

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

In the Matter of)
)
Annual Assessment of the Status of Competition) MB Docket No. 12-203
In the Market for the Delivery of Video)
Programming)

REPLY COMMENTS OF GOOGLE INC.

Google Inc. (“Google”), by its attorneys, files these reply comments in response to the *Notice of Inquiry* released by the Federal Communications Commission (“FCC” or “Commission”) seeking data and information on the state of competition in the delivery of video programming.¹ The Commission seeks to enhance its analysis of competitive conditions for its Fifteenth Report by analyzing the deployment of new technologies and services, as well as innovation and investment.² Google offers updated data and statistics for YouTube as well as new information for Google Fiber, which was launched earlier this year.³

I. Online Video Offers Consumers Expanded Choices.

The record in this proceeding demonstrates that the array of user-generated and professionally-produced programming and content available to consumers online continues to expand.⁴ Online video provides an increasingly valuable complement to traditional services

¹ *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Notice of Inquiry, GN Docket No. 12-203 (rel. July 20, 2012) (“Notice of Inquiry”).

² Notice of Inquiry ¶ 51.

³ Google Fiber was officially launched in Kansas City, Kansas and Kansas City, Missouri on July 26, 2012. See Google Fiber Launch Announcement in Kansas City, July 2012, <http://www.youtube.com/watch?v=6uZVqPug81c> (last visited Oct. 10, 2012).

⁴ See, e.g., Comments of Comcast Corporation to *Notice of Inquiry* in MB Docket No. 12-203, at 3 (filed Sept. 10, 2012), Comments of Verizon to *Notice of Inquiry* in MB Docket No. 12-203, at 4 (filed Sept. 10, 2012), Comments of Netflix, Inc. to *Notice of Inquiry* in MB Docket No. 12-203, at 1-4 (filed Sept. 10, 2012) (“Netflix Comments”). As the Commission recognized in its Fourteenth Report, it is difficult to even keep track of market entrants and services being offered. See *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Fourteenth Report, MB Docket No. 07-269, ¶¶ 239, 258 (rel. July 20, 2012) (“Fourteenth Report”).

offered by multichannel video programming distributors (“MVPDs”).⁵ Online video allows greater user involvement than traditional, linear video programming services, enabling users to generate their own content and to tailor content to suit their needs and preferences. Online video services can evolve to meet consumers’ needs, fostering innovation and experimentation and benefiting users and their communities.

YouTube exemplifies the growth of online video in the past year. As of January 2012, YouTube was receiving 4 billion views per day, and more than 72 hours of video were being uploaded to YouTube every minute.⁶ More than 800 million unique users visit YouTube each month.⁷ And, as of January 2012, more than 20 percent of global YouTube views come from mobile devices.⁸

In addition to user-generated content, YouTube also offers access to motion pictures or other professionally generated content for a fee.⁹ Viewers can rent a film or show for viewing an unlimited number of times during a limited period of time, or purchase the content for storage in a digital locker for viewing an unlimited number of times. Users may view paid content from any smart-phone, tablet, or smart-TV, as well as from their personal computers.

⁵ *Accord* Netflix Comments, *supra* note 4, at 6-7 (noting that the overwhelming majority of Netflix subscribers continue to rely on MVPDs for news, live sports, current season shows on cable networks, and other entertainment). Cable executives have made clear that online video services are a complement to traditional MVPD services, rather than a substitute. *See* Eliza Krigman, *Comcast Executive: Google Fiber Not a Threat*, PoliticoPro, Sept. 26, 2012 (quoting Comcast executive, David Cohen, who stated: “Netflix is a complement to cable . . . And Netflix and its cousins need companies like Comcast”).

⁶ *See* YouTube Statistics, http://www.youtube.com/t/press_statistics (last visited Oct. 10, 2012) (“YouTube Statistics”). In 2011, YouTube received 3 billion views per day, and 48 hours were uploaded to the site every minute. *See* Comments of Google, Inc. to *Further Notice of Inquiry* in MB Docket No. 07-269, at 3 (filed June 8, 2011).

⁷ *See* YouTube Statistics, *supra* note 6.

⁸ *Id.*

⁹ *See* YouTube Movies, <http://www.youtube.com/movies?feature=mh> (last visited Oct. 10, 2012).

YouTube also has collaborated with partner entities to produce unique content,¹⁰ and has collected other video resources for important civic and educational uses. For example, YouTube hosted the International Olympic Committee's Official Olympic Channel and offered live-streaming of 2012 Olympic events in 64 territories.¹¹ YouTube also has extensive video features for educators—YouTube EDU has more than 1000 educational channels to learn from.¹² These projects illustrate a few of the significant educational, civic, and cultural benefits of a dynamic online video marketplace.

II. Communities Benefit From Increased Facilities-Based Competition.

Google Fiber is a large-scale ultra-high-speed network recently launched in Kansas City, Missouri, and Kansas City, Kansas,¹³ which Google believes is an innovative approach to facilities-based competition in the delivery of video programming. Google Fiber is offering broadband speeds of up to one gigabit per second—more than 100 times faster than the broadband speeds available to most Americans today.

Google Fiber is providing consumers in the Kansas City service area three service offerings. Google Fiber's Gigabit Internet service includes ultra-high-speed broadband access (with speeds of up to one gigabit per second for upload and download) and one terabyte data storage on the Google Cloud drive for a monthly fee of \$70. For a monthly fee of \$120, the Gigabit + TV offering includes the Gigabit Internet service, plus a robust all-High Definition TV

¹⁰ After an online audition on YouTube, 101 musicians from more than 30 countries performed as the YouTube Symphony Orchestra 2011 at a live-streamed concert from Sydney Opera House March 20, 2011. *See* YouTube Symphony Orchestra 2011, <http://youtube.com/symphony> (last visited Oct. 10, 2012).

¹¹ *See* YouTube, Official Olympic Channel by the IOC, <http://www.youtube.com/user/olympic> (last visited Oct. 10, 2012).

¹² *See* YouTube EDU, <http://www.youtube.com/education> (last visited Oct. 10, 2012); *see also* YouTube EDU Creator Playbook Guide, <http://www.youtube.com/yt/creators/playbook.html> (last visited Oct. 10, 2012) (compiling video best practices for online educators, ideas for organizing curriculum videos on YouTube and making educational channels more interactive).

¹³ Google Fiber will also be available in the cities of Westwood, Westwood Hills and Mission Woods, Kansas. *See* Kevin Lo, *Fiber For More Communities*, Googlefiber Blog (Aug. 3, 2012), <http://googlefiberblog.blogspot.com/2012/08/fiber-for-more-communities.html>.

lineup,¹⁴ a network box with two terabytes of data storage, and a Nexus 7 tablet, which also can serve as a remote control. Consumers also can choose Google Fiber’s “Free Internet” offering, which provides a network box and standard Internet service (up to five megabits per second download, one megabit per second upload speed) for no recurring monthly charge, guaranteed for at least seven years. Customers choosing the “Free Internet” offering must only pay the \$300 construction fee (or make twelve monthly payments of \$25, plus taxes and fees).¹⁵ Google Fiber’s service plans are not subject to data caps.¹⁶

Community involvement and support have been critical to the development and deployment of Google Fiber, highlighting the important role local governments and communities play in increasing broadband deployment and fostering facilities-based competition. Residents of Kansas City also have embraced Google Fiber as an important civic asset.¹⁷ Google Fiber is working with the community to be a catalyst for local business success and entrepreneurship,¹⁸ and is partnering with local organizations to provide digital literacy grants and training to historically underserved areas.¹⁹

¹⁴ Google Fiber will offer more than 200 TV channels, including premium movie channels (available at an additional charge). *See* Google Fiber Channel Lineup, <http://fiber.google.com/plans/channels/> (last visited Oct. 7, 2012).

¹⁵ Subscribers who select the Gigabit Internet Service or Gigabit + TV also will be subject to the \$300.00 construction charge, except that the construction charge will be waived for Gigabit subscribers entering into a one year contract, or Gigabit + TV subscribers entering into a two year contract. *See* Google Fiber, <http://fiber.google.com/about/> (last visited Oct. 7, 2012).

¹⁶ Netflix has criticized data caps and tiered pricing imposed by some Internet service providers, and has noted that edge providers have developed efficient means of video traffic delivery that are more consumer-friendly. *See* Netflix Comments, *supra* note 4, at 6-8.

¹⁷ Kansas City communities already have begun working on innovative ways to use Google Fiber to improve daily life in Kansas City. Soon after Google Fiber selected Kansas City, Kansas and Kansas City, Missouri for the project, Mayors Sly James (Kansas City, Mo.) and Joe Reardon (Kansas City, Kan.) appointed a Bi-State Innovation Team to develop a playbook of creative ways the community can use Google Fiber to spark economic development, advance opportunities, and improve daily life in Kansas City. *See* Mayors’ Bistate Innovations Team, <http://marc.org/MBIT/> (last visited Oct. 7, 2012).

¹⁸ *See* KC Gig Ideas – GoogleConnectsKC, <http://www.googleconnectskc.com/GoogleInAction.aspx> (last visited Oct. 7, 2012).

¹⁹ Letter from Megan Anne Stull to Marlene H. Dortch, Secretary, Federal Communications Commission, MB Docket Nos. 12-68, 07-18, 05-192, at 1 (filed Sept. 21, 2012) (“Google Ex Parte Letter”) (noting that Google

III. Innovative Public Policies Can Encourage Broadband Deployment, Pave the Way for Greater Video Competition, and Further Benefit Communities.

The FCC and state and local governments can foster greater competition and innovation in video distribution by adopting public policies designed to encourage broadband deployment. Facilities-based competition can be encouraged by “dig once” policies that require conduit to be installed along with road or highway construction. Dig once policies can reduce future fiber deployment costs by ninety percent or more and are consistent with federal policies promoting broadband deployment.²⁰ Efficiencies in local government processes for securing rights-of-way and rights to attach to utility poles are also critical. Indeed, increased procedural efficiencies have been invaluable to Google Fiber’s successful partnership with Kansas City, and can serve to benefit others in the Kansas City area. Accordingly, Google supports efforts to improve access to utility poles and rights-of-way for *all* facilities-based providers of video and broadband services, as increased competition and better broadband access benefit both consumers and communities. Finally, to provide customers with attractive programming alternatives, Google Fiber and other nascent MVPD competitors need access to live regional sports programming.²¹

Fiber has plans to provide digital literacy grants and training to historically underserved areas of the Kansas City community).

²⁰ The National Broadband Plan Recommendation 6.8 noted that Congress should enact “dig once” legislation applying to all future federally funded projects along rights-of-way, including sewers, power transmission facilities, rail, pipelines, bridges, tunnels and roads. *See Connecting America: The National Broadband Plan* (2010), available at www.broadband.gov. Such legislation was subsequently proposed by U.S. Senators Amy Klobuchar (D-MN) and Mark Warner (D-VA). *See Broadband Conduit Deployment Act of 2011*, H.R. 1695, 112th Cong. (2011). Similar legislation had been proposed by Rep. Anna G. Eshoo (D-Palo Alto) in 2009. *See Broadband Conduit Deployment Act of 2009*, H.R. 2428, 111th Cong. (2009). Many of the initiatives in the proposed legislation were included in an Executive Order signed by Pres. Obama in June 2012. Exec. Order No. 13,616, *Accelerating Broadband Infrastructure Deployment*, 77 Fed. Reg. 36,903 (June 20, 2012).

²¹ Although the Commission recently declined to extend the exclusive contraction prohibition of the program access rules beyond its sunset date, the Commission recognized that access to must-have affiliated regional sports programming is critical to competition. *See In the Matter of Revision of the Commission’s Program Access Rules; News Corporation and The DIRECTV Group, Inc., Transferors, and Liberty Media Corporation, Transferee, for Authority to Transfer Control; Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation (and subsidiaries, debtors-in-possession), Assignors, to Time Warner Cable, Inc. (subsidiaries), Assignees, et al.; Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act, Sunset of Exclusive Contract Prohibition*, Report and Order, Further

IV. Conclusion

The record in this proceeding demonstrates that consumers and communities benefit greatly from the expansion in choice that online video offers and from increased facilities-based competition. The Commission and state and local governments should continue to adopt policies that encourage broadband deployment and foster innovation and competition.

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Notice of Proposed Rulemaking, & Order on Reconsideration, MB Docket Nos. 12-68, 07-18, 05-192, 07-29, ¶ 55 (rel. Oct. 5, 2012) (“The record in this proceeding supports the conclusion that RSNs are non-replicable and, in many cases, critically important to consumers.”).