

**Date sent:**

Monday, April 30, 2012

**Subject:**

Deadline Extended for Comment on the FCC's Interpretation of "MVPD" and "Channel"

**Extended Comment Deadline: May 14, 2012**

**Extended Reply Comment Deadline: June 13, 2012**

Public Notice announcing extended time to submit comments:

[http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2012/db0425/DA-12-634A1.doc](http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0425/DA-12-634A1.doc)

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### **Original Announcement:**

On March 30, 2012, the FCC Media Bureau released a Public Notice seeking comment on how to interpret the terms “multichannel video programming distributor” (“MVPD”) and “channel.” A complaint is pending before the FCC’s Media Bureau that raises the question of how to interpret these terms. The interpretation of these terms has legal and policy implications that extend beyond this complaint.

The Communications Act defines “MVPD” as:

[A] person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, *multiple channels of video programming*.

The Communications Act defines “channel” as “a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel.” The Commission’s regulations define a “television channel” as “a band of frequencies 6 MHz wide in the television broadcast band and designated either by number or by the extreme lower and upper frequencies.” The Commission’s regulations also define a “cable television channel” as a “signaling path provided by a cable television system.” The Communications Act defines “video programming” as “programming provided by, or generally considered comparable to programming provided by, a television broadcast station.”

As described in the complaint, Sky Angel U.S., LLC (“Sky Angel”) provides a subscription-based service of about 80 channels of video and audio programming to its subscribers through a set-top box that has a broadband Internet input and video outputs that connect to a television set. To resolve Sky Angel’s complaint, the Media Bureau must determine if Sky Angel is an MVPD. Initially, the Media Bureau denied the injunctive relief requested by Sky Angel, determining that the term “channel,” as used in the definition of MVPD, appears to include a transmission path as a necessary element. Based on the limited record at the time, the Bureau was unable to find that Sky Angel provides its subscribers with a transmission path. The Media Bureau must ultimately determine whether Sky Angel is or is not an MVPD to resolve its complaint.

The Public Notice seeks comment on two possible interpretations of “MVPD” and “channel” and the policy ramifications of each interpretation:

- (i) to treat as MVPDs only those entities that make available for purchase multiple channels, meaning streams of “video programming” as well as the transmission path; or
- (ii) to treat as MVPDs any entity that makes available for purchase multiple channels, meaning “video programming networks” without regard to whether it also makes available a transmission path for purchase.

The Public Notice also seeks comment on any alternative interpretations of the terms “MVPD” and “channel” and the policy ramifications of such alternative interpretations.

MVPDs are subject to the FCC’s rules on closed captioning, accessible emergency information, and video description. Thus, the definition of “MVPD” and “channel” may affect which entities are required to comply with these rules.

Links to Public Notice:

[http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2012/db0330/DA-12-507A1.doc](http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0330/DA-12-507A1.doc)

[http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2012/db0330/DA-12-507A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0330/DA-12-507A1.pdf)

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