=238613&TICK=NCOR&STORY=/www/story/06-14-2004/0002192122&EDATE=Jun+14,+2004.

¹²⁹ See generally GreenCine LLC, at <http://www.greencine.com/main> (last visited Sept. 9, 2005).

¹³⁰ See Claire Hoffman, *Netflix’s Profit Surprises as Firm Gains Wider Audience*, L.A. Times, July 26, 2005, at C1.

¹³¹ See Greg Sandoval, *TiVo Tests Internet Download Service*, Associated Press, Aug. 16, 2005.

¹³² See Press Release, Intel Corp., *Intel and Revelations Drive New Online Film Distribution Models* (July 6, 2005), available at http://www.intel.com/pressroom/archive/releases/20050706corp_a.htm (“ClickStar’s strategy is to create an online service in which consumers can access, pay for, and download first-run, pre-DVD-release films and artist-created entertainment channels in their homes.”). Ultimately, their goal is to make first-run films “easier to buy than to pirate.” *Id.* (quoting Paul Otellini, Intel President and CEO).

¹³³ See Hiltbrand, *supra* note 90 (quoting Pete Snyder, CEO of New Media Strategies, as saying: “All these different industries [e.g., sports, entertainment, news] are in a mad scramble to control Internet television. It’s the biggest moneymaking portal of all.”).

D. Broadcast Stations Are Offering Consumers an Increasing Array of Video Programming.

Consumers who do not wish to take advantage of the services offered by cable operators, DBS providers, overbuilders, or the numerous Internet video distributors also have the option of receiving their video programming the old fashioned way -- from free, over-the-air broadcasting. The Commission has long recognized that broadcast television stations are, and always have been, significant suppliers and distributors of video programming.¹³⁴ In fact, in the early years of cable, the Commission found “that broadcasters offer some competition to cable systems,” and “if enough signals were available, broadcast television could have some constraining effect on basic cable pricing.”¹³⁵

As of June 30, 2004, there were 1,747 commercial and noncommercial broadcast television stations nationwide that collectively provide video programming to nearly every one of the 110 million TV households.¹³⁶ Many of these stations have been broadcasting since long before the deployment of cable, DBS, or the Internet, and they continue to exert an important competitive influence on the market. A recent survey by the Consumers Union and the Consumer Federation of America “found that 39 percent of U.S. television-viewing households . . . receive some or all of their television programming from over-the-air broadcast signals.”¹³⁷

¹³⁴ See *First Report* ¶ 43.

¹³⁵ *Id.* ¶¶ 43-44.

¹³⁶ See *11th Annual Report* ¶ 78. Obviously, many consumers receive these signals from cable, DBS, or other MVPDs, rather than directly from over-the-air transmissions, but the point here is that these services are available ubiquitously, can be accessed without payment of monthly fees, and can demand carriage by cable and satellite operators.

¹³⁷ Mark Cooper, Consumer Fed. of Am., *Estimating Consumer Costs of a Federally Mandated Digital TV Transition: Consumer Survey Results 1* (June 29, 2005), available at http://www.nab.org/newsroom/pressrel/Statements/ConsUnion_DTV_Survey_Report- Final_6-29-05.pdf.

And, the Commission has approvingly cited analysts estimates that, “as of July 2004, 15.99 million households, or 14.75 percent of U.S. households, rely *exclusively* on over-the-air television for video programming.”¹³⁸

Despite the proliferation of viewing choices for consumers, broadcast television continues to attract substantial audiences. Fears by some that new technologies like the DVR would adversely impact broadcast television have not come to light, and there are several signs that the opposite is true. In fact, evidence suggests that DVR usage has actually boosted viewing.¹³⁹ Networks and other ad-supported programmers are adapting to these new technologies by developing alternative ad formats, programming, and technologies, such as interactive advertising,¹⁴⁰ that are geared to minimize ad skipping or its impact.¹⁴¹

The broadcast industry, just like cable, has undergone a technological evolution and can now distribute more video programming to more people than ever before. Broadcasters’ conversion to digital is revolutionizing the industry. As of September 12, 2005, there were 1,525 stations in 211 markets broadcasting digital signals.¹⁴² With the conversion to digital, broadcasters are now able to transmit high-definition and multiple standard definition over-the-air signals that are available to any consumer in their service area that also has converted to digital. This multicasting capability will allow stations that have taken advantage of their free

¹³⁸ *11th Annual Report* ¶ 81 (emphasis added).

¹³⁹ See Douglas Shapiro, *Media Memo*, Equity Research, July 11, 2005.

¹⁴⁰ Press Release, TiVo Inc., *TiVo Launches Direct Response Interactive Advertising Program* (Aug. 1, 2005), available at http://www.tivo.com/cms_static/press_53.html.

¹⁴¹ See Shapiro, *supra* note 139.

¹⁴² See Nat’l. Ass’n of Broadcasters, *DTV Stations in Operation*, at <http://www.nab.org/newsroom/issues/digitaltv/dtvstations.asp> (last visited Sept. 12, 2005).

digital spectrum to offer consumers more services and content, thereby increasing broadcasters' competitive impact in the multichannel video marketplace. As if to underscore this fact, Eddie Fritts, CEO and President of the National Association of Broadcasters, remarked that “[m]ulticasting is about more competition to cable.”¹⁴³ Where broadcasters use their multicast capability to offer attractive services, cable operators have readily negotiated carriage agreements without governmental compulsion.¹⁴⁴ But even without such carriage agreements, the move by a number of broadcasters to multicasting enhances multichannel video competition.

E. Broadband Service Providers/Overbuilders Are Serving Consumers' Video Programming Needs In Various Markets, Both Large and Small.

BSPs and overbuilders (collectively referred to as “overbuilders”) offer many consumers yet another video programming alternative, and are effectively competing in various markets across the country. These competitors continue to expand their service areas, enhance their service offerings, and otherwise seek to offer consumers an attractive competitive alternative.

Grande Communications, an overbuilder headquartered in San Marcos, TX, was recently named to the “Texas Technology Top 50,” a list of the 50 fastest growing technology companies in Texas.¹⁴⁵ Over the past 5 years, Grande’s revenue has grown 369%,¹⁴⁶ and Grande recently reported positive EBITDA, a total of 131,538 customers, and expansion of its network to offer its

¹⁴³ Press Release, Nat’l. Ass’n of Broadcasters, *NAB Urges Passage of Pro-Consumer Multicast DTV Mandate* (Aug. 31, 2005), available at http://www.nab.org/newsroom/pressrel/Releases/083105_DTVNewsConference.htm.

¹⁴⁴ See *infra* notes 204-205 and accompanying text.

¹⁴⁵ See *Deloitte & Touche Reveals Fastest Growing Technology Companies in Texas*, Business Wire (Sept. 6, 2005), available at http://home.businesswire.com/portal/site/google/index.jsp?ndmViewId=news_view&newsId=20050906005058&newsLang=en.

¹⁴⁶ *Id.*

services to a total of 325,581 households.¹⁴⁷ WideOpenWest, operating systems purchased on the cheap from Ameritech, serves approximately 286,000 customers.¹⁴⁸ Everest Connections also continues to serve customers in Kansas, and recently announced the addition of new high-definition and digital channels to its existing channel lineup,¹⁴⁹ as well as the deployment of its “Caller ID on TV” service, which “displays a caller’s name and phone number on a customer’s TV a few seconds before their phone rings.”¹⁵⁰

Although some overbuilders experienced some financial difficulties in the past few years, most have emerged as strong competitors in the video programming (as well as broadband and telephone) marketplace. For example, within the past year, RCN successfully emerged from bankruptcy having “converted approximately \$1.2 billion in unsecured obligations into . . . new equity, and eliminated approximately \$1.8 billion in preferred share obligations.”¹⁵¹ Company executives now believe it is strong enough “to take on every competitor it comes across.”¹⁵²

¹⁴⁷ See Press Release, Grande Communications Holdings, Inc., *Grande Communications Holdings Inc. Announces Results for the Quarter Ended June 30, 2005 and Guidance for 2005* (Aug. 15, 2005), available at http://www.grandecom.com/pdf/Quarterly_Results_Release_Q205.pdf.

¹⁴⁸ See NCTA, *Industry Overview*, at http://www.ncta.com/industry_overview/top50mso.cfm (last visited Sept. 9, 2005).

¹⁴⁹ See Press Release, Everest Connections, *Everest Launches New Channels to Growing Customer Base* (2005), available at http://www.everestgt.com/about/news/new_channels.shtml.

¹⁵⁰ Press Release, Everest Connections, *New Caller ID on TV Service Deployed* (2005), available at http://www.everestgt.com/about/news/callID_TV.shtml.

¹⁵¹ Press Release, RCN Corp., *RCN Corporation Announces Emergence from Bankruptcy* (Dec. 21, 2004), available at <http://investor.rcn.com/ReleaseDetail.cfm?ReleaseID=160363>.

¹⁵² K.C. Neel, *Fresh Start For RCN*, *Multichannel News*, Apr. 18, 2005, at 29-30 (“Wall Street also seems happy with RCN these days. Since the company came back to NASDAQ on March 21, the stock has stayed somewhat steady at around \$20 a share. It’s early in the game, but UBS Warburg LLC’s top media analyst Aryeh Bourkoff believes RCN is well poised to do well in its markets going forward.”), available at <http://www.multichannel.com/article/CA525198.html?display=Special+Report/>.

Bobbie Herbs, RCN's Senior Vice President of marketing, explains that RCN "did a 360-degree overview of the company and its image. We found that our customers love our three-product bundle, and they like our customer service. They also believe we're innovators with all our new service offerings."¹⁵³ In the second quarter of 2005, RCN reported 413,000 customers, revenue of \$141 million, and positive EBITDA of \$19.8 million.¹⁵⁴ In addition, RCN reported that it is moving forward with the initiation of its buildout program, continuing to expand the content it offers, and building its VOD library.¹⁵⁵

Knology also successfully refinanced much of its debt and emerged in a stronger competitive position.¹⁵⁶ Knology's chief financial officer Robert Mills explained that the company's primary goal "is to create liquidity for our business so that we can continue to grow revenue . . . and this transaction will allow the business to grow in a way that creates value for our investors and other constituents."¹⁵⁷ Knology recently reported record revenue and EBITDA; continued customer growth in its video, telephone, and broadband services; and

¹⁵³ K.C. Neel, *More Than Skin Deep, RCN's Rebranding Effort Involves a Big Focus on Customer Service*, Multichannel News, Apr. 18, 2005, at 31.

¹⁵⁴ See Press Release, RCN Inc., *RCN Reports Second Quarter 2005 Results; Achieves \$141.4 Million in Revenue, \$19.8 Million in EBITDA* (Aug. 10, 2005), available at <http://investor.rcn.com/ReleaseDetail.cfm?ReleaseID=170652>

¹⁵⁵ See *id.* RCN recently announced that it had reached a long-term affiliation agreement with Starz to carry all thirteen of the Starz premium services through 2009, including access to VOD and HD content. See *RCN, Starz Ink Long-Term Pact*, Multichannel News, Aug. 8, 2005, available at <http://www.multichannel.com/index.asp?layout=articlePrint&articleid=CA633232>.

¹⁵⁶ *Knology Wraps Up Refinancing*, Multichannel News, June 30, 2005 (quoting CEO Rodger Johnson: "The new debt facilities combined with the \$9.2 million equity we recently raised, will significantly improve our liquidity position."), available at <http://www.multichannel.com/article/CA622489.html>.

¹⁵⁷ *Id.*

expansion of its service area.¹⁵⁸ Knology now offers its services to approximately 745,000 homes and provides video to 173,268 of those homes.¹⁵⁹ In addition, Comcast competes against a number of municipally-owned overbuilders including Braintree Electric Light Department and Tacoma, Washington's Click! Network.

F. Home Video Sales and Rentals Are Popular Sources of Video Programming.

Consumers are not limited to the video services provided by the local cable operator, two DBS providers, an overbuilder, the Internet, or local broadcasters. As the Commission has recognized repeatedly, the sale and rental of home video, including videotapes and DVDs, provide another distribution outlet for video programming.¹⁶⁰ Traditional home video technologies, such as VCRs and DVD players, continue to have an indelible impact on the marketplace. According to the Commission's most recent video competition report, approximately 91% of TV households have VCRs and 70% have DVD players, and U.S. households spend \$22.5 billion annually on purchasing and renting DVDs and videocassettes.¹⁶¹ Sales and rentals of DVDs "have accounted for 60% of entertainment companies' bottom lines" over the past eight years.¹⁶² And, as more companies enter the market for sale and rental of home video, consumers are finding it is easier than ever before to buy and rent these products.

¹⁵⁸ Press Release, Knology, Inc., *Knology Reports Record Revenue and EBITDA in Second Quarter 2005* (Aug. 1, 2005), available at <http://phx.corporate-ir.net/phoenix.zhtml?c=130221&p=irol-newsArticle&ID=737994&highlight=>.

¹⁵⁹ See *id.*

¹⁶⁰ See *First Report* ¶¶ 134-135; *11th Annual Report* ¶ 120.

¹⁶¹ See *id.* ¶ 121.

¹⁶² T.L. Stanley, *Studios Reel as DVDs Show Wear; Hollywood's Cash Cow Drying Up?*, Advertising Age, July 11, 2005, at 1. DVD recordings of broadcast and cable network television programs are gaining in popularity; (footnoted continued...)

Consumers can purchase DVDs and videocassettes from retail chains, such as Target and Wal-Mart, or from online companies, such as Amazon.¹⁶³ Rental options are also expanding. In addition to renting from Blockbuster stores, for example, consumers can also rent via online services, such as Netflix. In the second quarter of 2005, Netflix added 178,000 subscribers, bringing its total to 3.2 million, and it is estimated that Netflix will have between 3.85 to 4.05 million subscribers at the end of 2005.¹⁶⁴ In fact, Netflix recently forecast that it will have 5 million subscribers by the end of 2006.¹⁶⁵

Earlier this year, Wal-Mart and Netflix entered a partnership whereby Netflix will promote Wal-Mart DVD sales to its subscribers, and Wal-Mart will offer its online customers the opportunity to sign up with Netflix at Wal-Mart's current rate for a year.¹⁶⁶ Blockbuster is reported to have a million online DVD rental subscribers, and it expects to double this number

(...footnote continued)

so far this year, such recordings are up 26% from the comparable period in 2004. *See* Judith McCourt, *Total Control: TV-DVD Sales Jump 26%*, *The Hollywood Reporter*, Sept. 2, 2005 (citing figures from Nielsen VideoScan).

¹⁶³ Amazon and other retailers have become increasingly more important avenues for selling DVDs, as some traditional retailers have cut back. Amazon's revenue from home media for the past year through March was \$5.3 billion, up from \$2.2 billion in 2000. Paul Bond, *Amazon's New Lease on Shelf Life for DVDs, CDs*, *Hollywood Reporter*, July 26, 2005 ("Amazon.com, along with some other online retailers, has become an important avenue for moving DVDs and CDs that are being removed from shelves of traditional stores more quickly than ever."). Nevertheless, Amazon still "accounts for only about 5% of a studio's DVD sales, insiders say, while Wal-Mart can sell up to 35% and Best Buy up to 25%." *Id.*

¹⁶⁴ *See* Press Release, Netflix, *Netflix Announces Q2 2005 Financial Results* (July 25, 2005), available at http://a408.g.akamai.net/f/408/1284/24h/image.netflix.com/NetFlix_Assets/pdf/2Q05_financial_results.pdf.

¹⁶⁵ Bloomberg News, *Netflix Sees 2006 Pretax Profit of \$50 Million*, *LATimes.com*, Sept. 9, 2005, available at <http://www.latimes.com/business/la-fi-calbriefs9.5sep09.1.1716666.story?coll=la-headlines-business>.

¹⁶⁶ *Wal-Mart, Netflix Agree on DVD Deal*, *Reuters*, May 19, 2005 (noting that Blockbuster and Netflix have been "locked in an expensive price war since last fall, when Blockbuster launched its online service and twice undercut Netflix's subscription price"), available at http://news.zdnet.com/2100-9595_22-5713298.html.

by the end of the first quarter of 2006.¹⁶⁷ And new entrants are pursuing a strategy of competitive differentiation; GreenCine, for example, now markets itself as the “#1 DVD Rent-by-Mail site for the alternative scene.”¹⁶⁸ These distribution alternatives have had a significant impact on the video programming marketplace.¹⁶⁹ Consumers “rented more than one billion DVD units during the first 26 weeks” of 2005.¹⁷⁰

III. NEW PLAYERS CONTINUE TO PRESENT INNOVATIVE VIDEO DISTRIBUTION OPTIONS.

In addition to these well-established video programming distributors, consumers are being introduced to new sources on an ongoing basis. The dynamic nature of the video marketplace has provided a constant evolution in technology. This has resulted in the transformation from analog to digital; conversion from black-and-white video to color video to HDTV where the colors are so vibrant it “feels like you are there”; the migration from a few over-the-air broadcast channels to hundreds of broadcast and cable networks; and the shift from rushing home to watch a primetime show to setting the VCR to tape a program to having a DVR record every episode of the program that is shown (or using VOD to access thousands of hours of additional programming). Technological innovation promises even greater opportunities for consumers to watch their programming whenever and wherever they want. Mobility and

¹⁶⁷ See Lorne Manly, *Extinction Long Seen, Video Stores Hang On*, N.Y. Times, Aug. 23, 2005, at C1.

¹⁶⁸ GreenCine, LLC, *Home Page*, at <http://www.greencine.com/main> (last visited Sept. 11, 2005). GreenCine features “the best selection of independent, international, documentary, classic films and other esoteric fare.” *Id.*

¹⁶⁹ See Kagan Research LLC, *Netflix Rebounds on Solid Q2 Results*, Kagan Media Money, Aug. 2, 2005, at 1-2. Amazon.com is also expected to enter the online DVD rental business. See Reuters, *supra* note 166.

¹⁷⁰ Press Release, Rentrak Corp., *Rentrak Reports One Billion DVD Units Rented in U.S. Home Video Rental Market During First Half 2005; Video Rental Market Down Slightly at Mid-Year, yet Sustained by Previously-Viewed Sales* (July 14, 2005), available at http://www.renrak.com/mc_press_release?file=071405.

pervasiveness hold the promise of even more alternatives for consumers. And though such new alternatives must still prove their mettle in the marketplace, their presence underscores the potent nature of technological innovation and the certainty that new modes of video delivery will continue to be developed.

A. Mobile Telephones Are Presenting the Opportunity for a “Third Screen.”

Although consumers may not ultimately use video screens on mobile phones as a full substitute for their home television sets, video delivered by mobile phones is becoming an important source of video programming.¹⁷¹ Mobile phone providers increasingly are offering video that includes content from traditional cable programming networks, as well as pre-recorded content from a host of other video producers, as a new service and a means to distinguish their product from that of their competitors.

For example, in late 2003, Sprint launched MobiTV, the world’s first television content service delivered to mobile phones, as part of its PCS Vision services.¹⁷² MobiTV provides linear network programming from popular cable channels such as the Discovery Channel, ESPN,

¹⁷¹ Media analysts at Kagan Research predict that, from an operator perspective, wireless video represents an incremental revenue stream approaching \$5 billion by 2014. See Kagan Research, LLC, *Kagan Projects Growing Revenues from Wireless Video*, Kagan Media Money, June 14, 2005, at 3 (“The pieces of the jigsaw are still being assembled, but we think it’s clear at this point that wireless video is on its way.”). Content producers are increasingly exploring distribution opportunities in the wireless medium. For example, NBC Universal is “asking all of the producers of all of [its] shows this fall to think interactive, and to provide snippets out of their shows that can be viewed on cell phones and other broadband devices.” Diane Mermigas, *‘Think Interactive’ Is NBC Uni’s Fall Mantra*, *Hollywood Reporter*, Sept. 15, 2005 (quoting Bob Wright, chairman and CEO of NBC Universal). Next year, content from NBC Universal will be available on Verizon digital cell phones. See *id.*

¹⁷² See Paul Farhi, *Channel Surfing, Erosion & Networks Treading Water*, *Wash. Post*, Sept. 18, 2005, at N1 (“TV is increasingly going mobile. New video-capable cell phones and personal digital assistants (PDAs) can play brief news and sports clips, as well as short entertainment serials known as ‘mobisodes.’”); Press Release, MobiTV, *Watch Live TV Content on Your Sprint Mobile Phone* (Nov. 13, 2003), available at http://www.mobitv.com/about/company/press/release_111303.html. ESPN is also planning to launch its own branded wireless phone service later this year that will include access to streaming video over Sprint’s high-speed data network. See *ESPN Mobile Phone Service Rings in Soon*, *Associated Press*, Dec. 1, 2004, available at <http://sports.espn.go.com/espn/print?id=1935907&type=story>.

the Weather Channel, and Fox News Channel.¹⁷³ MobiTV has also partnered with Major League Baseball (“MLB”) to offer mobile phone customers the opportunity to watch MLB extended highlights and “top plays” on their handsets,¹⁷⁴ and is working toward offering live video of baseball games.¹⁷⁵ Sprint also makes available to its customers original video content, including teen-oriented Varsity Mobile.¹⁷⁶

Other mobile phone carriers are also offering an increasing amount of video content. For example, Verizon’s V-CAST provides pre-recorded video clips from ESPN, Nickelodeon, and RealNetworks’ rTV, among others.¹⁷⁷ V-CAST video clips include hits like “The Daily Show With Jon Stewart.”¹⁷⁸ Verizon has reported strong uptake on its V-CAST wireless video program since it launched in early February.¹⁷⁹

The research firm, the Yankee Group, estimates that “there were 280,000 subscribers to cellular TV in the U.S. at the end of 2005,” and that “the number of subscribers could reach

¹⁷³ See *MobiTV, MobiTV Channels* (listing programming networks carried by MobiTV), at <http://www.mobitv.com/channels/sprint.html> (last visited Sept. 19, 2005).

¹⁷⁴ See *MLB Advance Media L.P., MLB Mobile: Video*, at <http://mobile.mlb.com/web/smsVideoPrograms.aspx> (last visited July 29, 2005).

¹⁷⁵ See Matt Hines, *Deals Bring Hardball to Handsets*, CNET News.com, Mar. 14, 2005, available at http://news.zdnet.com/2100-1035_22-5615617.html.

¹⁷⁶ See Joel Meyer, *Teen-Targeted Mobile Media Net Launches*, *Broad. & Cable*, July 27, 2005 (explaining that “Varsity Mobile features user-submitted video clips of just about anything a teen might shoot with a camera: snowboarding, comedy skits, even garage bands”), available at <http://www.broadcastingcable.com/index.asp?layout=articlePrint&articleID=CA629563>.

¹⁷⁷ See Johnnie L. Roberts, *Keepin’ It on the Download*, *Newsweek*, Aug. 1, 2005, at 42.

¹⁷⁸ See *id.*

¹⁷⁹ See Kagan Research, LLC, *supra* note 171, at 3.

1.3 million by the end of this year and 10.8 million by 2008.”¹⁸⁰ Not all of this viewing represents a one-for-one substitution for the viewing of programming delivered via broadcast, cable, DBS, or in other ways, but still the effects are significant. The growing appeal of third-screen video creates one more factor that disciplines the marketplace even as it expands consumers’ choices.

B. Broadband over Power Line (“BPL”) Technology, Although Nascent, Has the Potential To Provide Additional Video Distribution Competition.

In its *11th Annual Report*, the Commission recognized the potential for BPL companies to provide video services.¹⁸¹ At the time, BPL was thought to only be able to provide transmission speeds sufficient for streaming video, but a lot has changed since then. Advances in BPL technology are making traditional video via BPL a technological possibility.

BPL technology is currently being utilized in Manassas, Virginia, but is also being tested in a number of other markets. Tests are underway in as many as 18 states, including a partnership in Cincinnati between utility Cinergy Corp. and BPL provider Current Communications Group.¹⁸² In addition, San Diego Gas & Electric began a test of BPL technology just a few weeks ago, which may continue for up to a year.¹⁸³ Some tests have already yielded positive results. CenterPoint’s BPL pilot with IBM in Houston has shown that

¹⁸⁰ Li Yuan, *TV -- Anytime, Anywhere*, Wall St. J., Sept. 12, 2005, at R4.

¹⁸¹ See *11th Annual Report* ¶ 133.

¹⁸² See Tim Kridel, *Pipe Dream*, Telephony, June 6, 2005; Akweli Parker, *Broadband’s New Outlet*, Phil. Inquirer, Sept. 11, 2005, at C1. The Current-Cinergy operation is also preparing to “deploy VoIP with quality of service late this year.” Louis Trager, *FCC Tech Official Says Agency’s in Good Company Pushing BPL*, Communications Daily, Mar. 7, 2005, at 6.

¹⁸³ Linda Haugsted, *San Diego Utility Gears for BPL Trial*, Multichannel News, Aug. 1, 2005, at 32.

BPL technology is “viable” and “worth serious consideration,” said Chuck Hackney, CenterPoint’s manager of telecom delivery services.¹⁸⁴ CenterPoint expects to expand BPL deployment next year.¹⁸⁵

BPL technology is attracting investment from a wide variety of companies, including many prominent Internet and media corporations, which may help position it as a future media for delivery of video programming. In July 2005, Current attracted investments totaling \$100 million from companies such as Google, Hearst Corp., and Goldman Sachs.¹⁸⁶ Current’s Vice President Jay Birnbaum indicated that the funds would go to “expand[ing] into video-on-demand and IPTV.”¹⁸⁷ Strong support for BPL technology is also coming from Intel and Motorola with their equity investments in BPL chipmaker Intellon, their membership in the HomePlug Powerline Alliance (“HPPA”) standards group, and the selection of Intel’s manager of powerline initiatives, Matt Theall, as the new HPPA president.¹⁸⁸

In addition, the inclusion of Intel, Cisco Systems/Linksys, and Motorola as sponsor members of HPPA is expected to boost the alliance’s efforts to have its audio-video and BPL

¹⁸⁴ *New Technologies*, Communications Daily, Sept. 2, 2005, at 10. CenterPoint is an electric transmission & distribution company serving 5 million customers in Texas, Arkansas, Louisiana, Minnesota, Mississippi, and Oklahoma.

¹⁸⁵ *See id.*

¹⁸⁶ Ken Kerschbaumer, *Plug-and-Play Internet; Wall-Outlet Broadband Attracts Heavy Hitters*, Broad. & Cable, July 18, 2005, at 20.

¹⁸⁷ *Industry Notes*, Wash. Internet Daily, July 8, 2005.

¹⁸⁸ Ed Gubbins, *Intel Gets Behind BPL*, Telephony, Sept. 5, 2005. “IBM believes that video and VOD can be pushed through the [BPL] pipe.” Kerschbaumer, *supra* note 186, at 20.

standards accepted by the IEEE and other standards organizations.¹⁸⁹ Major consumer electronic players such as Panasonic, Sony, and Mitsubishi also have been involved in the standard setting process for BPL, which is reportedly “moving briskly.”¹⁹⁰ The new BPL standards and technologies include the potential for video offerings. For example, HPPA’s “AV” standard “is important because it replaces HPPA’s previous 14 Mb/s standard (yielding 5 Mb/s throughputs) with a 200 Mb/s one (yielding throughputs between 70 Mb/s to 140 Mb/s), the better to serve . . . emerging apps like video.”¹⁹¹ The AV standard is “aimed squarely at Internet Protocol Television and triple-play uses.”¹⁹²

IV. COMCAST CONTINUES TO INVEST AND INNOVATE TO KEEP PACE WITH THE CHALLENGES OF AN INCREASINGLY COMPETITIVE MARKETPLACE.

The widespread availability of video programming from numerous sources has had profound effects on the cable industry. Cable operators have been compelled by this expansive and expanding competition to upgrade their networks to offer their customers an ever-increasing array of new programming and services. The cable industry as a whole invested nearly \$100

¹⁸⁹ See Loring Wirbel, *HomePlug Body Regroups for Powerline Charge*, Elec. Eng’g Times, Aug. 29, 2005, at 6. EchoStar is also a member of HPPA. As one publication noted, while EchoStar’s membership is unexpected, [i]f BPL technology evolves to be substantially cheaper than satellite and equally able to deliver such services as video to rural users, EchoStar had better know about it and start planning strategy now.” *Alliance Opts for Interoperable Powerline Broadband Specs*, Broadband Bus. Forecast, Jan. 11, 2005.

¹⁹⁰ Dinesh Kumar, *Broadband Over Power Line Standard-Setting Moving Quickly*, Wash. Internet Daily, Aug. 23, 2005. An IEEE MAC-5 subcommittee charged with developing standards for access and in-home BPL co-existence and interoperability aims to finish work before 2007, for approval by the IEEE Standards Board. *See id.*

¹⁹¹ Ed Gubbins, *Intel Gets Behind BPL*, Telephony, Sept. 5, 2005. HomePlug AV integrated circuits will enable whole-house distribution of multiple high-definition video and digital audio over existing home electrical wiring and coaxial cable, with robust quality of service and tight control of latency and jitter. *See Intellon Corporation Raises \$24.5 Million in Financing*, Asia Pulse, Aug. 25, 2005; *HomePlug Update*, Broadband Bus. Forecast, June 15, 2005.

¹⁹² *High-Speed Home BPL Spec OK’d*, Broadband Bus. Rep., Aug. 23, 2005.

billion since 1996 (over \$10 billion in 2004 alone) on capital expenditures.¹⁹³ Comcast (and AT&T Broadband, its predecessor in some systems) has invested over \$39 billion to upgrade its network and develop and deploy new services.¹⁹⁴ As a result of these upgrades, “Comcast subscribers and cable customers nationwide have seen more new services in the past few years than they saw in the previous ten, a reflection of how the once-staid industry is adapting to remain competitive.”¹⁹⁵ Moreover, Comcast continues to show its commitment to its customers and their communities through its community outreach events and active involvement in each and every community it serves.¹⁹⁶

In the face of potent competition, Comcast knows that the key to success is enhancing its existing services while also adding new services. As Stephen Burke, Comcast’s Executive Vice President and Chief Operating Officer recently explained, “We intend on winning this battle. . . . We’re creating all sorts of new products, some of which are better than what the competition has and others that the competition doesn’t have at all.”¹⁹⁷ Many of these innovations are intended to

¹⁹³ See NCTA, *2005 Mid-Year Industry Overview 7* (July 2005) (“*2005 Mid-Year Industry Overview*”), available at http://www.ncta.com/industry_overview/CableMid-YearOverview05FINAL.pdf.

¹⁹⁴ Over the past year, Comcast completed a \$72 million upgrade in the District of Columbia cable system, a \$350 million broadband network upgrade in Chicago, and \$70 million upgrade of its Dallas system. Discussing the upgrade, D.C. Chamber of Commerce president Barbara Lang noted that Comcast has been truly “committed to the District and has shown it in every possible way.” See *Comcast Hails New Center, D.C. Investment*, *The Current*, June 15, 2005, at 11.

¹⁹⁵ Chris Walsh, *Comcast Ready To Rumble: Upgrades Crucial in Fight with Satellites*, *Rocky Mt. News*, Dec. 20, 2004, at 1B.

¹⁹⁶ To the extent not provided in the discussion that follows, the attached second-quarter earnings report (especially Table 5) provides answers to a number of the questions posed in the *Notice*. See generally Press Release, Comcast Corp., *Comcast Reports Second Quarter 2005 Results* (Aug. 2, 2005) (attached as Attachment 3), available at <http://www.cmcsk.com/phoenix.zhtml?c=118591&p=irol-newsArticle&ID=738204&highlight=>.

¹⁹⁷ Chris Walsh, *Comcast Set To Use TV as Springboard*, *Rocky Mtn. News*, Mar. 29, 2005, at 1B.

counter advantages enjoyed by DBS providers: ““What we’re really trying to do is give people things with cable that they can’t do with satellite.””¹⁹⁸

A. Comcast Continues To Improve Its Video Services and Develop New Technologies That Will Further Enhance Those Services.

Over the past year, Comcast has expended substantial resources to further improve its video services. From the familiar basic and expanded basic analog cable services to new digital tiers and specialty tiers, HDTV line-ups, VOD, and DVR services, Comcast has sought to provide existing and potential customers with the best possible video experience and value for their money.

Program Offerings. Comcast continues to develop new programming networks and options and increase the availability of high-quality programming services. This Fall, Comcast will launch PBS Kids Sprout, a new channel that will provide high-quality children’s programming that features Sesame Street, Barney, and other well known children’s programming from PBS and others.¹⁹⁹ CN8, The Comcast Network, has expanded its East Coast service area to include subscribers in the Pittsburgh market. CN8 “offers news programming and sports, from minor-league baseball and college teams to high-school football, with strong regional appeal,”²⁰⁰ and in the eight years since it launched, CN8 has garnered 209 Emmy nominations and 28 Emmys.²⁰¹

¹⁹⁸ Don Steinberg, *At Comcast, Sports Mania*, Phil. Inquirer, Mar. 7, 2005, at A1 (quoting Stephen Burke).

¹⁹⁹ Frank Ahrens, *Comcast, PBS Plan New Service*, Wash. Post, Apr. 5, 2005, at E4. As discussed below, PBS Kids Sprout launched earlier this year on VOD to great success.

²⁰⁰ Mike Reynolds, *8-Year-Old CN8 Won’t Stop at 8 Million*, Multichannel News, Oct. 25, 2004, at 14.

²⁰¹ *See CN8 Sends Signal Into Steel City*, Multichannel News, June 3, 2005, available at <http://www.multichannel.com/article/CA606135.html?display=Programming>.

To address the local programming needs of Comcast's customers in Southern California, Comcast has begun inserting five-minute segments of Comcast Local Edition into CNN Headline News.²⁰² Meanwhile, in Northern California, Comcast SportsNet West has signed a five-year deal with the University of California, Berkeley to televise basketball, football, and other sports programming.²⁰³ And, Comcast continues to enter into voluntary agreements with broadcasters to carry their local multicast digital signals; as of mid-September of this year, Comcast had agreements with over 200 commercial broadcast stations located in 72 markets across the nation.²⁰⁴ In addition, Comcast was a signatory to and ratified the historic carriage agreement between NCTA, the Association of Public Television Stations, and PBS for the carriage of noncommercial broadcasters' multicast signals; Comcast expects that by October of this year, it will be carrying the digital signals of 58 noncommercial broadcast stations in 62 markets, the majority of which are multicasting.²⁰⁵

Comcast consumers have a plethora of programming options from which to choose. In a typical Comcast system, Comcast's customers can choose from:

²⁰² See Stuart Miller, *Comcast, a Local Edition for Sprawling Los Angeles*, *Broad. & Cable*, June 27, 2005, at 22. Among other things, the segments provide an opportunity for elected officials and community groups to explain who they are and what they do. See *id.*

²⁰³ See Eric Young, *Comcast SportsNet To Televise Cal Football, Basketball Games*, *S.F. Bus. Times*, Aug. 19, 2005.

²⁰⁴ For example, "in the Washington metropolitan area, Comcast is carrying WJLA's local Weather Now channel (ABC) and WRC's Weather Plus channel (NBC), as well as WETA's Prime, Kids, and Plus channels (PBS)." *Completing the Transition to Digital Television; Hearing Before the S. Comm. on Commerce, Science, and Transportation*, 109th Cong. 14 (2005) (statement of Kyle McSlarrow, President and CEO, NCTA).

²⁰⁵ See Press Release, NCTA, *PTV Stations and Cable Systems Approve Agreement Between APTS, NCTA and PBS for Digital Cable Carriage During and After the Digital TV Transition* (Apr. 14, 2005), available at <http://www.ncta.com/press/press.cfm?PRid=597&showArticles=ok>.

- A basic tier that includes channels from all the local broadcast stations plus PEG channels, leased access channels, and a number of basic cable networks, such as ABC Family or WGN.
- An expanded basic tier that includes additional cable networks such as CNN, ESPN, Discovery Channel, Nickelodeon, Disney Channel, Weather Channel, and BET.
- Two different tiers of digital cable service that include access to an interactive programming guide, VOD programming, digital music channels, and numerous additional digital cable networks, such as Discovery Kids, Noggin, Fine Living, Toon Disney, and National Geographic.
- A broad selection of Hispanic programming networks including Discovery en Español, CNN en Español, and Toon Disney en Español.
- Up to 15 networks transmitted in HDTV, including all four major broadcast networks, local public broadcast stations' HDTV signals, and ESPN-HD.
- A selection of premium services that often include the choice of HBO, Showtime, Cinemax, STARZ, and a wide variety of multicultural programming networks.

As the Commission noted last November, “Comcast, for example, offers over 1,000 program and price combinations and allows its subscribers to create a mix of services to meet varied program interests or financial constraint.”²⁰⁶

Culturally Diverse Programming. Comcast also is expanding culturally diverse offerings to subscribers. In the past year, Comcast has launched several services catering to multicultural audiences, both in linear and VOD formats. In total, Comcast carries over 50 multicultural cable networks and is in talks to carry several more. Comcast strives to be sensitive to the needs of each community; service offerings are often tailored to address the unique cultural needs of individual communities. For example, in Colorado, Comcast recently revamped its lineup of Spanish-language networks to address the interests of Hispanic viewers

²⁰⁶ See FCC, *Report on the Packaging and Sale of Video Programming Services to the Public* 65 & n.319 (Nov. 18, 2004), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-254432A1.pdf.

by adding eight channels and VOD services.²⁰⁷ New offerings included GoITV, a Latin American network dedicated solely to soccer, and TBN enlace, a Hispanic faith and religious programming channel.²⁰⁸ Comcast Colorado customers also have access to the CableLatino package, which includes 22 additional Spanish-language networks and more than 100 hours of Spanish VOD content.²⁰⁹ Comcast also recently announced the availability of five international channels -- TV5 (French), C1RW (Russian), SBTN (Vietnamese), TV JAPAN (Japanese) and GMA Pinoy TV (Filipino) -- as new digital premium networks for its Southern California subscribers.²¹⁰

HDTV. Comcast has continued to place a heavy emphasis on expanding the availability of HD service. “For an extra \$5-per-month set-top charge, Comcast customers can get up to 15 channels of HD programming -- a price point that is much more affordable than anything DIRECTV or EchoStar can offer.”²¹¹ Comcast’s HD service is now available in 72 markets, representing over 94% of the households passed by Comcast. To promote these HD offerings, Comcast has partnered with local consumer electronic retailers and has stressed its local presence as a significant advantage over satellite. These efforts have elicited a strong and favorable consumer response; several months ago, Comcast passed a significant milestone when it

²⁰⁷ See Ryan Peacock, *Diversity On Demand; Satellite-, Cable-TV Operators Expand Multicultural Offerings*, Rocky Mt. News, Aug. 22, 2005, available at http://www.rockymountainnews.com/drmn/technology/article/0,1299,DRMN_49_4019708,00.html.

²⁰⁸ See *id.*

²⁰⁹ See *id.*

²¹⁰ *Comcast Brings Int’l Flavor to Calif.*, Multichannel News, Sept. 15, 2005, available at <http://multichannel.com/index.asp?layout=articlePrint&articleid=CA6257450>.

²¹¹ John P. Ourand, *Cable’s Best HD Buy? Local Sale and Promos*, CableWORLD, Feb. 21 - Mar. 6, 2005, at 18. In some markets, Comcast’s customers can now receive 16 HDTV channels.

deployed its one-millionth HD set-top box.²¹² Thus, it is no surprise that, in *CableWORLD*'s affiliate sales survey, "programming executives picked Comcast as the MSO that was furthest along with HD."²¹³

VOD. Comcast's VOD service has been another successful service that has enjoyed widespread consumer adoption. Overall VOD audience and usage numbers have grown exponentially since its inception,²¹⁴ and industry analysts estimate that, "by the end of 2005, 23.9 million U.S. homes will have access to VOD from their local cable operator."²¹⁵ Launched in 2004, Comcast ON DEMAND is now available to 87% of Comcast's customers.²¹⁶ Comcast ON DEMAND provides a wide variety of VOD content.²¹⁷ And more is continuously being added, including the recently launched PBS Kids Sprout on Demand,²¹⁸ independent films and

²¹² *See id.*

²¹³ *Id.*

²¹⁴ Approximately 21 million cable households currently have VOD capability. *Boom Times Ahead for VOD?*, CableFAX Databriefs, July 11, 2005. Advertisers are scrutinizing VOD usage, increasing the likelihood that more incentives for VOD programming will develop. Rentrak, a research solutions firm, offers OnDemand Essentials, which tracks and reports on VOD usage. *See* Press Release, Rentrak Corp., *Rentrak and Charter Team to Track Video On Demand Content Usage and Ratings* (March 23, 2005); *see also* Press Release, Rentrak Corp., *Rentrak Adds Bresnan Communications Systems to OnDemand Essentials Trials* (July 20, 2005).

²¹⁵ *2005 Mid-Year Industry Overview* at 17 (citing Kagan Research LLC).

²¹⁶ *See* Ken Kerschbaumer, *ME TV: Cable Operators Fine-Tune Economical Ways for Consumers To Customize Viewing Time*, *Broad. & Cable*, June 13, 2005, available at <http://www.broadcastingcable.com/index.asp?layout=articlePrint&articleID=CA607716>.

²¹⁷ *See* Comcast Corp., *On Demand* (listing programming from popular linear networks and industry leaders, such as HBO, Nickelodeon, Discovery Networks (including Discovery Kids, Animal Planet, and TLC), MTV, Comedy Central, Boomerang, BBC America, CNN, A&E, Food Network, HGTV, ESPN, NFL Network, NBA On Demand, The Travel Channel, and Gratis en Español), at <http://comcast.m0.net/m/p/com/mic/Index.asp?email=&cmp=&custom=> (last visited Aug. 8, 2005). Comcast's Philadelphia system offers 5,500 free VOD programs. *See* Kerschbaumer, *supra* note 216 (reporting that more than 90% of the free VOD programs were watched at least once during March 2005).

²¹⁸ *See* Press Release, Comcast Corp., *Big Bird, Barney, and Bob the Builder Come Together in a Whole New Way as PBS Kids Sprout Launches on Comcast* (Apr. 4, 2005), available at <http://www.cmcsk.com/>

(footnoted continued...)

multicultural programming, such as “Gratis en Español,” “Bollywood and Beyond,”²¹⁹ and Fox Sports En Español;²²⁰ Starz programming that adds more than 325 top movies a month to the 3,500 program choices Comcast was already offering;²²¹ and access to a vast array of consistently updated local programming and information, including newscasts from local broadcast stations.²²²

For example, in the Washington, DC metropolitan area, Comcast’s local VOD programming includes information on community service initiatives such as *America’s Promise*, an introduction to the “100 Best Communities for Young People” project, a program developed by America’s Promise and focused on providing safe communities for young people; *Live Right: Topics on Substance Abuse*, a five-episode series that explores topics such as drug and alcohol use as they relate to teenagers, the Columbian drug culture, young people’s experiences with

(...footnote continued)

[phoenix.zhtml?c=147565&p=irol-newsArticle&ID=691220&highlight=sprout](http://www.phoenix.zhtml?c=147565&p=irol-newsArticle&ID=691220&highlight=sprout). PBS Kids Sprout experienced more than 4 million hits in April 2005, making it the most popular free kids VOD category for Comcast “right out of the box.” Pamela McClintock, *Growth Spurt For Kids VOD: Comcast Boasts Record Debut with PBS Kids VOD*, Variety, May 10, 2005 (quoting Brian Roberts, Chairman and CEO of Comcast Corporation).

²¹⁹ See Simon Applebaum, *Deep Local Roots in Seattle*, CableWORLD, July 11, 2005 (“Comcast is presenting exclusively to its on- demand customers in the area the new movie *The Immigrant Garden*, which was shot 100 miles southwest of Seattle last year.”). See Glenn Lovell, *Multicultural TV Programming a Hit*, Contra Costa Times, July 27, 2005, at F4, available at <http://www.fortwayne.com/mld/cctimes/entertainment/12233696.htm?template=contentModules/printstory.jsp> (describing Comcast’s offering of Bollywood movies on demand). In addition, Comcast’s “Gratis en Espanol” service offers on-demand Spanish-language content, including movies, sports, music, and family programming. See *id.*

²²⁰ See Press Release, Comcast Corp., *Fox Sports En Español and Comcast Strike Video-On-Demand Deal* (June 8, 2005) (noting that Comcast ON DEMAND features 10 hours of the Spanish-language sports network’s marquee events and programs), available at <http://www.cmsk.com/phoenix.zhtml?c=147565&p=irol-newsArticle&ID=719441&highlight=international>.

²²¹ See *Comcast 2Q05 Earnings Release* at 1.

²²² See Peter J. Howe, *Comcast Launches Video-On-Demand Package with Local Programming*, Boston Globe, Apr. 16, 2004, at D1 (describing on-demand offerings in Boston market); see also *id.* (quoting Jon Abbott, general manager of public TV station WGBH, as saying that VOD “can extend the reach and impact of some of our award-winning programs”).

substance abuse rehabilitation, and college students' thoughts on the use and effects of drugs and alcohol; and *In Their Own Words*, a documentary about the events of D-Day as told by World War II veterans from Maryland.²²³ In Baltimore, Maryland, Comcast, City Council President Sheila Dixon, and Baltimore's Enoch Pratt Library announced a \$200,000 media partnership to promote literacy initiatives and that will feature the library's *E-Stories*, a collection of live-action, multicultural storyteller performances targeted at children and teenagers. And, in Comcast's markets across the country, Comcast is increasingly offering VOD programming that features local news and sports stories from local broadcast stations, regional news channels, and government affairs networks. The majority of this programming is available to Comcast customers at no additional charge.

Comcast has made VOD a priority, and has "undertaken an intense marketing blitz that makes customers well aware that free VOD is available and of where to find it."²²⁴ These efforts have led to embrace of the technology by thousands of customers.²²⁵ As Brian L. Roberts, Comcast's Chairman and CEO, recently explained: "In June, our customers viewed over 112 million ON DEMAND programs, a 10 million increase in 3 months, as we continue to

²²³ *In Their Own Words* is now being shown in every 11th grade class in Maryland.

²²⁴ Ken Kerschbaumer, *Comcast, A Cable Giant Grows Demand For Video-On-Demand*, *Broad. & Cable*, June 20, 2005, at 2A.

²²⁵ See Farhi, *supra* note 172 ("The very function of the networks -- picking the shows and dictating the day and time viewers have to watch them -- is gradually giving way to an age in which viewers take over those roles, with a much broader selection of programs.").

provide an unmatched product with more choice and customer value.”²²⁶ Mr. Roberts also noted that Comcast customers are on pace to view over *one billion* VOD streams in 2005.²²⁷

Comcast also has been aggressively seeking ways to further improve its VOD service. A new service known as “Select On Demand” is specifically designed as an incubator for new programming content.²²⁸ Select On Demand includes 15 new virtual VOD channels, each a collection of original programming organized by particular themes. For example, a “Wheels and Wings” channel is focused on content for car enthusiasts, while another channel, “Anime Selects,” offers a broad array of animation programming.²²⁹ Through the Select On Demand service, Comcast can provide consumers with access to programming that may be too narrow in its appeal to warrant creation of a traditional linear network. These offerings also give creative start-up programmers an opportunity to gain exposure and to build an audience.

²²⁶ Comcast 2Q05 Earnings Release at 1.

²²⁷ See Transcript, *Q2 2005 Comcast Corporation Earnings Conference Call*, Thomson StreetEvents Final Transcript, at 2 (Aug. 2, 2005) (“*Comcast Earnings Call Transcript*”); see also John M. Higgins, *Empty Screens*, *Broad. & Cable*, Sept. 19, 2005 (noting that Comcast’s President Steve Burke reports that Comcast’s customers watched 125 million VOD streams last month and by year’s end that number would likely be up to 200 million per month).

²²⁸ See Shirley Brady, *Comcast’s Matt Strauss Discusses Select On Demand*, *CableWORLD*, June 20, 2005, available at http://www.findarticles.com/p/articles/mi_m0DIZ/is_2005_June_20/ai_n14711650 (quoting Matt Strauss, Comcast’s Vice President of Video on Demand Investments, as saying: “Roughly 60 to 70% of all digital subs use on demand every month. So when we look at the landscape it’s really clear that the future of television is not going to be adding channel 343 to the digital lineup, but it’s going to be to migrate more and more programming over to on demand, which really is a superior way to watch programming.”); see also *id.* (quoting Matt Strauss as saying: “The genesis of Select on Demand was that as we continue to grow the [VOD] offering and expand the offering, there is really now more than ever a crossroad in cable television where programming that was potentially too targeted to warrant being a linear network, or programming that really couldn’t work well in a linear environment, now could have a destination on TV.”).

²²⁹ See *id.* More details about Select On Demand are available at <http://www.selectondemand.com/>.

DVR. DVR service has also been a successful way for Comcast to distinguish its service from its competitors. Comcast now boasts more than 575,000 DVR subscribers.²³⁰ During the second quarter of 2005, Comcast deployed nearly 300,000 advanced set-top-boxes with DVR and/or HDTV programming capability.²³¹

B. Comcast Continues To Bring New Broadband Technologies and Innovative Services to More Consumers than Ever Before.

Given the intense and growing competition that Comcast faces, Comcast believes it to be essential to continue to invest and to innovate.²³² In a marketplace in which convergence is now a reality, one important strategy is to offer all Comcast customers the convenience of obtaining multiple communications services -- video, high-speed Internet, and telephone -- at a discounted price.²³³ Earlier this year, Comcast began offering its Comcast Digital Voice digital phone service to 22,000 customers in Boston, Chicago, Hartford, Philadelphia, and Portland, Oregon. Comcast plans to rapidly deploy Comcast Digital Voice service to additional markets over the next year. As Comcast's Brian Roberts has explained, "Our main goal is to quickly evolve the

²³⁰ See *In re Applications for Consent to the Assignment and/or Transfer of Control of Licenses from Adelphia Communications Corporation to Time Warner Cable Inc. and Comcast Corporation*, Applications and Public Interest Statement, filed in MB Docket No. 05-192, at 47 (May 18, 2005). There are currently over 9 million households with DVRs (or about 8% of U.S. television households), see Kagan Research LLC, *Kagan Media Index*, Kagan Media Money, July 26, 2005, at 6, and those numbers are projected to increase to 55 million households by 2010, see Joel Meyer, *DVRs on the Rise*, *Broad. & Cable*, July 21, 2005, available at <http://www.broadcastingcable.com/index.asp?layout=articlePrint&articleID=CA628453>.

²³¹ Comcast 2Q Earnings Release at 2.

²³² See Walsh, *supra* note 197 ("Comcast Corp. thinks it can win a raging battle for new subscribers by offering products that go far beyond standard cable television, including new telephone service, hundreds of free movies and even TiVo technology.").

²³³ See Mike Farrell, *Comcast Learns To Love the Bundle*, *Multichannel News*, May 23, 2005, at 87.

product to not just be voice, but to be [an] integrated communications product.”²³⁴ Comcast envisions that Comcast Digital Voice service will eventually incorporate unified messaging and video phone capabilities. The company hopes to see widespread consumer adoption of Comcast Digital Voice service as it becomes available in more markets and is more prominently marketed.²³⁵

In addition to focusing on creating an attractive bundle, Comcast is improving the quality of its existing services. For example, in July 2005, Comcast increased its standard download speed for its high speed Internet service to 6 Mbps (with 8 Mbps available to users who subscribe to the premium service), marking the third time Comcast has raised broadband speeds without raising the price.²³⁶ And, for no additional charge, Comcast now offers a broadband security solution to help customers protect their households and enhance their online experience.²³⁷

²³⁴ Robert Luke, *Comcast To Go After BellSouth's Turf*, Atlanta J. Const., Mar. 18, 2005, at F1 (quoting Brian Roberts, Comcast's President and CEO).

²³⁵ Comcast projects that it will win 250,000 digital phone subscribers by the end of 2005 and about a million new phone customers in 2006. See Ken Belson, *Comcast Profit Rises 64% on Digital TV and Internet Services*, N.Y. Times, Aug. 3, 2005, at C7.

²³⁶ See Press Release, Comcast Corp., *Comcast Delivers New Ultra-Fast Speed Tiers - 8Mbps and 6Mbps* (July 12, 2005), available at <http://www.cmcsk.com/phoenix.zhtml?c=147565&p=irol-newsArticle&t=Regular&id=729042&>. As of June 30, 2005, over 7.7 million customers subscribed to Comcast's high-speed Internet service. *Comcast 2Q Earnings Release* at 2.

²³⁷ See Press Release, Comcast Corp., *Comcast Launches Comprehensive Internet Security Solution to Help Keep Customers Safe Online* (Aug. 16, 2005) (explaining that customers can receive nearly \$115 in value to protect their households and enhance their online experience with Internet security options), available at <http://www.cmcsk.com/phoenix.zhtml?c=147565&p=irol-newsArticle&t=Regular&id=743655&>.

C. Comcast Actively Maintains Its Commitment to Good Corporate Citizenship.

As a matter of corporate philosophy, and also as a matter of competitive differentiation, Comcast is deeply engaged in the local communities it serves. As one regional manager explains, “In spite of our size, we really are a very locally run corporation, and we want our customers to have the same feeling that they are dealing with somebody local.”²³⁸ Thus, Comcast has local offices, hires local people, actively participates in local civic activities, sponsors local events, and dedicates resources to improving all aspects of the communities it serves.

Comcast’s commitment to its customers and their communities is manifested in numerous ways, such as producing and distributing local programming, funding college scholarship programs, or coordinating volunteers to landscape a community center. Among Comcast’s community outreach achievements over the past year are the following:

- As of the end of 2004, Comcast had provided free cable television services to approximately 17,000 schools as part of the Cable in the Classroom Initiative. In addition, Comcast provided free high-speed Internet service to almost 7,250 schools and 1,500 libraries and youth and community centers.
- Comcast was named by the Washington Business Journal as one of the area’s top 50 local corporate philanthropists with respect to both overall charitable donations and volunteer hours.²³⁹
- In October 2004, in the fourth annual “Comcast Cares” Day, over 30,000 volunteers donated 180,000 hours in which they “built houses, raked leaves, painted schools and distributed food for the hungry in the largest numbers ever posted by the company.”²⁴⁰

²³⁸ Peter J. Howe, *Comcast Returning Call-Center Jobs to N.E.*, Boston Globe, Dec. 24, 2004 (quoting Robin Higgle, Comcast’s director of talent management for its New England region).

²³⁹ See Wash. Bus. J., *Business Philanthropy Guide, Top Corporate Philanthropists* (May 2005) (ranking Comcast 21st with respect to local giving and 15th with respect to total volunteer hours).

²⁴⁰ Linda Haugsted, *Comcast Cared — 30,000 Ways*, Multichannel News, Oct. 11, 2004, at 69.

- In March 2005, Comcast committed \$2.2 million to City Year -- a leading citizen service organization that brings together young people from diverse backgrounds for a year of rigorous full-time community service -- in order to promote youth leadership development and training. And once again in June 2005, Comcast honored five young leaders from City Year with the Comcast Leadership Award at City Year's annual national convention.²⁴¹
- In May 2005, Comcast and its employees donated over \$2.3 million to 107 local United Way agencies in twenty-seven states.²⁴²
- In June 2005, Comcast awarded over \$1 million in scholarship grants to high school seniors and offered scholarship support, work experience, and career opportunities to 19 interns through the Emma L. Bowen Foundation Diversity Internship Program.²⁴³
- On September 20, 2005, Comcast will continue its commitment to the Partnership for a Drug Free America ("PDFA") by hosting a Town Hall Meeting in Philadelphia, which will feature guest speakers such as Pennsylvania Attorney General Tom Corbett, Philadelphia Police Commissioner Sylvester Johnson, Comcast's Brian Roberts, A&E Network's CEO Abbey Raven, and PDFA's CEO Steve Pasierb. The Town Hall Meeting will be taped for broadcast on CN8, A&E, and Comcast On Demand, and will introduce the groundbreaking A&E series *Intervention*, which will be available in October on Comcast On Demand.²⁴⁴
- Other community involvement in the Washington, D.C. Metro Area has included Comcast's Drive, Think, Live Public Safety Campaign; the Alexandria Scholarship Fund

²⁴¹ See Press Release, Comcast Corp., *Comcast Promotes Youth Leadership Development* (Mar. 9, 2005), available at http://www.comcast.com/InTheCommunity/news/release/InTheNews_71.html; Press Release, Comcast Corp., *Comcast Recognizes Innovation and Community Service* (June 22, 2005), available at http://www.comcast.com/InTheCommunity/news/release/InTheNews_75.html.

²⁴² See Press Release, Comcast Corp., *Comcast Reaffirms Its Commitment to the Communities It Serves with \$2.3 Million Contribution to United Way* (May 3, 2005), available at http://www.comcast.com/InTheCommunity/news/release/InTheNews_72.html.

²⁴³ See Press Release, Comcast Corp., *Comcast Recognizes High School Seniors* (June 6, 2005), available at http://www.comcast.com/InTheCommunity/news/release/InTheNews_73.html; Press Release, Comcast Corp., *Comcast More Than Doubles Commitment to Emma L. Bowen Foundation Diversity Internship Program* (June 28, 2005), available at http://www.comcast.com/InTheCommunity/news/release/InTheNews_76.html.

²⁴⁴ Through its partnership with PDFA, Comcast has donated over \$50 million in advertising airtime to support delivery of PDFA's message, has worked in each of its local communities to promote a drug-free environment, and has coordinated with PDFA to host Town Hall Meetings to "provide a platform for dialogue between community leaders, government officials, medical experts, parents and children, and open discussion about constructive and effective ways to deliver the message of drug abuse." See generally Comcast Corp., *Educating Kids and Parents with the Information They Need*, at http://www.comcast.com/InTheCommunity/partners/partners_dfaInfo.html (last visited Sept. 19, 2005).

to support students at T.C. Williams High School; and the Comcast Outdoor Film Festival in Alexandria and Arlington, Virginia.²⁴⁵

In addition to these achievements, Comcast continues to finance and support The Comcast Reading Network (a company-wide effort dedicated to advancing literacy levels and reading skills) and the Cable in the Classroom initiative (a cable industry program that provides schools, teachers, and families with a variety of resources, such as cable and high-speed Internet service and programming and online content, to support the best possible learning experiences for children in their homes, schools, and communities).²⁴⁶

Comcast also has established a comprehensive program to promote diversity both inside the company and in the communities it serves. In 2005 alone, Comcast funded 20 diversity programs throughout the Nation.²⁴⁷ Comcast also implemented a supplier diversity program that includes a nationwide training program to educate diverse suppliers on how to establish a business relationship with Comcast.²⁴⁸ In addition, Comcast encourages larger suppliers to either partner with a vendor of diversity or to spend with vendors of diversity themselves. In 2005,

²⁴⁵ See Press Release, Comcast Corp., *Comcast Launches Public Safety Campaign Throughout the Region to Promote Driver Safety Among Young People* (Feb. 1, 2005), available at <http://www.theautochannel.com/news/2005/02/01/018989.html>.

²⁴⁶ See Comcast Corp., *The Comcast Reading Network*, at http://www.comcast.com/InTheCommunity/literacy/reading_network.html (last visited Sept. 12, 2005); Comcast Corp., *Cable in the Classroom*, at http://www.comcast.com/InTheCommunity/literacy/cable_classroom.html (last visited Sept. 12, 2005).

²⁴⁷ Comcast Corp., *2005 Diversity Program Funded*, at http://www.comcast.com/InTheCommunity/diversity/programs_funded2005.html (last visited Sept. 12, 2005). In 2004, the Comcast Foundation established the Diversity Fund “to support local non-profit organizations encouraging tolerance, acceptance, and understanding of different perspectives among young people.” Comcast Corp., *Diversity*, at http://www.comcast.com/InTheCommunity/diversity/diversity_intro.html (last visited Sept. 12, 2005).

²⁴⁸ Press Release, Comcast Corp., *Diversity Inc Magazine Names Comcast One of the Top 10 Companies for Supplier Diversity* (Apr. 12, 2005), available at http://www.rednova.com/news/technology/143224/diversityinctm_magazine_names_comcast_one_of_the_top_10_companies/index.html. Comcast also facilitates partnerships between vendors when a relationship may be beneficial for all parties involved. See *id.*

Comcast's diversity initiatives earned it a spot on DiversityInc Magazine's Top 10 companies for supplier diversity and Top 25 Notable Companies for Diversity.²⁴⁹ "In addition, Comcast was named one of the 2005 Top 40 Companies for Hispanics by *Hispanic Business* magazine, for the company's overall commitment to the Hispanic market, based on factors such as recruitment, promotion, procurement, philanthropy, and marketing; and was ranked number 7 among their list of Top 10 Companies for Philanthropic Giving."²⁵⁰

Ever since its early days as the provider of cable service in Tupelo, Mississippi, Comcast has always been an active corporate citizen. As the number of communities Comcast serves has expanded, Comcast has brought its philosophy of responsible corporate citizenship to each and every new community it serves. Comcast knows that cable service is a local service, tailored to the individual needs of each community, and addressing the demands of the citizens of those communities. Comcast's employees live and work in each community we serve. Comcast acknowledges that it has a duty to actively participate in local civic activities, sponsor local events, and invest resources in strengthening and improving the communities it serves. And Comcast also recognizes that, when it comes to competing in the marketplace, its local presence and support for community partners and activities provide a significant differentiation from its two biggest competitors, the nationwide DBS providers. Community involvement and good

²⁴⁹ *See id.*

²⁵⁰ Janet Perez, *Diversity Report: Top 40 Companies*, Hispanic Bus., Sept. 2005, available at <http://www.hispanicbusiness.com/news/newsbyid.asp?id=25161&cat=Magazine&more=/magazine/>; Press Release, Hispanic Business, *Top 10 Companies for Philanthropic Giving* (Sept. 2005), available at <http://www.hispanicbusiness.com/news/newsbyid.asp?id=25416&cat=Headlines&more=%2Fnews%2Fmore%2Dnews%2Easp>.

corporate citizenship will continue to be hallmarks of Comcast's relationship with its communities and its customers.

V. CONCLUSION

The video marketplace today is intensely competitive and becoming more so each day. Cable's current competitors have established their roles in the marketplace and continue to take market share, and new means of accessing video programming are emerging rapidly. Virtually without exception, every American consumer can select from among multiple multichannel video programming platforms, and these MVPDs plus a growing array of other video delivery media make it increasingly easy for consumers to watch the programming they want, where they want, and when they want it.

The Internet, in particular, is having a profound effect on how video programming is consumed. It also provides a useful model for public policy, since it is clear that investment and innovation have flourished most where government regulation has intruded least. In the cable industry as well, deregulation and competition have spurred investment, innovation, and new and better services. But, too much remains of a statutory regime that was crafted for the entirely different circumstances of 1992.

The abundant video programming choices available to consumers today should lead the Commission to conclude definitively that the aspirations of Congress and the Commission dating back some 13 years -- to ensure sustained multichannel video competition -- have been achieved. Intense competition is now a reality in all segments of the video business -- production, aggregation, and distribution. Having succeeded in promoting this extensive competition, Congress and the Commission should more aggressively follow the path of deregulation -- while treating like services alike -- in order to further adapt the public policy model to the circumstances of the dynamic and intensely competitive marketplace that has emerged.

Respectfully submitted,

Joseph W. Waz, Jr.
COMCAST CORPORATION
1500 Market Street
Philadelphia, Pennsylvania 19102

James R. Coltharp
COMCAST CORPORATION
2001 Pennsylvania Avenue, N.W.
Suite 500
Washington, D.C. 20006

Thomas R. Nathan
COMCAST CABLE COMMUNICATIONS, LLC
1500 Market Street
Philadelphia, Pennsylvania 19102

/s/ James L. Casserly
James L. Casserly
Ryan G. Wallach
Stephanie L. Podey
WILLKIE FARR & GALLAGHER LLP
1875 K Street, N.W.
Washington, D.C. 20006-1238
(202) 303-1000

Attorneys for Comcast Corporation

September 19, 2005

ATTACHMENT 1

Customer
Service
1-888-553-1555



Channel
Lineup



We never stop working for you.

Verizon FiOS TV

Keller/Westlake



Basic	2	Daystar — KDTN-TV 2
	3	KLDT-TV 55
	4	FOX — KDFW-TV 4
	5	NBC — KXAS-TV 5
	6	Superstation — WGN-TV 9
	7	KDFI-TV 27
	8	ABC — WFAA-TV 8
	9	WB — KDAF-TV 33
	10	Telemundo — KXTX-TV 39
	11	CBS — KTVT-TV 11
	13	PBS — KERA-TV 13
	14	KFWD-TV 52
	17	TBN — KDTX-TV 58
	20	Telefutera — KSTR-TV 49
	21	UPN — KTXA-TV 21
	23	Univision — KUVN-TV 23
	26	PAX — KPXD-TV 68
	29	KMPX-TV 29
	30	Local Education
	31	Local Government
	32	Local Education
	47	TV Guide
	49	Weatherscan Local



Expanded Basic	Entertainment	
	50	USA Network
	51	TNT
	52	TBS
	53	FX
	54	Spike TV
	Sports	
	60	ESPN
	61	ESPN Classic
	62	ESPNNews
	63	ESPNU
	64	ESPN 2
	65	Fox Sports Net — Southwest
	68	Speed Channel
	News	
	70	CNN
	71	CNN Headline News
	72	Fox News
	73	CNBC
	74	MSNBC
	75	Bloomberg TV
	76	CNN International
	77	CNBC World
	78	ABC News Now
	79	C-SPAN
	80	C-SPAN 2
	81	C-SPAN 3
	89	The Weather Channel
	Information	
	90	Discovery
	91	National Geographic
	92	Science Channel
	93	Discovery Times
	94	Pentagon Channel
	95	Military Channel
96	Military History Channel	
97	History Channel International	
98	History Channel	
99	Biography	
100	Animal Planet	
101	The Learning Channel	

Women	
110	Lifetime
111	Lifetime Movie Network
112	Lifetime Real Women
113	SoapNet
114	Oxygen
115	WE: Women's Entertainment
Shopping	
120	QVC
121	HSN
122	Shop at Home
123	America's Store
125	Jewelry
126	EXPO
127	Shop NBC
Home & Leisure	
130	Style
131	Discovery Health
132	Wisdom
133	Fit TV
134	Food Network
135	Home & Garden Television (HGTV)
136	Fine Living
137	DIY (Do It Yourself)
138	Discovery Home
139	Wealth TV
140	Travel Channel
Pop Culture	
150	Sci-Fi Channel
151	A&E
152	Crime & Investigation Network
153	Court TV
154	GSN
155	Bravo
156	TRIO
157	Logo
158	Ovation
159	BBC America
160	Comedy Central
161	E! Entertainment Television
162	ABC Family

Music	
170	MTV
171	MTV2
173	MTV Jams
174	MTV Hits
175	VH1
176	VH1 Classics
177	VH1 Soul
179	BET Jazz
180	CMT
181	VH1 Country
182	Great American Country
183	Gospel Music Channel
184	Soundtrack Channel
Movies	
190	Turner Classic Movies
191	AMC
192	Fox Movie Channel
Family	
200	Hallmark Channel
202	Family Net
203	AmericanLife TV
204	TV Land
Children	
210	Disney
211	Toon Disney
212	Nickelodeon
213	Nick Too
214	Nick Toons
215	GAS
216	Noggin
217	Cartoon
218	Boomerang
219	Discovery Kids
People & Culture	
230	BET
231	TV One
232	Black Family Channel
234	Galavisión
235	Mun2
236	SI TV
237	AZN Television

Religion	
240	EWTN
241	INSP
242	I-Life
243	Church
244	JCTV
411	Verizon Information
Sports	
300	Fox College Sports — Atlantic
301	Fox College Sports — Central
302	Fox College Sports — Pacific
303	Tennis Channel
304	NFL Network
305	Fuel
307	Outdoor Channel
308	The Sportsman Channel
312	Fox Soccer Channel
313	GoTV
315	TVG (Horse Racing)
316	Horse Racing TV
318	Mav TV
319	Blackbelt TV
320	G4
Movies	
340	Starz!
341	Starz! West
342	Starz! Edge
343	Starz! Edge West
344	Starz! in Black
345	Starz! Kids & Family
346	Starz! Cinema
347	Starz! Comedy
348	Encore
349	Encore West
350	Encore Love
351	Encore Love West
352	Encore Westerns
353	Encore Westerns West
354	Encore Mystery
355	Encore Mystery West

356	Encore Drama
357	Encore Drama West
358	Encore Action
359	Encore Action West
360	Encore WAM!
361	Showtime
362	Showtime West
363	Showtime Showcase
364	Showtime Showcase West
365	Showtime Too
366	Showtime Too West
367	Showtime Beyond
368	Showtime Beyond West
369	Showtime Extreme
370	Showtime Extreme West
371	Showtime Women
372	Showtime Women West
373	Showtime Next
374	Showtime Next West
375	Showtime Family Zone
376	Showtime Family Zone West
377	The Movie Channel
378	The Movie Channel West
379	The Movie Channel Xtra
380	The Movie Channel Xtra West
381	Flix
382	Flix West
383	Independent Film Channel
384	Sundance
HBO	
400	HBO
401	HBO West
402	HBO 2
403	HBO 2 West
404	HBO Signature
405	HBO Signature West
406	HBO Family
407	HBO Family West
408	HBO Comedy
409	HBO Comedy West

410	HBO Zone
412	HBO Zone West
413	HBO Latino
414	HBO Latino West
Cinemax	
415	Cinemax
416	Cinemax West
417	More Max
418	More Max West
419	Action Max
420	Action Max West
421	Thriller Max
422	Thriller Max West
423	Women's Max
424	At Max
425	Five Star Max
426	OuterMax
Other Premium Channels	
430	Playboy TV
431	Playboy TV en Español
En Español	
440	Galavisión
442	ESPN Deportes
443	Fox Sports World Español
444	GoTV
446	CNN en Español
447	Canal SUR
448	TVE Internacional
452	History Español
453	Discovery en Español
455	Utilísima
456	Infinito
457	MTV Español
458	VH Uno
459	Telehit
462	De Película
463	De Película Clásico
464	Cine Latino
465	Cine Mexicano
468	La Familia
469	TV Chile
470	TV Colombia

472	Sorpresa
473	Toon Disney Español
474	Boomerang (ESP)
477	TBN Enlace
478	EWTN Español
International Premiums	
480	SBTN (Vietnamese)
481	CCTV-4 (Mandarin Chinese)
482	CTI — Zhong Tian Channel (Chinese)
483	TV Japan
484	MBC (Korean)
485	The Filipino Channel
486	TV Asia
487	ART (Arabic)
488	RAI (Italian)
489	TV 5 (French)
490	TVP Polonia (Polish)
491	Rang A Rang (Farsi)
492	NITV (Farsi)
496	RTN Russian
497	Channel 1 Russian
Entertainment	
500	USA Network
501	TNT
502	TBS
503	Galavisión
504	FX
505	Spike TV
Sports	
508	ESPN
509	ESPN 2
510	Fox Sports Net — Southwest
513	Fox Sports World Español
514	Fox Soccer Channel
515	ESPN Deportes
516	GoTV
News	
518	CNN en Español
519	CNN
520	CNN Headline News

521	Fox News
522	CNBC
523	MSNBC
524	C-SPAN
525	Canal Sur
Information	
529	TVE Internacional
530	History Español
531	Discovery
532	Discovery en Español
534	Animal Planet
535	TLC
Women	
537	Lifetime
538	Lifetime Movie Network
Shopping	
540	QVC
541	HSN
542	Shop at Home
543	Shop NBC
Home & Leisure	
545	Discovery Health
546	Utilísima
549	Infinito
550	Food Network
551	Home & Garden Television (HGTV)
552	Travel Channel
Pop Culture	
555	E! Entertainment Television
556	A&E
557	Si TV
558	Mun2
559	Comedy Central
560	Sci-Fi Channel
Music	
562	MTV Español
563	MTV2
564	Telehit
565	VH Uno
566	CMT

Movies	
569	De Película
570	De Película Clásico
571	Cine Mexicano
572	Cine Latino
Family	
574	ABC Family
575	La Familia
576	TV Chile
577	TV Colombia
578	TV Land
Children	
580	Nickelodeon
581	Disney
582	Toon Disney (ESP)*
583	Boomerang (ESP)*
584	Cartoon (ESP)*
585	Sorpresa
Religion	
588	TBN Enlace
589	EWTN Español
Digital Music	
600	Showcase
601	Today's Country
602	Classic Country
603	Bluegrass
604	R&B and Hip-Hop
605	Classic R&B
606	Smooth R&B
607	R&B Hits
608	Rap
609	Metal
610	Rock
611	Arena Rock
612	Classic Rock
613	Alternative
614	Retro-Active
615	Electronica
616	Dance

- Lifestyle
- Sports
- Arts & Entertainment
- Premium
- News & Information
- Digital Music

*A Spanish-language Secondary Audio Program (SAP) is available for selection.

Digital Music (cont.)

- 617** Adult Alternative
- 618** Soft Rock
- 619** Hit List
- 620** Party Favorites
- 621** 90s
- 622** 80s
- 623** 70s
- 624** Solid Gold Oldies
- 625** Singers and Standards
- 626** Big Band & Swing
- 627** Easy Listening
- 628** Smooth Jazz
- 629** Jazz
- 630** Blues
- 631** Reggae
- 632** Soundscapes
- 633** Classical Masterpieces
- 634** Opera
- 635** Light Classical
- 636** Show Tunes
- 637** Contemporary Christian
- 638** Gospel
- 639** Radio Disney
- 640** Sounds of the Seasons
- 641** Musica Urbana
- 642** Salsa Merengue
- 643** Rock 'en Español
- 644** Pop Latino
- 645** Mexicana
- 646** Americana

Pay Per View

- 700** Movie/Event Previews
- 701** TVN Events

HDTV Broadcast

- 801** ABC — WFAA 9
- 802** NBC — KXAS 41
- 803** CBS — KTVT 19
- 804** FOX — KDFW 35
- 805** PBS — KERA 14
- 806** UPN — KTXA 18
- 807** WB — KDAF 32
- 808** KDFI 36

HDTV National

- 810** TNT HDTV
- 811** ESPN HDTV
- 812** ESPN 2 HDTV
- 814** NFL Network HDTV
- 817** HD Net
- 818** HD Net Movies
- 819** Universal HDTV
- 820** Discovery HDTV
- 821** Wealth TV HD

HDTV Premium

- 830** HBO HDTV
- 831** Cinemax HDTV
- 832** Showtime HDTV
- 833** TMC HDTV
- 834** Starz! HDTV

VIDEO ON DEMAND**900 FREE On Demand****Sports**

- ESPN
- ESPNU
- ESPN Deportes
- Fox Sports Español
- Fox Soccer Channel
- Speed Channel
- Fuel

News

- ABC News
- CNN

Info & Education

- Discovery
- Discovery Times
- Discovery Science
- Military Channel
- Animal Planet
- TLC

Women

- SoapNet

Shopping

- ExpoTV

Home & Leisure

- Discovery Health
- Discovery Home
- Travel Channel
- Food Network
- HGTV
- DIY
- Fine Living

Pop

- A&E
- Cartoon's Adult Swim

Music

- MUSIC Unlimited
- Soundtrack Channel
- Great American Country

Movies

- Total Hollywood TV

Family

- ABC Family

Kids

- KIDS Unlimited
- Disney
- Toon Disney
- Radio Disney
- Jetix
- Backyard
- Mainstreet
- PBS Kids
- Scholastic
- Boomerang
- Cartoon
- Discovery Kids

People & Culture

- Black Family Channel

900 Movies On Demand**New Releases and Library**

- Action & Adventure
- Comedy
- Drama
- Horror/Sci-Fi
- Kids & Family
- Musicals/Other

900 Adult On Demand

- Ten
- Hustler

900 Subscription On Demand*

- Sundance On Demand
- Showtime On Demand
- TMC On Demand
- Starz! On Demand
- Encore On Demand
- HBO On Demand
- Cinemax On Demand

900 Subscription Package*

- WWE On Demand

*Subscription to corresponding premium channels and packages required.

Programming services offered within each package are subject to change, and not all programming services will be available at all times. Blackout restrictions also apply.

ATTACHMENT 2

**Customer
Service**
1-888-553-1555



**Rates &
Packages**



We never stop working for you.



VRATECARD

RATECARD 8/05

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Verizon FiOS TV



Here's everything you need to create your perfect FiosSM TV package. First, choose your service. Then, add to it from our selection of digital packages and premium channels below.

Reference the Channel Lineup for a complete listing of channels included in each package.

Service	Number of Channels	Monthly Price
Basic ¹	15–35	\$12.95
Digital Service (Requires Set Top Box [STB] and Router ²)		
Expanded Basic ³	160 + Basic	\$39.95
La Conexión ⁴	115 + Basic	\$32.95

Save \$5 per month when qualifying voice or data services are bundled with Fios TV Digital Service.

Now, add more channels for just a few dollars.

Packages ⁵ (Requires STB)	Number of Channels	Monthly Price
Sports Package	15	\$5.95
Movie Package	26	\$11.95
Sports/Movie Package Combination	41	\$14.95
Spanish Language Package	26	\$11.95

Premium Channels ⁶ (Requires STB)	Number of Channels	Monthly Price
HBO	14	\$14.95
Cinemax	12	\$14.95
HBO/Cinemax Combination	26	\$24.95
Playboy TV	1	\$14.95
Playboy TV en Español	1	\$14.95

International Premiums ⁶ (Requires STB)	Number of Channels	Monthly Price
International Premium Channels	15	Individually Priced

Video On Demand and Pay Per View (Requires STB)	Price
On Demand Movies	
New Releases	\$3.95
Library	\$2.95
On Demand Subscriptions	
WWE	\$7.95/mo.
On Demand Adult	\$11.95
PPV Movies	\$3.95
PPV Events	Varies
PPV Sports	Varies

¹In order to be eligible for the Movie Package or Sports Package, Expanded Basic or La Conexión is required. The Spanish Language Package may be added to Basic service, but requires a Set Top Box for access. The addition of a Set Top Box with Basic service provides access to Video On Demand and Pay Per View, as well as the ability to order Premium Channels and International Premiums.

²Router provided will be a new or a fully inspected, tested and warranted return unit. If service is cancelled within the first 12 months, router must be returned or \$49.99 equipment fee applies. If you maintain service for twelve (12) consecutive months, ownership of the router shall transfer to you after which all maintenance of the router shall be at your sole cost and expense, and the risk of loss will be yours should the router be damaged or stolen.

³Expanded Basic includes all Basic channels, additional all-digital programming, digital music channels and access to Pay Per View and Video On Demand (VOD).

⁴La Conexión includes all Basic channels, digital programming including popular English-language networks and Spanish-language networks, digital music channels and access to PPV and VOD. La Conexión cannot be combined with the Spanish Language Package.

Set Top Box (STB)	Monthly Price
Standard Definition	\$3.95
High Definition (includes HDTV channels)	\$9.95
Digital Video Recorder (includes HDTV channels)	\$12.95

Initial Installation	One-Time Charges
Existing Outlet Hookup (up to 3)	\$50.00
Additional Outlet/Set Top Box Hookup (existing outlet)	\$19.95
New Outlet Installation (per outlet)	\$54.95
Outlet Relocation	\$54.95

Subsequent Installations/Charges	One-Time Charges
Set Top Box Addition or Upgrade/Downgrade	\$24.95
Premises Visit ⁷	\$50.00
New Outlet Installation (per outlet)	\$54.95
Outlet Relocation (per outlet)	\$54.95
Setup of TV Equipment (new TV with existing STB)	\$50.00
Disconnect of Set Top Box ⁸	\$24.95 + \$5.00/STB
Downgrade of Service from Digital to Analog	\$50.00 + \$5.00/STB
Fios TV Service Disconnect	No Charge
Fios TV Service Reconnect (up to 3 outlets) ⁹	\$50.00

Other Services and Charges	One-Time Charges
Seasonal Service Suspension (charged at initiation, 2–6 months) ¹⁰	\$24.95
Replacement Remote	\$5.00 + S&H
Unreturned/Damaged Receiver — Standard Definition	\$240.00
Unreturned/Damaged Receiver — High Definition	\$350.00
Unreturned/Damaged Receiver — Digital Video Recorder (DVR)	\$550.00

⁵Expanded Basic or La Conexión required for purchase of Movie Package or Sports Package. The Spanish Language Package may be added to Basic service. 30-day minimum billing period required for all digital Packages.

⁶Subscription Video On Demand is included with all Premium Channels at no extra charge (where applicable). 30-day minimum billing period required for all Premium Channels and International Premiums.

⁷A premises visit charge is assessed when relocating or installing new outlets or when a technician installation is required to set up a new or additional TV with an existing Fios TV STB. The premises visit charge is not assessed when adding new, upgrading/downgrading existing or disconnecting STB receivers.

⁸The STB disconnect charge is assessed only when the customer maintains at least one Fios TV STB. If all STB receivers are disconnected, the service downgrade charge applies.

⁹The reconnect fee applies when establishing service after a service disconnect.

¹⁰Seasonal service suspension requires a minimum suspension of two months and a maximum suspension of six months.

Programming services offered within each package are subject to change, and the number of channels within each package are approximations. Not all programming services will be available at all times. Blackout restrictions also apply. In addition, the pricing of the packages and the terms and conditions regarding your use of Verizon FiosSM TV are also subject to change. Pricing applies to residential use only within the United States. Not all services are available in all areas. Acceptance of the Fios TV Terms of Service is required in order to use Fios TV, and a copy of the Terms of Service will be given to you at the time of installation. The customer is financially responsible for any damage to, or misuse of, any equipment or for the failure to return any equipment if service is terminated. Applicable franchise fees, regulatory fees and taxes apply. Other terms and conditions apply. ©2005. Verizon. All Rights Reserved.

ATTACHMENT 3



PRESS RELEASE

Investor Contacts:

Marlene S. Dooner (215) 981-7392
Leslie A. Arena (215) 981-8511
Daniel J. Goodwin (215) 981-7518

Press Contacts:

D'Arcy Rudnay (215) 981-8582
Tim Fitzpatrick (215) 981-8515

COMCAST REPORTS SECOND QUARTER 2005 RESULTS

Revenue Increased 10.5% to \$5.6 Billion

Operating Income Increased 23.2% to \$1.0 Billion

Operating Cash Flow Increased 13.2% to \$2.2 Billion
20th Consecutive Quarter of Double-Digit Growth

Growth in New Services Continues

Added 1.1 Million Revenue Generating Units
During the First Half of 2005 Including
507,000 During the Second Quarter

Philadelphia, PA – August 2, 2005...Comcast Corporation (NASDAQ: CMCSA, CMCSK) today reported results for the quarter ended June 30, 2005. Comcast will discuss second quarter results on a conference call and webcast today at 8:30 AM Eastern Time. A live broadcast of the conference call will be available on the investor relations website at www.cmcsa.com and www.cmcsk.com.

Brian L. Roberts, Chairman and CEO of Comcast Corporation said, "This is our 20th consecutive quarter reporting double-digit operating cash flow growth and, at 40.8%, cable's Operating Cash Flow margins are the highest in 2 ½ years. We are posting solid results in the second quarter with revenue growth of 10.5% and Operating Cash Flow growth of 13.2%. Operating income increased 23.2% to \$1.0 billion.

Our consistently strong performance - double-digit revenue and cash flow growth and free cash flow growth above 20% - demonstrates the inherent strength of our business and reinforces our confidence in the future.

We are extending our competitive advantage with industry-leading products. In video, we are continuing to expand our ON DEMAND, HDTV and DVR offerings and are beginning to rollout our enhanced basic – 100% digital service. We recently announced an important new agreement with Starz Encore that significantly enhances our ON DEMAND service, adding more than 325 top movies a month to the 3,500 program choices our customers enjoy today. In June, our customers viewed over 112 million ON DEMAND programs, a 10 million increase in 3 months, as we continue to provide an unmatched product with more choice and customer value.

We also recently announced a 50% increase in the speed of our high-speed Internet service – now 6 megabits per second – and continue to deliver a growing array of valuable enhancements and features like security and online gaming. Our strategy of product innovation and differentiation is working - we added 1.1 million revenue generating units during the first six months of this year - more than we did in the first half of last year.

We believe Comcast Digital Voice will be the next engine for growth and are ramping up the rollout of this service in markets like Philadelphia, Indianapolis, Boston, Hartford, Chicago and Portland. We are on track to extend our offering to 15 million homes in 20 markets by year end and expect to offer our fully-featured digital voice service across our 41 million homes by the end of 2006.

We are excited about the future of our business and are positioning Comcast to continue to deliver the best entertainment and communications services to our customers and to build value for our shareholders.”

Comcast Cable Results

Cable results for the quarter and the six months ended June 30, 2005 are presented on a pro forma basis. Pro forma cable results adjust only for certain acquisitions and dispositions and are presented as if the acquisitions and dispositions were effective on January 1, 2004. Please refer to Table 7-A for a reconciliation of pro forma data.

Second Quarter 2005

Comcast Cable reported revenue of \$5.3 billion for the quarter ended June 30, 2005, representing a 10.1% increase from the second quarter of 2004. Comcast Cable added 507,000 revenue generating units in the second quarter of 2005, an increase of 22.1% from the 415,000 added in the same quarter last year.

Video revenue increased \$192 million or 5.9% to \$3.4 billion in the second quarter of 2005, driven by higher monthly revenue per basic subscriber and a 13.3% increase in the number of digital customers. Comcast Cable added 284,000 new digital customers in the second quarter of 2005 and with more than 9.1 million subscribers, digital cable penetration reached 42.6% of basic subscribers. As expected, basic subscribers are essentially unchanged from a year ago at 21.4 million, and declined seasonally by 77,000 or 0.2% from the first quarter of 2005.

Digital cable subscriber and video revenue growth reflects strong consumer demand for new digital features and services including Comcast ON DEMAND, high-definition television (HDTV) programming and digital video recorders (DVRs), as well as the initial rollout of an enhanced basic - 100% digital service in a number of markets. During the second quarter, pay-per-view revenues increased 24.0% – the seventh consecutive quarter of pay-per-view revenue growth, driven by more movie and event purchases through the Comcast ON DEMAND service. During the second quarter, Comcast Cable deployed nearly 300,000 advanced set-top boxes with DVR and/or HDTV programming capability, generating an incremental \$5 to \$10 of monthly revenue per box.

Comcast High-speed Internet service revenues increased 28.8% to \$982 million in the second quarter of 2005, reflecting a 28.3% increase in subscribers and strong average revenue per subscriber. Comcast Cable ended the second quarter of 2005 with more than 7.7 million high-speed Internet subscribers, adding 297,000 subscribers during the second quarter of 2005 for a penetration rate of 18.9% of available homes. Average monthly revenue per high-speed Internet subscriber of \$43.34 in the second quarter of 2005, was in line with the second quarter of 2004 and increased \$0.53 from the \$42.81 reported in the first quarter of 2005.

Advertising revenue for the second quarter of 2005 increased 9.9% to \$362 million, reflecting growth of 6.5% in local advertising and growth of 16.7% in regional/national advertising as a result of the continuing success of our regional interconnect strategy. The growth in advertising revenue during the quarter was slightly offset by a decline in political advertising when compared to the prior year. Advertising revenue growth in the second half of 2005 will reflect a significant decline in political advertising when compared to the 2004 election year.

Comcast Cable added 15,000 Comcast Digital Voice customers (CDV – Comcast’s phone service using IP technology), reflecting the rollout of CDV in new markets late in the second quarter. As expected, CDV customer additions were offset by a decline in the number of Comcast’s circuit-switched telephone customers as Comcast transitions to marketing Comcast Digital Voice. Comcast Cable reported 2,000 net new phone customers in the second quarter of 2005. Cable phone revenue declined 4.0% from the second quarter of 2004 to \$170 million in the second quarter of 2005, due primarily to a decline in access revenue per customer.

Cable operating income before depreciation and amortization (Operating Cash Flow) grew 13.2% to \$2.2 billion in the second quarter, an increase from the \$1.9 billion reported for the second quarter of 2004. Second quarter 2005 Operating Cash Flow margin increased to 40.8% from 39.7% in the second quarter of 2004.

Cable capital expenditures increased 4.8% to \$936 million compared to the \$893 million in the second quarter of the prior year. The increase in capital expenditures reflects the purchase of digital set-top boxes to meet expected demand, as well as certain capital investments, including equipment for digital simulcasting and our integrated service platform, which are expected to decline in the second half of 2005.

Year-to-date June 2005

For the six months ended June 30, 2005, Comcast Cable reported revenue of \$10.4 billion, representing a 9.9% increase from the prior year. Comcast Cable added a total of 1.1 million new revenue generating units during the first half of 2005, a 7.9% increase from the first half of last year.

Video revenue increased 5.8% during the period, driven by higher monthly revenue per basic subscriber and a 13.3% increase in the number of digital customers. Comcast Cable added nearly 484,000 digital cable subscribers during the first six months of 2005 to end the period with more than 9.1 million digital subscribers. Comcast Cable basic subscribers declined 106,000 during the first six months of 2005, ending the period at 21.4 million subscribers.

Comcast Cable added nearly 712,000 high-speed Internet subscribers during the first half of 2005 to end the period with more than 7.7 million subscribers. Revenues for this service increased 30.6% from the prior year to \$1.9 billion, reflecting strong year over year subscriber growth. Advertising revenue increased 9.8% from the same period of 2004 to \$658 million, including the decline in political advertising from the 2004 election year. Cable phone revenue declined 3.5% from the same period one year ago to \$343 million, primarily due to lower revenue per customer. Comcast Cable added 7,000 phone subscribers in the first six months of 2005 compared to a loss of 42,000 subscribers in the first half of 2004.

Operating Cash Flow grew 14.5% from the same period one year ago to \$4.2 billion, reflecting strong revenue growth and the Company's success in controlling the growth of operating costs. Operating Cash Flow margin for the first six months of 2005 increased to 40.0% from 38.4% during the first six months of the prior year. Comcast Cable capital expenditures were \$1.8 billion for the first six months of 2005 compared to \$1.7 billion last year. As previously described, the level of capital expenditures is expected to decline in the second half of 2005.

Content

Comcast's content segment consists of our national networks E! Entertainment Television and Style Network (E! Networks), The Golf Channel, Outdoor Life Network, G4 and AZN Television (formerly International Channel Networks).

Comcast's content segment reported second quarter 2005 revenue of \$234 million, a 17.7% increase from the second quarter of 2004 reflecting increases in distribution and advertising revenue for all the networks. The content segment reported Operating Cash Flow of \$97 million in the second quarter of 2005, a 25.4% increase above the second quarter of 2004.

For the six months ended June 30, 2005, Comcast's content segment reported revenue of \$447 million, a 19.2% increase compared to the prior year period, and Operating Cash Flow of \$174 million, an increase of 19.1% from the same time last year.

Corporate and Other

Corporate and Other includes Comcast-Spectacor, corporate overhead and other operations and eliminations between Comcast's businesses. In the second quarter of 2005, we reported Corporate and Other revenue of \$36 million and an Operating Cash Flow loss of \$63 million as compared to revenue of \$28 million and an Operating Cash Flow loss of \$45 million in the second quarter of 2004.

For the six months ended June 30, 2005, Corporate and Other revenue declined to \$83 million from the \$114 million reported in the same period of 2004. The Operating Cash Flow loss for the year-to-date period ended June 30, 2005, was \$105 million compared to \$100 million in 2004. Results for the six month period and the quarter ended June 30, 2005, were impacted by the absence of National Hockey League games.

Consolidated Results

For the three months ended June 30, 2005, the Company reported consolidated revenues of \$5.6 billion, a 10.5% increase from the \$5.1 billion reported in the same period of 2004. Consolidated Operating Cash Flow increased to \$2.2 billion or 13.2%, in the second quarter of 2005, from the \$2.0 billion reported in the same prior year period. Operating income increased to \$1.0 billion in the second quarter of 2005 compared to operating income of \$852 million in the second quarter of 2004.

Free Cash Flow (described further on Table 4) was \$422 million in the second quarter of 2005 compared to \$500 million reported in the second quarter of 2004, reflecting increases in Operating Cash Flow and capital expenditures and the timing of income tax payments in the second quarter of 2005. For the three months ended June 30, 2005, the Company reported consolidated net income of \$430 million or \$0.19 per share compared to consolidated net income of \$262 million or \$0.12 per share in the second quarter of 2004. The increase in net income is primarily due to the growth in Operating Cash Flow.

For the six months ended June 30, 2005, consolidated revenue increased 9.9% to \$11.0 billion from the \$10.0 billion reported in the same period of 2004. The Operating Cash Flow for the period ended June 30, 2005 was \$4.2 billion, an increase of 15.0% when compared to \$3.7 billion in 2004. Operating income increased to \$1.9 billion in the first half of 2005 compared to operating income of \$1.5 billion during the first half of 2004.

Free Cash Flow was \$1.1 billion during the year-to-date period, an increase of 27.5% from the \$897 million reported during the same period of last year. For the six months ended June 30, 2005, the Company reported consolidated net income of \$573 million or \$0.26 per share compared to consolidated net income of \$327 million or \$0.14 per share in the six months ended June 30, 2004. The increase in year-to-date net income is due primarily to the growth in Operating Cash Flow.

Share Repurchase Program

Comcast repurchased \$334 million, or 10.5 million shares, of its common stock under its stock repurchase program during the second quarter of 2005. During 2005, the Company repurchased \$637 million of its Class A Special Common Stock, or 19.9 million shares. Remaining availability under the Company's stock repurchase program is \$2 billion. Since the inception of the repurchase program in December 2003, Comcast has repurchased \$2.0 billion or 67.7 million shares of its common stock.

Financial Guidance 2005

Comcast reaffirms the following previously issued guidance for 2005:

- Consolidated revenue growth of approximately 10%.
- Total Revenue Generating Unit growth of at least 2.5 million units.
- Consolidated Operating Cash Flow growth of 14% to 15%.*
- Consolidated Free Cash Flow growth of 35% to 45%.*
- Consolidated capital expenditures of \$3.2 - \$3.3 billion.

*Does not include any impact from the adoption of SFAS No. 123R (Accounting for stock-based compensation).

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This press release contains forward-looking statements. Readers are cautioned that such forward-looking statements involve risks and uncertainties that could significantly affect actual results from those expressed in any such forward-looking statements. Readers are directed to Comcast's Quarterly Report on Form 10-Q for a description of such risks and uncertainties.

In this discussion we sometimes refer to financial measures that are not presented according to generally accepted accounting principles (GAAP). Certain of these measures are considered "non-GAAP financial measures" under the Securities and Exchange Commission (SEC) regulations; those rules require the supplemental explanation and reconciliation provided in table 7 of this release.

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Comcast Corporation will host a conference call with the financial community today August 2, 2005 at 8:30 a.m. Eastern Time (ET). The conference call will be broadcast live on the Company's Investor Relations website at www.cmcsa.com or www.cmcsk.com. A recording of the call will be available on the Investor Relations website starting at 12:30 p.m. ET on August 2, 2005.

Those parties interested in participating via telephone should dial (847) 413-2408. A telephone replay will begin immediately following the call until Wednesday, August 3, 2005 at midnight ET. To access the rebroadcast, please dial (630) 652-3000 and enter passcode number 12020969#.

To automatically receive Comcast financial news by email, please visit www.cmcsa.com or www.cmcsk.com and subscribe to e-mail Alerts.

About Comcast:

Comcast Corporation (Nasdaq: CMCSA, CMCSK) (www.comcast.com) is the nation's leading provider of cable, entertainment and communications products and services. With 21.4 million cable customers, 7.7 million high-speed Internet customers, and 1.2 million voice customers, Comcast is principally involved in the development, management and operation of broadband cable networks and in the delivery of programming content.

The Company's content networks and investments include E! Entertainment Television, Style Network, The Golf Channel, Outdoor Life Network, G4, AZN Television, PBS KIDS Sprout, TV One and four regional Comcast SportsNets. The Company also has a majority ownership in Comcast-Spectacor, whose major holdings include the Philadelphia Flyers NHL hockey team, the Philadelphia 76ers NBA basketball team and two large multipurpose arenas in Philadelphia. Comcast Class A common stock and Class A Special common stock trade on The NASDAQ Stock Market under the symbols CMCSA and CMCSK, respectively.



TABLE 1
Condensed Consolidated Statement of Operations (Unaudited)
(amounts in millions, except per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2005	2004	2005	2004
Revenues	\$5,598	\$5,066	\$10,961	\$9,974
Operating expenses	1,944	1,794	3,901	3,663
Selling, general and administrative expenses	1,445	1,320	2,821	2,626
	3,389	3,114	6,722	6,289
Operating Cash Flow	2,209	1,952	4,239	3,685
Depreciation expense	891	813	1,765	1,611
Amortization expense	270	287	560	563
	1,161	1,100	2,325	2,174
Operating Income	1,048	852	1,914	1,511
Other Income (Expense)				
Interest expense	(467)	(484)	(911)	(984)
Investment income, net	176	151	140	142
Equity in net losses of affiliates	(16)	(20)	(4)	(37)
Other income (expense)	30	12	(78)	19
	(277)	(341)	(853)	(860)
Income before Income Taxes and Minority Interest	771	511	1,061	651
Income tax expense	(331)	(234)	(471)	(310)
Income Before Minority Interest	440	277	590	341
Minority interest	(10)	(15)	(17)	(14)
Net Income	\$430	\$262	\$573	\$327
Net Income per common share	\$0.19	\$0.12	\$0.26	\$0.14
Basic weighted average number of common shares	2,207	2,257	2,211	2,257
Diluted weighted average number of common shares	2,221	2,267	2,224	2,268



TABLE 2
Condensed Consolidated Balance Sheet (Unaudited)
(dollars in millions)

	<u>June 30, 2005</u>	<u>December 31, 2004</u>
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$1,335	\$452
Investments	848	1,555
Accounts receivable, net	1,031	959
Other current assets	570	569
Total current assets	<u>3,784</u>	<u>3,535</u>
INVESTMENTS	13,208	12,812
PROPERTY AND EQUIPMENT, NET	18,797	18,711
FRANCHISE RIGHTS	51,075	51,071
GOODWILL	14,118	14,020
OTHER INTANGIBLE ASSETS, net	3,658	3,851
OTHER NONCURRENT ASSETS, net	707	694
	<u>\$105,347</u>	<u>\$104,694</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable and accrued expenses related to trade creditors	\$2,042	\$2,041
Accrued expenses and other current liabilities	2,663	2,735
Deferred income taxes	110	360
Current portion of long-term debt	3,367	1,854
Current portion of exchangeable debt	1,017	1,645
Total current liabilities	<u>9,199</u>	<u>8,635</u>
LONG-TERM DEBT, less current portion	19,697	20,039
LONG-TERM EXCHANGEABLE DEBT, less current portion	49	54
DEFERRED INCOME TAXES	26,995	26,815
OTHER NONCURRENT LIABILITIES	7,310	7,261
MINORITY INTEREST	679	468
STOCKHOLDERS' EQUITY	<u>41,418</u>	<u>41,422</u>
	<u>\$105,347</u>	<u>\$104,694</u>



TABLE 3
Condensed Consolidated Statement of Cash Flows (Unaudited)
(dollars in millions)

	Six Months Ended June 30,	
	2005	2004
OPERATING ACTIVITIES		
Net cash provided by operating activities	<u>\$2,517</u>	<u>\$2,633</u>
FINANCING ACTIVITIES		
Proceeds from borrowings	1,495	1,058
Retirements and repayments of debt	(279)	(1,617)
Repurchases of common stock and stock options	(660)	(511)
Issuances of common stock	59	38
Other, net	83	8
Net cash provided by (used in) financing activities	<u>698</u>	<u>(1,024)</u>
INVESTING ACTIVITIES		
Capital expenditures	(1,842)	(1,732)
Proceeds from sales and restructuring of investments	317	51
Purchases of investments	(305)	(106)
Acquisitions, net of cash acquired	(134)	(336)
Additions to intangible and other noncurrent assets	(305)	(453)
Purchases of short-term investments, net	(63)	(15)
Proceeds from settlement of contract of acquired company	-	26
Net cash used in investing activities	<u>(2,332)</u>	<u>(2,565)</u>
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	883	(956)
CASH AND CASH EQUIVALENTS, beginning of period	<u>452</u>	<u>1,550</u>
CASH AND CASH EQUIVALENTS, end of period	<u><u>\$1,335</u></u>	<u><u>\$594</u></u>

TABLE 4
Calculation of Free Cash Flow (Unaudited) (1)
(dollars in millions)

	Six Months Ended June 30,	
	2005	2004
Operating Cash Flow	\$4,239	\$3,685
Interest, Net (2)	(826)	(906)
Cash Paid for Income Taxes	(427)	(150)
Capital Expenditures	(1,842)	(1,732)
FREE CASH FLOW	<u>\$1,144</u>	<u>\$897</u>
Changes in Working Capital and Other Items (3)	(469)	4
Net Cash Provided by (Used in) Operating Activities Less Capital Expenditures	<u>\$675</u>	<u>\$901</u>

(1) Free Cash Flow is defined as Operating Cash Flow less net interest, cash paid for taxes, and capital expenditures. It is unaffected by fluctuations in working capital levels from period to period and cash payments associated with intangible and other noncurrent assets. Cash payments for intangible and other noncurrent assets include long-term technology license agreements including computer software, long term rights to service multi-dwelling properties and programming content for our cable networks. In 2005, cash payments for intangibles and other noncurrent assets of \$305 million included licenses and software intangibles of approximately \$105 million, multiple dwelling unit contracts of approximately \$67 million and acquisitions of additional ownership interests in certain of our majority owned subsidiaries. In 2004, cash payments for intangible assets of \$453 million included a long-term strategic license agreement with Gemstar of approximately \$250 million, other licenses and software intangibles of \$104 million and multiple dwelling unit contracts of \$69 million. In 2005, cash payments for acquisitions and investments totaling \$439 million included MGM Inc., Liberate Technologies, and MetaTV. In 2004, cash payments for acquisitions primarily related to the acquisition of TechTV.

(2) Includes interest expense net of interest income and excludes non-cash interest and subsidiary preferred dividends.

(3) Free Cash Flow excludes amounts necessary to reconcile Free Cash Flow to "Net Cash Provided by Operating Activities Less Capital Expenditures." In 2005, this amount includes \$383 million in cash payments for liabilities incurred as part of the acquisition of AT&T Broadband, including \$220 million in payments representing our share of the settlement payments related to certain AT&T litigation. In 2004, this amount includes income tax refunds of \$536 million offset by \$199 million in cash payments for liabilities recorded as part of the acquisition of AT&T Broadband.



TABLE 5
Pro Forma Financial Data by Business Segment (Unaudited) (1)
(dollars in millions)

	<u>Cable (2)</u>	<u>Content (3)</u>	<u>Corporate and Other (4)</u>	<u>Total</u>
<u>Three Months Ended June 30, 2005</u>				
Revenues	\$5,328	\$234	\$36	\$5,598
Operating Cash Flow	\$2,175	\$97	(\$63)	\$2,209
Operating Income (Loss)	\$1,054	\$68	(\$74)	\$1,048
Operating Cash Flow Margin	40.8%	41.2%	NM	39.4%
Capital Expenditures (5)	\$936	\$3	\$11	\$950
<u>Three Months Ended June 30, 2004</u>				
Revenues	\$4,840	\$199	\$28	\$5,067
Operating Cash Flow	\$1,920	\$77	(\$45)	\$1,952
Operating Income (Loss)	\$877	\$38	(\$63)	\$852
Operating Cash Flow Margin	39.7%	38.7%	NM	38.5%
Capital Expenditures (5)	\$893	\$6	\$5	\$904
<u>Six Months Ended June 30, 2005</u>				
Revenues	\$10,431	\$447	\$83	\$10,961
Operating Cash Flow	\$4,170	\$174	(\$105)	\$4,239
Operating Income (Loss)	\$1,945	\$100	(\$131)	\$1,914
Operating Cash Flow Margin	40.0%	38.8%	NM	38.7%
Capital Expenditures (5)	\$1,819	\$7	\$16	\$1,842
<u>Six Months Ended June 30, 2004</u>				
Revenues	\$9,490	\$375	\$114	\$9,979
Operating Cash Flow	\$3,641	\$146	(\$100)	\$3,687
Operating Income (Loss)	\$1,581	\$72	(\$140)	\$1,513
Operating Cash Flow Margin	38.4%	38.8%	NM	37.0%
Capital Expenditures (5)	\$1,707	\$10	\$15	\$1,732

- (1) See Non-GAAP and Other Financial Measures in Table 7. Historical financial data by business segment, as required under generally accepted accounting principles, is available in the Company's quarterly report on Form 10-Q. All percentages are calculated based on actual amounts. Minor differences may exist due to rounding.
- (2) Pro forma financial data includes the results of the 30,000 cable subscribers acquired from US Coastal Cable in April 2004.
- (3) Content includes our national networks E! Entertainment Television and Style Network (E! Networks), The Golf Channel, Outdoor Life Network, G4 and AZN Television.
- (4) Corporate and Other includes Comcast-Spectacor, Corporate activities and all other businesses not presented in the Cable or Content segments and elimination entries. Beginning in the third quarter of 2004, Comcast-Spectacor includes the operating results of its investment in a sports-event related business.
- (5) Our Cable segment's capital expenditures are comprised of the following categories:

	<u>2Q05</u>	<u>2Q04</u>	<u>YTD 2Q05</u>	<u>YTD 2Q04</u>
New Service Offerings				
Customer Premise Equipment (CPE)	\$469	\$338	\$932	\$630
Scalable Infrastructure	227	110	436	231
	<u>696</u>	<u>448</u>	<u>1,368</u>	<u>861</u>
Recurring Capital Projects				
Line Extensions	81	81	145	141
Support Capital	92	76	139	165
	<u>173</u>	<u>157</u>	<u>284</u>	<u>306</u>
Upgrades				
	67	288	167	540
Total	<u>\$936</u>	<u>\$893</u>	<u>\$1,819</u>	<u>\$1,707</u>

CPE includes costs incurred at the customer residence to secure new customers, revenue units and additional bandwidth revenues (e.g. digital converters). Scalable infrastructure includes costs, not CPE or network related, to secure growth of new customers, revenue units and additional bandwidth revenues or provide service enhancements (e.g. headend equipment). Line extensions include network costs associated with entering new service areas (e.g. fiber/coaxial cable). Support capital includes costs associated with the replacement or enhancement of non-network assets due to obsolescence and wear out (e.g. non-network equipment, land, buildings and vehicles). Upgrades include costs to enhance or replace existing fiber/coaxial cable networks, including recurring betterments.



TABLE 6
Pro Forma Data - Cable Segment Components (Unaudited) (1) (2)
(dollars in millions, except average monthly revenue per subscriber data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2005	2004	2005	2004
Revenues:				
Video (3)	\$3,441	\$3,249	\$6,803	\$6,433
High-Speed Internet	982	763	1,907	1,461
Phone	170	176	343	355
Advertising	362	330	658	599
Other (4)	203	159	383	320
Franchise Fees	170	163	337	322
Total Revenues	\$5,328	\$4,840	\$10,431	\$9,490
Operating Cash Flow	\$2,175	\$1,920	\$4,170	\$3,641
Operating Income	\$1,054	\$877	\$1,945	\$1,581
Operating Cash Flow Margin	40.8%	39.7%	40.0%	38.4%
Capital Expenditures	\$936	\$893	\$1,819	\$1,707
Operating Cash Flow, Net of Capital Expenditures	\$1,239	\$1,027	\$2,351	\$1,934

	2Q05	2Q04	1Q05
Video			
Homes Passed (000's)	41,200	40,300	41,000
Basic Subscribers (000's)	21,448	21,485	21,525
Basic Penetration	52.1%	53.3%	52.6%
Quarterly Net Basic Subscriber Additions (000's)	(77)	(96)	(29)
Digital Subscribers (000's)	9,140	8,065	8,856
Digital Penetration	42.6%	37.5%	41.1%
Quarterly Net Digital Subscriber Additions (000's)	284	206	200
Digital Set-Top Boxes	13,859	11,926	13,365
Monthly Average Video Revenue per Basic Subscriber	\$53.38	\$50.29	\$52.04
Monthly Average Total Revenue per Basic Subscriber	\$82.67	\$74.91	\$78.99
High-Speed Internet			
"Available" Homes (000's)	40,758	37,323	40,483
Subscribers (000's)	7,705	6,007	7,408
Penetration	18.9%	16.1%	18.3%
Quarterly Net Subscriber Additions (000's)	297	327	414
Monthly Average Revenue per Subscriber	\$43.34	\$43.50	\$42.81
Phone			
"Available" Homes (000's) (5)	12,227	9,766	11,277
Subscribers (000's)	1,230	1,225	1,228
Penetration	10.1%	12.5%	10.9%
Quarterly Net Subscriber Additions (000's)	3	(22)	4
Monthly Average Revenue per Subscriber	\$46.06	\$47.71	\$47.07
Total Revenue Generating Units (000's) (6)	39,523	36,782	39,017
Quarterly Net Additions	507	415	589

- (1) See Non-GAAP and Other Financial Measures in Table 7. All percentages are calculated based on actual amounts. Minor differences may exist due to rounding.
- (2) Pro forma financial and subscriber data includes the results of the 30,000 cable subscribers acquired from US Coastal Cable in April 2004. Pro forma subscriber data also includes 60,000 subscribers acquired in various small acquisitions during the periods presented. The impact of these acquisitions on our segment operating results was not material.
- (3) Video revenues consist of our basic, expanded basic, premium, pay-per-view, equipment and digital services.
- (4) Other revenues include installation revenues, guide revenues, commissions from electronic retailing, other product offerings, commercial data services and revenues of our digital media center and regional sports programming networks.
- (5) Available homes includes circuit switched and Comcast Digital Voice homes.
- (6) The sum total of all basic video, digital video, high-speed Internet and phone subscribers, excluding additional outlets.



TABLE 7

Non-GAAP and Other Financial Measures

Operating Cash Flow is the primary basis used to measure the operational strength and performance of our businesses. Free Cash Flow is an additional performance measure used as an indicator of our ability to repay debt, make investments and return capital to investors, principally through stock repurchases. We use Debt Excluding Exchangeables as a measure of debt that will require cash from future operations or financings. We also adjust certain historical data on a pro forma basis following significant acquisitions or dispositions to enhance comparability.

Operating Cash Flow is defined as operating income before depreciation and amortization and impairment charges, if any, related to fixed and intangible assets and gains or losses from the sale of assets, if any. As such, it eliminates the significant level of non-cash depreciation and amortization expense that results from the capital intensive nature of our businesses and intangible assets recognized in business combinations, and is unaffected by our capital structure or investment activities. Our management and Board of Directors use this measure in evaluating our consolidated operating performance and the operating performance of all of our operating segments. This metric is used to allocate resources and capital to our operating segments and is a significant component of our annual incentive compensation programs. We believe that Operating Cash Flow is also useful to investors as it is one of the bases for comparing our operating performance with other companies in our industries, although our measure of Operating Cash Flow may not be directly comparable to similar measures used by other companies.

As Operating Cash Flow is the measure of our segment profit or loss, we reconcile it to operating income, the most directly comparable financial measure calculated and presented in accordance with Generally Accepted Accounting Principles (GAAP), in the business segment footnote of our quarterly and annual financial statements. Therefore, we believe our measure of Operating Cash Flow for our business segments is not a "non-GAAP financial measure" as contemplated by Regulation G adopted by the Securities and Exchange Commission. Consolidated Operating Cash Flow is a non-GAAP financial measure.

Free Cash Flow, which is a non-GAAP financial measure, is defined as Operating Cash Flow less net interest, cash paid for taxes, and capital expenditures. As such, it is unaffected by fluctuations in working capital levels from period to period and cash payments associated with intangible and other non-current assets which are detailed in our quarterly and annual reports on Forms 10Q/K. We believe that Free Cash Flow is also useful to investors as it is one of the bases for comparing our operating performance with other companies in our industries, although our measure of Free Cash Flow is accrual-based and may not be comparable to similar measures used by other companies.

Debt Excluding Exchangeables, which is a non-GAAP financial measure, refers to the aggregate amount of our consolidated debt and capital lease obligations less the amount of notes that are collateralized by securities that we own.

Pro forma data is used by management to evaluate performance when significant acquisitions or dispositions occur. Historical data reflects results of acquired businesses only after the acquisition dates while pro forma data enhances comparability of financial information between periods by adjusting the data as if the acquisitions (or dispositions) occurred at the beginning of the prior year. Our pro forma data is only adjusted for the timing of acquisitions and does not include adjustments for costs related to integration activities, cost savings or synergies that have been or may be achieved by the combined businesses. We believe our pro forma data is not a non-GAAP financial measure as contemplated by Regulation G.

Operating Cash Flow and Free Cash Flow should not be considered as substitutes for operating income (loss), net income (loss), net cash provided by operating activities or other measures of performance or liquidity reported in accordance with GAAP. Debt Excluding Exchangeables should not be considered as a substitute for Total Debt. Additionally, in the opinion of management, our pro forma data is not necessarily indicative of future results or what results would have been had the acquired businesses been operated by us after the assumed earlier date.

Following are quantitative reconciliations of Free Cash Flow, Debt Excluding Exchangeables, Consolidated Operating Cash Flow, and, although not required by Regulation G, reconciliations of business segment Operating Cash Flow and pro forma data.



TABLE 7-A continued
Reconciliation of Historical and Pro Forma Data by Business Segment (Unaudited) (1)
(dollars in millions)

	Historical				Adjustments (1)			Pro forma
	Cable	Content	Corporate and Other	Total	Cable	Corporate and Other		
Three Months Ended June 30, 2004								
Revenues	\$4,838	\$199	\$29	\$5,066	\$2	(\$1)		\$5,067
Operating expenses (excluding depreciation and amortization)	2,918	122	74	3,114	2	(1)		3,115
Operating Cash Flow	\$1,920	\$77	(\$45)	\$1,952	-	-		\$1,952
Depreciation and amortization	1,043	39	18	1,100	-	-		1,100
Operating income (loss)	\$877	\$38	(\$63)	\$852	-	-		\$852
Capital expenditures	\$893	\$6	\$5	\$904	-	-		\$904
Six Months Ended June 30, 2004								
Revenues	\$9,485	\$375	\$114	\$9,974	\$5	-		\$9,979
Operating expenses (excluding depreciation and amortization)	5,846	229	214	6,289	3	-		6,292
Operating Cash Flow	\$3,639	\$146	(\$100)	\$3,685	\$2	-		\$3,687
Depreciation and amortization	2,060	74	40	2,174	-	-		2,174
Operating income (loss)	\$1,579	\$72	(\$140)	\$1,511	\$2	-		\$1,513
Capital expenditures	\$1,707	\$10	\$15	\$1,732	-	-		\$1,732

Reconciliation of Operating Cash Flow to Free Cash Flow (Unaudited)
(dollars in millions)

	Three Months Ended June 30,				Six Months Ended June 30,			
	2005	2005	2004	2004	2005	2005	2004	2004
Operating Cash Flow	\$2,209	\$2,209	\$1,952	\$1,952	\$4,239	\$4,239	\$3,685	\$3,685
Less:								
Interest, net (2)	(422)	(422)	(459)	(459)	(826)	(826)	(906)	(906)
Cash Paid for Income Taxes	(415)	(415)	(89)	(89)	(427)	(427)	(150)	(150)
Change in Operating Assets and Liabilities, net of acquisitions	(103)		442		(191)		3	
Other (3)	(84)		13		(278)		1	
Net Cash Provided by Operating Activities	\$1,185		\$1,859		\$2,517		\$2,633	
Less: Capital Expenditures		(950)		(904)		(1,842)		(1,732)
Free Cash Flow		\$422		\$500		\$1,144		\$897

Calculation of 2005 Estimated Free Cash Flow
(dollars in billions)

	Free Cash Flow
2004 Operating Income	\$2.9
Add: Depreciation and Amortization	4.6
2004 Operating Cash Flow	7.5
Less: 2004 Capital Expenditures	3.7
2004 Consolidated Interest, net	1.7
2004 Consolidated Cash Paid for Income Taxes	0.2
2004 Free Cash Flow	\$1.9
2005 Free Cash Flow Growth	35% to 45%
Projected 2005 Free Cash Flow	\$2.6 to \$2.8

Reconciliation of Total Debt to Debt Excluding Exchangeables (Unaudited)
(dollars in millions)

	June 30, 2005	December 31, 2004
Current portion of long-term debt	\$4,384	\$3,499
Long-term debt	19,746	20,093
Total Debt	\$24,130	\$23,592
Exchangeable debt	1,066	1,699
Debt excluding exchangeables	\$23,064	\$21,893

(1) Pro forma data is only adjusted for timing of the acquisitions (or dispositions) and does not include adjustments for costs related to integration activities, cost savings or synergies that have been or may be achieved by the combined businesses. There were no pro forma adjustments to the three and six months ending June 30, 2005. Minor differences may exist due to rounding.

(2) Includes interest expense net of interest income and excludes non-cash interest and subsidiary preferred dividends.

(3) Includes non-cash interest expense included in Operating Cash Flow, cash related to other (income) expense, dividends, and the net effect of changes in accrued income taxes.