

PUBLIC NOTICE

Federal Communications Commission
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July 23, 2018

MEDIA BUREAU SEEKS COMMENT ON THE STATUS OF COMPETITION IN THE MARKETPLACE FOR DELIVERY OF AUDIO PROGRAMMING

MB Docket No. 18-227

Comments Due: 30 days after date of publication in the Federal Register

Reply Comments Due: 45 days after date of publication in the Federal Register

On March 23, 2018, the President signed into law the Consolidated Appropriations Act of 2018, which included the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (RAY BAUM'S Act of 2018).¹ Title IV of RAY BAUM'S Act of 2018 amends Section 13 of the Communications Act (the Act) of 1934, and requires that the Commission publish a *Communications Marketplace Report* in the last quarter of every even numbered year. Among other things, the biennial *Communications Marketplace Report* requires that the Commission assess the state of competition in the communications marketplace, including competition to deliver audio service among broadcast stations, satellite radio, and entities that provide audio content via the internet and to mobile devices.² Accordingly, this *Public Notice* seeks input on the state of competition in the marketplace for the delivery of audio programming as it would relate to the overall goal of providing the required *Communications Marketplace Report* to Congress.

This *Public Notice* requests comment on the criteria or metrics that could be used to evaluate the state of competition in the audio programming marketplace, as well as comment and information on industry data, competitive dynamics, and trending factors. For example, commenters are invited to submit the following data and information related to participants in the marketplace for the delivery of audio programming, including, but not limited to, terrestrial radio broadcasters (*i.e.*, AM and FM radio stations), satellite radio providers, and entities that provide audio programming over the Internet and to mobile devices (collectively, Audio Marketplace Participants):

- identification and ownership of key Audio Marketplace Participants, as well as the business models and competitive strategies they use;
- trends in service offerings, pricing, and consumer behavior;

¹ Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, Div. P—RAY BAUM'S Act of 2018, §§ 401-404, 132 Stat. 348, 1087-90 (2018) (RAY BAUM'S Act of 2018).

² Div. P—RAY BAUM'S Act of 2018, Title IV: FCC Consolidated Reporting, Section 13.

- the extent of competition among Audio Marketplace Participants, including intramodal competition (*i.e.*, competition among providers of the same type, such as terrestrial radio broadcast stations) and intermodal competition (*i.e.*, competition among providers of different types, such as terrestrial radio broadcast stations and satellite radio providers);
- ratings, subscribership, and revenue information, for the marketplace as a whole and for individual Audio Marketplace Participants;
- capital investment, innovation, and the deployment of advanced technology;
- requirements for entry into the marketplace; and
- recent entry into and exit from the marketplace.

It is requested that commenters submit information, data, and statistics for 2016 and 2017, as well as information on any notable trends and developments that have occurred during 2018 to date. Industry stakeholders, the public, and other interested parties are encouraged to submit information, comments, and analyses. In order to facilitate analysis of competitive trends, parties should submit current and historic data that are comparable over time. Commenters seeking confidential treatment of their submissions should request that their submission, or a specific part thereof, be withheld from public inspection.³

In addition, this *Public Notice* requests comment on whether laws, regulations, regulatory practices or demonstrated marketplace practices pose a barrier to competitive entry into the marketplace for the delivery of audio programming or to the competitive expansion of existing providers. Further, this *Public Notice* seeks input concerning the extent to which any such laws, regulations or marketplace practices affect entry barriers for entrepreneurs and other small businesses in the marketplace for the delivery of audio programming.

PROCEDURAL MATTERS

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before **30 days after date of publication in the Federal Register** and reply comments on or before **45 days after date of publication in the Federal Register**. All filings should refer to MB Docket No. 18-227. Comments may be filed: (1) using the Commission's Electronic Comment Filing System (ECFS), or (2) by filing paper copies. Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

Comments and reply comments filed in response to this *Public Notice* will be available for public inspection and copying in the Commission's Reference Center, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, WT Docket No. 18-203.

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, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, as follows:

³ 47 C.F.R. § 0.459.

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

- Commercial overnight mail (except U.S. Postal Service mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- All other mail, including U.S. Postal Service Express Mail, Priority Mail, and First Class Mail should be addressed to 445 12th Street, S.W., Washington, DC 20554.

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY), or send an e-mail to fcc504@fcc.gov.

For further information, contact Jake Riehm, Industry Analysis Division, Media Bureau, (202) 418-2166.