



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 14-1707
November 25, 2014

**INTERNATIONAL BUREAU INVITES COMMENT
FOR THE FOURTH REPORT TO CONGRESS
ON STATUS OF COMPETITION IN THE PROVISION OF SATELLITE SERVICES**

IB Docket No. 14-229

Comments Due: January 7, 2015
Reply Comments Due: January 22, 2015

Section 4 of the Communications Satellite Act of 1962, as amended,¹ requires the Commission to submit to Congress an annual report (Satellite Competition Report or Report) that analyzes the competitive market conditions with respect to domestic and international satellite communications services.

The Report must include:

- (1) an identification of the number and market share of competitors in domestic and international satellite markets;*
- (2) an analysis of whether there is effective competition in the market for domestic and international satellite services; and*
- (3) a list of any foreign nations in which legal or regulatory practices restrict access to the market for satellite services in such nation in a manner that undermines competition or favors a particular competitor or set of competitors.²*

The International Bureau (Bureau) invites interested parties to submit comments into the record for the Fourth Satellite Competition Report (Fourth Report), which will analyze the 2011 through 2013 calendar years. The Bureau seeks input on the frameworks and information that might be used to define the relevant industry segments for domestic and international satellite services and thereby fulfill the three mandates listed above. Specifically, we are focusing on four segments: the fixed-satellite service (FSS) (including video contribution, video distribution and network services); the mobile-satellite service (MSS); satellite broadband; and the satellite digital audio radio service (SDARS). We also observe that some satellite providers offer Voice over Internet Protocol (VoIP) services and seek information on the provision of such services.

¹ 47 U.S.C. § 701 *et seq.* (1962), amended by Pub. L. No. 109-34, 119 Stat. 377 (2005).

² *Id.* at § 703(b)(1)-(3).

The following sections explain in greater detail the types of data and information we seek concerning industry structure, conduct, and industry performance, and we invite comment on the most appropriate analytical framework to employ in the Fourth Report for assessing the status of competition.

I. INDUSTRY STRUCTURE

The Bureau's analysis of industry structure will examine the degree of concentration and vertical integration, and the ease of entry and exit from the satellite communication services segments mentioned above. The Bureau invites comment generally on the industry segments proposed for analysis, the current levels of concentration, and the ease of entry and exit for each of these satellite communication service segments. We also welcome specific suggestions for providing a more detailed delineation of industry segments or alternative categorization of industry outputs.

As in the previous Satellite Competition Reports,³ we do not anticipate considering in the Fourth Report satellite-based Multichannel Video Programming Distribution (MVPD) because competition in MVPD is currently addressed in a separate annual report to Congress.⁴ In addition, to the extent that MSS or other satellite providers are part of the mobile wireless marketplace, discussion of these providers and their services will continue to be included in the analysis of competitive market conditions in the Commission's Annual Mobile Wireless Competition Report.⁵

A. Participating Firms

The Bureau seeks information on the number of firms in each industry segment, both satellite-based and non-satellite based, as well as an identification and description of services provided in each segment. We also seek information concerning the types and number of buyers of services (including both number of firms and number of subscribers) in each industry segment.

B. Horizontal Concentration and Vertical Integration

The Bureau seeks detailed factual information concerning annual U.S. sales revenues by product or service for the years 2011, 2012 and 2013. If possible, we ask commenters to break down revenue into relevant price and quantity components. For wholesale providers, we seek objective data on satellite capacity (number of available transponders, number of transponders used, or other capacity measures) by participating firms in each industry segment. For retail providers, the Bureau also seeks information on segment shares based on the number of subscribers or customers served by each segment's participating firms. Finally, we invite commenters to propose other reasonable measures of segment shares.

³ See Annual Report and Analysis of Competitive Market Conditions with Respect to Domestic & International Satellite Communications Services, IB Docket No. 06-67, *First Report*, 22 FCC Rcd 5954 (2007); Second Annual Report and Analysis of Competitive Market Conditions with Respect to Domestic & International Satellite Communications Services, IB Docket No. 07-252, *Second Report*, 23 FCC Rcd 15170 (2008); Third Report and Analysis of Competitive Market Conditions with Respect to Domestic and International Satellite Communications Services, IB Docket Nos. 09-16 and 10-99, *Third Report*, 26 FCC Rcd 17284 (2011).

⁴ See Annual Assessment for the Status of Competition in the Market for the Delivery of Video Programming, MB Docket No. 12-203, *Fifteenth Report*, 28 FCC Rcd 10496 (2013).

⁵ See, e.g., Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services, WT Docket No. 11-186, *Sixteenth Report*, 28 FCC Rcd 3700 (2013). See also 47 C.F.R. § 20.9(a)(10).

The Bureau also invites comment on the effects of industry consolidation, vertical integration, and corporate reorganization on the satellite communications services industry. How has consolidation or vertical integration affected pricing, innovation or consumer choice in products offered? Has either affected rural areas differently than urban areas? What have been the effects on competition in the satellite communications industry, if any, of using private equity funding to finance mergers and acquisitions of satellite system operators?

C. Entry Conditions

The Bureau invites comment on entry conditions in each industry segment. Specifically, the Bureau seeks information on cost structures in each industry segment, especially information on the presence of large sunk costs that may influence the ease of entry and exit.

The Bureau also invites comments on cost and other barriers to entry into the relevant satellite communications industry segments. Barriers to entry may include, but are not limited to, first-mover advantages, spectrum allocation, and the allocation of orbital locations, the cost and time involved in manufacturing spacecraft, the availability and cost of launch vehicles, as well as effects of governmental regulation and policies. The Bureau seeks information on these and other types of barriers to entry or entry costs, including the need to enter at both the satellite and distribution levels in order to be an effective competitor in the satellite communications services industry.

The Bureau invites comment on whether there is access to sufficient spectrum, through Commission spectrum allocation, to prevent lack of access to spectrum from becoming a significant barrier to entry in the satellite communications services industry. Are existing service providers spectrum-constrained? If so, in which geographic segments are firms most likely to be constrained? Have these service providers become more spectrum-constrained after rolling out advanced services like high-speed Internet access? Do potential entrants have sufficient opportunities to access spectrum and orbital locations? Are there other barriers that limit access to spectrum?

II. CONDUCT

A. Price Rivalry

The Bureau seeks information on U.S. pricing for satellite communications services, including, for wholesale products, price per transponder or portion thereof (transponder lease rates or satellite capacity sales prices) or price per megabit of transmission capacity, and for retail segments, for varying tiers of services offered in regions throughout the United States. What distinct characteristics, if any, affect the pricing practices observed in the satellite services industry? To what extent does pricing reflect price rivalry among firms, both among satellite-based companies and among differing technology platforms? Specifically, the Bureau seeks information on whether and how satellite providers, when setting prices, take pricing and supply reactions of competitors into account. To what extent do retail satellite services respond to pricing changes in alternative terrestrial services?

B. Non-Price Rivalry

The Bureau seeks information on the extent to which participating firms perceive non-price rivalry among satellite firms. To what extent do satellite communications operators invest in research and development to gain competitive advantage or compete by improving service quality? On which service innovations have satellite firms focused their investment or marketing strategies? How have satellite firms changed their capital expenditures and/or the allocation of capital expenditures in the last five years? How have satellite firms changed their marketing strategies in the last five years to respond to

competitors within the satellite sector or other technology competitors? Do satellite firms invest in quality improvements or added capital depending on how they believe competitors (satellite and terrestrial) would react to those investments?

C. Consumer Behavior

The Bureau invites comment on the development of customer information sources for satellite communications services. With respect to retail services, are there new avenues for customers to gain information, such as retailers providing on-line and in-store comparisons of pricing, services, and equipment? How often do customers/buyers switch firms providing satellite communications services (*i.e.*, what is the level of “churn” in the various industry segments and how has it changed over time)? If there is significant switching by customers/buyers, is this in response to price, coverage, and/or quality-of-service differences? To what extent do customers compare satellite-based services with non-satellite-based services?

III. INDUSTRY PERFORMANCE

The Bureau seeks information for the analysis of various industry performance metrics, including pricing levels and trends, subscriber growth and penetration, innovation and diffusion of services, and quality of service. Specifically, the Bureau seeks five-year time-series data on U.S. revenues for each industry segment, firm profitability, cash flows, and cash-flow margins for the satellite communications services industry segments. If possible, we ask commenters to break down revenue into relevant price and quantity components.

Are there any other quantitative or qualitative metrics that would add significantly to the Bureau’s analysis of industry performance and the degree of competition? Are these metrics available on a national or international level, and are they available for a five-year time period?

IV. ACCESS TO FOREIGN MARKETS

The Bureau also seeks information on the legal or regulatory practices of foreign nations that have the effect of restricting access to that nation’s market for satellite services. What types of legal or regulatory practices hinder U.S. firms from fully participating in a given foreign market? Are there foreign legal or regulatory practices that favor a particular competitor or set of competitors? Are there activities by U.S. government agencies, including the U.S. Trade Representative, that have affected market entry for U.S. satellite firms into foreign markets?

V. SUBMISSION OF DATA

Participating firms, members of the public, and other interested parties are requested to provide information, comments, and analyses regarding competition in the provision of satellite services. To facilitate an analysis of competitive trends over time, parties should provide current data as well as historic data that are comparable over time. Commenters desiring confidential treatment of their submissions should request that their submission, or a specific part thereof, be withheld from public inspection.

The accuracy and usefulness of the Report and its findings are related directly to the quality of the data and information we receive from commenters. For previous Reports, we relied upon data from publicly-available sources where information was not provided directly by industry participants, and we will do so again to the extent necessary. Nevertheless, we are concerned that such publicly-available data may not be adequate to gain a full understanding of the state of competition in the industry for satellite

services. Accordingly, we urge commenters to provide us, to the extent possible, with complete and accurate information directly from industry sources, as well as from non-industry sources.

With this Public Notice, we seek data, information and comment on a range of issues in order to report on the status of competition in the provision of satellite services. In the interest of streamlining the report, we request comment on issues, information, and data that could be modified or eliminated without impairing the value of the report for evaluating the state of competition in the provision of satellite services. In addition, please comment whether there other issues, additional information, or data we should include in the report to make the Fourth Report as useful as possible.

VI. PROCEDURAL MATTERS

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, S.W., Room TW-A325, Washington, D.C., 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD, 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C., 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact Alan Thomas, (202) 418-2338, Alan.Thomas@fcc.gov, Marilyn Simon, (202) 418-2044, Marilyn.Simon@fcc.gov, or Jerry Duvall, (202) 418-2616, Jerry.Duvall@fcc.gov.