

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

In the Matter of)
)
Annual Assessment of the Status of Competition in) MB Docket No. 07-269
the Market for the Delivery of Video Programming)
)

COMMENTS OF GOOGLE INC.

Google Inc. (“Google”) files these comments in response to the *Further Notice of Inquiry*¹ regarding competition for the delivery of video programming. As a major proponent of Internet video, Google explains that the low barriers to entry for online video creation have generated and will continue to produce enormous benefits for the public. Google also urges the FCC to move forward now with its proposed AllVid standardized video interface solution to ensure that the vast potential promised by the convergence of traditional television and Internet video will be realized and enjoyed by consumers. This much-needed action will enhance consumer choice and directly fulfill Congress’ vision of an open and flourishing competitive video device marketplace as mandated in Section 629 of the Communications Act.

DISCUSSION

I. The Online Video Marketplace is Open with Low Barriers to Entry

The online video delivery (“OVD”) marketplace is characterized by explosive growth, dynamic innovation, fierce competition, and low barriers to entry.² By leveraging the capabilities of the broadband-powered Internet, online video content can be created and launched

¹ *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Further Notice of Inquiry*, MB Dkt. 07-269, FCC 11-65 (rel. Apr. 21, 2011) (“NOI”).

² As described by the FCC, an online video distributor or “OVD” is “any entity that provides video programming by means of the Internet or other Internet Protocol (IP)-based transmission path provided by a person or entity other than the OVD.” NOI at n.9.

with only modest investments in infrastructure and equipment. In contrast to the model of traditional video program creation and distribution, the Internet enables virtually anyone to create and distribute video content. Rather than serving as a substitute for traditional video offerings from multichannel video programming distributors (“MVPDs”), Internet video provides a complement to expand consumer choice and users’ video experiences.³ The increasing speed and availability of consumer broadband combined with falling costs of backbone Internet transit and a competitive marketplace for content delivery networks has created an uncharted opening for online video that businesses and users have rushed to fill.

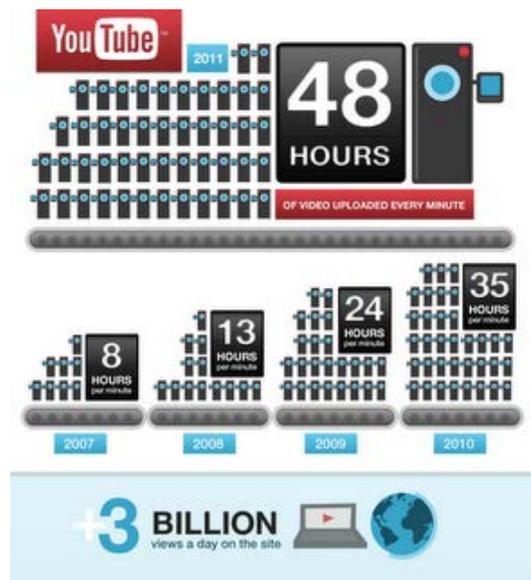
Internet video includes a wide array of programming, ranging from traditional video entertainment and news accessible online to wholly new forms of video content, including both professionally-produced and user-generated content. Recent data show that the total U.S. Internet audience engaged in more than 5.1 billion viewing sessions during April 2011, with 172 million U.S. Internet users watching online video content during the same period.⁴ Numerous online video services have launched, including Netflix, Amazon Instant Video, Hulu, iTunes, Vudu, Sezmi, Vimeo, Cinema Now, Blockbuster On Demand, and, of course, YouTube.⁵ Competition is flourishing and the top video sites are constantly shifting as the online video arena grows and changes.

³ NOI at ¶ 2.

⁴ See comScore Video Metrix, *comScore Releases April 2011 U.S. Online Video Rankings, VEVO Content Viewing Reaches Record Heights*, May 18, 2011, available at http://www.comscore.com/Press_Events/Press_Releases/2011/5/comScore_Releases_April_2011_U.S._Online_Video_Rankings.

⁵ Top online video properties by number of unique viewers include Google, VEVO, Yahoo!, Facebook.com, Microsoft, Viacom Digital, AOL, Inc., NBC Universal, Turner Digital and Hulu. *Id.* Other providers continue to grow, underscoring the dynamic and competitive online environment. See, e.g., Brian Stelter, *Online Video Start-Ups Seek to Carve Out a Place Beside YouTube*, New York Times, June 5, 2011, available at <http://www.nytimes.com/2011/06/06/business/media/06blip.html> (Blip.tv servers now account for 330 million video views a month).

This thriving marketplace of user- and professionally-generated content is both cause and effect of growing consumer demand for online video. YouTube recently surpassed 3 billion views per day, with more than 48 hours of video uploaded to the site every minute, a 37 percent increase over the previous six months and 100 percent increase over last year.⁶ Some analysts estimate that Netflix streamed video now represents almost 30 percent of downstream Internet traffic during peak hours.⁷ Video traffic is poised to grow to over 60 percent of all traffic in 2015 according to a recent Cisco forecast.⁸ The same forecast projects a 48 percent annual growth rate for consumer Internet video consumption between 2010 and 2015.⁹



⁶ Thanks, YouTube community, for two BIG gifts on our sixth birthday!, Broadcasting Ourselves – The Official YouTube Blog, May 25, 2011, available at <http://youtube-global.blogspot.com/2011/05/thanks-youtube-community-for-two-big.html>.

⁷ Press Release, Sandvine, *Sandvine's Spring 2011 Global Internet Phenomena Report Reveals New Internet Trends*, May 17, 2011, available at http://www.sandvine.com/news/pr_detail.asp?ID=312.

⁸ Cisco, *Cisco Visual Networking Index: Forecast and Methodology, 2010–2015*, at 2 (June 1, 2011), available at http://www.cisco.com/en/US/solutions/collateral/ns341/ns525/ns537/ns705/ns827/white_paper_c11-481360.pdf.

⁹ *Id.* at 13.

The popularity of online video is driven, in part, by the novel approaches to video content embraced and enabled by the Internet. In addition to traditional video programming, content developed by individuals, independent production groups, corporations, retailers, universities, think tanks, bloggers, vloggers, print and online publications, and countless others breaks the mold of traditional television and brings new value and vitality to video offerings. The result is that this democratization of content production is changing the way users view and think about video, providing fare for both the more conventional video programming viewer and the more interactive user.

Significantly, the online video space is, and will continue to be, dynamic and rapidly-changing. Business models, software and technology, delivery platforms, content creation and acquisition, and licensing strategies remain in flux as the vast potential of Internet video is just beginning to emerge. While online video remains just a fraction of all video viewing, it serves as a vibrant complement for multichannel offerings.¹⁰ New Internet entrants will continue to stream into the market to meet consumer demand and existing online video providers will continue to improve their services and experiment with new approaches, especially as mobile broadband and other technologies alter user viewing habits and supplement traditional distribution platforms.

II. Online Video Provides Enormous and Growing Public Benefits

This explosion in online video has created far-reaching benefits for users and consumers, and is helping drive broadband deployment and adoption in furtherance of the goals outlined in

¹⁰ Nielsen, *Three Screen Report, 1st Quarter 2010*, at 4 (June 11, 2010), available at <http://www.nielsen.com/us/en/insights/reports-downloads/2010/three-screen-report-q1-2010.html> (in the 1st Quarter of 2010, 286 million Americans viewed TV for an average of 158 hours per month, while 134 million viewed video on the Internet for an average of just 3 hours and 10 minutes per month).

the *National Broadband Plan*.¹¹ The positive impact of online video will continue to expand as users create new ways to harness the power of technology and the Internet.

Already, the sheer volume of video produced from varied sources and viewed over the Internet has exponentially increased public access to diverse programming and information sources.¹² Online video allows viewing of virtually unlimited programming on any topic, anytime, and promotes access to information in unprecedented ways, whether it is sharing information about the aftermath of the earthquakes in Eastern Japan to help businesses recover,¹³ experiencing the Royal Wedding live,¹⁴ or participating in an interactive interview with President Obama.¹⁵ Online video is often a key source of breaking news and developing trends and empowers individuals throughout society, including by increasing accessibility through video captioning and other innovative tools that expand its reach beyond traditional video sources.¹⁶

¹¹ Federal Communications Commission, *Connecting America: The National Broadband Plan*, GN Dkt. 09-51 at 35 (rel. Mar. 16, 2010) (“National Broadband Plan”).

¹² *Preserving the Open Internet, Report and Order*, 25 FCC Rcd 17905, n.467 (2010) (“Indeed, it has long been a basic tenet of national communications policy that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.” (*quoting Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 663 (1994) (*Turner I*))).

¹³ Tai Hasegawa, *A new channel to help businesses in Eastern Japan*, Broadcasting Ourselves – The Official YouTube Blog, May 19, 2011, available at <http://youtube-global.blogspot.com/2011/05/new-channel-to-help-businesses-in.html>.

¹⁴ *Royal Wedding Has More YouTube Views Than Britain Has People*, Tech NewsCast, May 6, 2011, available at <http://technewscast.com/technology/tech-buzz/royal-wedding-has-more-youtube-views-than-britain-has-people>.

¹⁵ *Your Interview with the President 2011*, The White House, Jan. 27, 2011, available at <http://www.whitehouse.gov/photos-and-video/video/2011/01/27/your-interview-president-2011>.

¹⁶ See, e.g., Janko Roettgers, *YouTube Launches Live Captions at Google I/O*, GigaOm, May 10, 2011, available at <http://gigaom.com/video/youtube-launches-live-captions-at-google-io/>; Ken Harrenstien, *Automatic captions in YouTube*, The Official Google Blog, Nov. 19, 2009, available at <http://googleblog.blogspot.com/2009/11/automatic-captions-in-youtube.html>.

Internet video is also redefining content creation.¹⁷ YouTube, with the motto of “Broadcast Yourself,” is among many Internet outlets that encourage user-generated content, enhancing individual and community expression and providing a forum for people to connect, inform, and inspire others across the globe.¹⁸ By serving as a distribution platform for traditional programming as well as original content creators, advertisers, businesses, and increasingly for live event streaming, the Internet has expanded video content creation beyond a handful of well-funded and established studios and production companies. Using readily available tools that help users create videos, including animation features, editing functionality and Creative Commons licensing, individual and business users can create, remix and edit their own and each others’ videos.¹⁹

The interactive nature of online video further enhances its value. Viewers can provide feedback and commentary on videos, can help disseminate and rate videos, and assist in creating suggestions for related videos that may be of interest. Available functionality allows users to filter what they watch to create personalized video “channels.” Internet video also can be easily shared, whether privately or with friends on social networks; embedded on websites; and searched by keyword, subject, or video title.²⁰

¹⁷ See NOI at ¶¶ 60-61.

¹⁸ For examples of other video hosting sites, see Wikipedia, *List of video hosting services*, http://en.wikipedia.org/wiki/List_of_video_hosting_services (as of June 7, 2011).

¹⁹ See, e.g., Stace Peterson, *YouTube and Creative Commons: raising the bar on user creativity*, *Broadcasting Ourselves – The Official YouTube Blog*, June 2, 2011, available at <http://youtube-global.blogspot.com/2011/06/youtube-and-creative-commons-raising.html>.

²⁰ See, e.g., Rob Spiro, *+1’s: the right recommendations right when you want them – in your search results*, *The Official Google Blog*, Mar. 30, 2011, available at <http://googleblog.blogspot.com/2011/03/1s-right-recommendations-right-when-you.html>; Lucian Parfeni, *YouTube’s Social Features Are a Hit*, *Softpedia*, Nov. 12, 2009, available at <http://news.softpedia.com/news/YouTube-s-Social-Features-Are-a-Hit-126827.shtml> (describing the popularity of YouTube’s commenting, rating, video response and sharing features).

The emergence of Internet video helps maximize broadband potential and opportunity. Businesses large and small are increasingly utilizing video to expand their market opportunities.²¹ The demand for online video represents a significant part of the overall utility of broadband to users and helps to drive both broadband deployment and adoption. The increased demand for broadband capacity to support Internet video is also a key driver in the deployment of faster broadband equipment and infrastructure, from DOCSIS 3.0 to fiber-to-the-home and fiber-to-the-node to 4th generation wireless networks. This surge of network deployments, online services, and Internet video content is creating jobs and economic opportunity around the world.

III. The FCC Should Act Now on AllVid to Bring Consumers the Full Benefits of Emerging Technology and Competition

The NOI correctly notes the evolving nature of “customer premises equipment,” and the ability of emerging devices to facilitate video delivery, including online video.²² Just six years ago, when YouTube first arrived, users would have to go from TV to laptop, desk to couch, or platform to platform, to access the full array of available video content. Today, users increasingly desire and expect their preferred video content to be available everywhere: on a phone, a tablet, a laptop or a television screen, in the office, on the couch, or in a cab.

Without a doubt, there are increasing numbers of devices that are helping to fuel this trend by seeking to fuse standard television sets with existing browser-enabled devices.²³ But, our nation has yet to realize the full benefits of convergence and consumers have yet to

²¹ See, e.g., Zachary Sniderman, *4 Inspiring Small Business Video Successes*, Mashable, available at <http://mashable.com/2011/03/01/video-business-success/>.

²² NOI at ¶¶ 64-66.

²³ See e.g., *Video Device Competition*, Notice of Inquiry, 25 FCC Rcd. 4275 ¶ 14 (2010) (“*AllVid NOI*”); Comments of Google Inc., MB Dkt. 10-91 at 3 (filed July 13, 2010) (“*Google AllVid Comments*”); Google Inc. Oct. 6, 2010 *Ex Parte* Letter, CS Dkt. 97-80, *et al.*

experience robust video device competition as mandated by Congress.²⁴ Over a year ago, the FCC wisely noted the potential benefits of an “AllVid” solution – an all-video standardized gateway interface that focuses on universality, portability, simplicity, and interoperability.²⁵ By separating the network interface from the device functionality, AllVid could help make all video content truly “portable” across platforms and devices.²⁶ Consumers could have a greater ability to search for and access content (as via an Internet browser) on both traditional and non-traditional video programming platforms.²⁷

The record in the FCC’s *AllVid NOI* reflects agreement by numerous commenters that AllVid could jumpstart retail video device competition, giving consumers real choices among user interfaces, features, and content sources.²⁸ Unfortunately, robust retail competition for truly “smart video devices” still does not exist. We still have not realized a full transformation in the way consumers watch, discover, and share both traditional MVPD programming and online video. Simply put, in the absence of FCC action, consumers still suffer from a “set-top box innovation gap.”

²⁴ 47 U.S.C. § 549(c).

²⁵ *AllVid NOI* at ¶ 23.

²⁶ As the FCC explained, these devices will foster greater choice, lower costs and expanded capabilities, increasing competition and broadband utilization. *See AllVid NOI*; National Broadband Plan at 17, 49-52; FCC News Release, “FCC Identifies Critical Gaps in Path to Future Universal Broadband,” Nov. 18, 2009.

²⁷ Google AllVid Comments at 3-4.

²⁸ *See, e.g.*, Google AllVid Comments at 3-4 (noting that AllVid would make video portable across platforms and devices); Reply Comments of TiVo Inc., MB Dkt. 10-91, at 6-8 (filed Aug. 12, 2010) (arguing that AllVid would “permit real consumer choice” and “create confidence that will lead to investment in new ‘smart devices’”); Reply Comments of Public Knowledge and New America Foundation, MB Dkt. 10-91, at 2-3 (filed Aug. 12, 2010); The AllVid Tech Company Alliance, April 5, 2011 *Ex Parte* Letter, MB Dkt. 10-91, *et al.*

As others have stressed, the obstacles to this competitive future are not technological.²⁹ Rather, the obstacles lie in a skewed marketplace that stifles innovation and competition. The FCC should recognize that the necessary tools are at hand through open private sector standards that can be referenced in Commission regulations. The time for FCC action to promote and enhance user expectations and meet changing patterns of video viewing behavior is now.

²⁹ See, e.g., Sony Electronics, Google Inc., Public Knowledge, Free Press, Media Access Project, Consumer Electronics Association, and the Consumer Electronics Retailers Coalition, January 26, 2011 *Ex Parte* Letter, MB Dkt 10-91, *et al.*

CONCLUSION

In just a few years, the Internet has changed dramatically how users experience video. The ease of Internet video creation and abundant distribution channels and the dynamic, open and competitive online space will grow the benefits of Internet video. At the same time, the FCC must act to spur retail device completion by proceeding with AllVid to enable consumers to access the entire universe of video content on the screen of their choice – without regard to the content’s source or pathway – and realize fully the potential of the emerging video environment.

Respectfully submitted,



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