FEDERAL COMMUNICATIONS COMMISSION

[CS Docket No. 98–102, FCC 98–335]

Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: Section 628(g) of the Communications Act of 1934, as amended, 47 U.S.C. 548(g), requires the Commission to report annually to Congress on the status of competition in markets for the delivery of video programming. On December 23, 1998, the Commission released its fifth annual report (''*1998 Report*''). The *1998 Report* contains data and information that summarize the status of competition in markets for the delivery of video programming and updates the Commission's prior reports. The *1998 Report* is based on publicly available data, filings in various Commission rulemaking proceedings, and information submitted by commenters in response to a *Notice of Inquiry* in this docket.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman or Nancy Stevenson, Cable Services Bureau (202) 418–7200, TTY (202) 418–7172.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *1998 Report* in CS Docket No. 98–102, FCC 98–335, adopted December 17, 1998, and released December 23, 1998. The complete text of the *1998 Report* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC, 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service (''ITS, Inc.''), (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036. In addition, the complete text of the *1998 Report* is available on the Internet at http://www.fcc.gov/Bureaus/Cable/WWW/csrptpg.html.

Synopsis of the 1998 Report

1. The Commission's *1998 Report* to Congress provides information about the cable television industry and other multichannel video programming distributors (''MVPDs''), including direct broadcast satellite (''DBS'') service, home satellite dishes (''HSDs''), multipoint distribution service (''MMDS''), local multipoint distribution service (''LMDS''), satellite master antenna television (''SMATV'') systems, and broadcast television service. The Commission also considers several other existing and potential distributors of and distribution technologies for video programming, including the Internet, home video sales and rentals, local exchange telephone carriers (''LECs''), and electric and gas utilities. The report includes as an attachment the results of an inquiry undertaken by the Cable Services Bureau focusing on cable television programming costs and related issues.

2. The Commission further examines market structure and issues affecting competition, such as horizontal concentration, vertical integration and technical advances. The 1998 report addresses competitors serving multiple dwelling unit (''MDU'') buildings and evidence of competitive responses by industry players that are beginning to face competition from other MVPDs.

3. In the *1998 Report*, the Commission concludes that competitive alternatives and consumer choices are still developing but that cable television continues to be the primary delivery technology for the distribution of multichannel video programming and continues to occupy a dominant position in the MVPD marketplace. As of June 1998, 85% of all MVPD subscribers received video programming service from local franchised cable operators compared to 87% a year earlier. There has been an increase in the total number of subscribers to noncable MVPDs, most of which is attributable to the continued growth of DBS. However, there have been declines in the number of subscribers and market shares of MVPDs using other distribution technologies. Significant competition from local telephone companies has not generally developed even though the Telecommunications Act of 1996 (''1996 Act'') removed some barriers to LEC entry into the video marketplace.

4. *Key Findings*:

• *Industry Growth:* A total of 76.6 million households subscribed to multichannel video programming services as of June 1998, up 4.1% over the 73.6 million households subscribing as of June 1997. This subscriber growth accompanied a 2.3% increase in multichannel video programming's penetration of television households from 75.9% to 78.2% in June 1998. Noncable's share of total MVPD subscribers continued to grow, constituting 15% of all multichannel video subscribers as of June 1998, up from 13% over the June 1997 figure reported last year. The cable television industry has continued to grow in terms of subscribership (up to 65.4 million subscribers as of June 1998, a 2% increase from the 64.2 million cable subscribers in June 1997). The total number of noncable MVPD subscribers grew from 9.5 million as of June 1997 to 11.2 million as of June 1998, an increase of over 18% since last year's report.

• *Convergence of Cable and Telephone Service:* The 1996 Act repealed a statutory prohibition against an entity holding attributable interests in a cable system and a LEC with overlapping service areas. It was expected that local exchange telephone carriers would begin to compete in video delivery markets, and cable television operators would begin providing local telephone exchange service. However, telephone entry into video markets has been slow to develop. Congress developed the Open Video System (''OVS'') framework as another means to encourage telephone company entry into the video marketplace. Thus far, however, few telephone companies have sought certification to provide video through OVS.

• *Promotion of Entry and Competition:* The Commission has continued to take steps to eliminate obstacles to competition, including the adoption and enforcement of rules that prohibit governmental and private restrictions that unreasonably interfere with a consumer's right to install the dishes and other antennas to receive programming services from (direct-to-home) DBS, wireless cable, and television broadcast; establish procedures to use internal wiring installed in an MDU building by the incumbent provider, facilitating owners' and residents' choice among providers; and increase the amount of spectrum available for wireless uses and eliminate restrictions on use, for the benefit of wireless providers. In addition, the Commission recently strengthened its enforcement procedures for the program access rules, which are designed to ensure that alternative MVPDs can acquire, on non-discriminatory terms, vertically-integrated satellite delivered programming.

• *Horizontal Concentration:* Nationally, concentration among the top MVPDs has declined since last year. As a result of acquisitions and trades, cable MSOs have continued to increase the extent to which their systems form regional clusters. The number of clusters of systems serving at least 100,000 subscribers is currently 117, down from the 139 reported last year. Although the number of clusters declined, the trend for clusters to increase in subscribership or size appears to be continuing, and these clustered systems now account for service to approximately 52% of the nation's cable subscribers.

• *Vertical Integration:* The number of satellite-delivered programming networks has increased from 172 in 1997 to 245 in 1998. Vertical integration of national programming services between cable operators and programmers, measured in terms of the total number services in operation, declined from last year's total of 44% to just 39% this year, the continuation of a four year trend. However, in 1998, cable MSOs, either individually or collectively, owned 50% or more of 78 national programming services. A year earlier, cable MSOs owned 50% or more of 50 national networks.

• *Technological advances:* Technological advances are occurring that will permit MVPDs to increase both quantity of service (i.e., an increased number of channels using the same amount of bandwidth or spectrum space) and types of offerings (e.g., interactive services). In particular, cable operators and other MVPDs continue to develop and deploy advanced technologies, especially digital compression, in order to deliver additional video options and other services (e.g., data access, telephony) to their customers. To access these wide ranging services, consumers use ''navigation devices.'' In the last year, the Commission adopted rules and policies to implement Section 629 of the Communications Act, which is intended to ensure commercial availability of these navigation devices.

• *Programming costs:* The report includes as an attachment the results of an inquiry undertaken by the Cable Services Bureau focusing on cable television programming costs and related issues. This inquiry was commenced to follow-up on issues raised in last year's annual competition report and involved a voluntary questionnaire distributed to six multiple system operators. The Bureau found that, other than inflation adjustments, programming cost increases were the most significant factor contributing to rate increases. The rate of increase in programming costs between July 1996 and July 1997 was 20.2%. Programming costs for the responding MSOs (for regulated services) were equal to approximately 24% of regulated revenues for that period. On average, about one-quarter of an operator's regulated revenues was used to pay for programming. Sports programming costs (for the period surveyed) did not increase at a disproportionally higher rate than other types of programming and played a fairly minor role (accounting for only 5.3%) in overall rate increases. The inquiry results do not reflect license fee increases owing to sports distribution rights agreements announced in late 1997 and 1998.

Ordering Clauses

5. This *1998 Report* is issued pursuant to authority contained in sections 4(i), 4(j), 403 and 628(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 403 and 548(g).

6. *It is ordered* that the Office of Legislative and Intergovernmental Affairs shall send copies of this *1998 Report* to the appropriate committees and subcommittees of the United States House of Representatives and the United States Senate.

7. *It is further ordered* that the proceeding in CS Docket No. 98–102 *Is terminated*.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Carnival Corporation, 3655 N.W. 87th Avenue, Miami, FL, 33178–2193, Vessel: PARADISE

Cunard Line Limited (d/b/a/ Seabourn Cruise Line) and Seabourn Maritime Management A/S, 55 Francisco Street, Suite 710, San Francisco, CA 94133, Vessels: SEABOURN LEGEND, SEABOURN PRIDE AND SEABOURN SPIRIT

Peter Deilmann Reederei GmbH & Co., and Schiffahrtsgesellschaft MS ''DEUTSCHLAND'' GmbH & Co., and MS ''DEUTSCHLAND'' Verwaltungsgesellschaft Gmbh, Am Hafensteig 17–19, D–23730 Neustadt in Holstein, Germany, Vessel: DEUTSCHLAND

Compagnie des Iles du Ponant and Compagnie des Iles du Levant, 60 Boulevard du Marechal Juin, 44100 Nantes, France, Vessel: LE LEVANT

Imperial Majesty Cruise Line L.L.C., Ulysses Cruises, Inc. (d/b/a Premier Cruises), International Shipping Partners, Inc., Oceanbreeze Ltd Inc. and Premier Operations Ltd., 871 W. Oakland Park Blvd., Fort Lauderdale, FL 33311, Vessel: OCEANBREEZE

Premier Operations Ltd., Premier Cruise Ltd., Ulysses Cruises, Inc. (d/b/a Premier Cruises) and International Shipping Partners, Inc., 901 South America Way, Pier 7, Miami, FL 33132–2073, Vessel: ISLANDBREEZE

Premier Operations Ltd., Ulysses Cruises, Inc. (d/b/a Premier Cruises), International Shipping Partners, Inc. and Premier Cruise Lines, Ltd., 901 South America Way, Pier 7, Miami, FL 33132–2073, Vessel: OCEANIC

Premier Operations Ltd., Ulysses Cruises, Inc. (d/b/a Premier Cruises), International Shipping Partners, Inc. and Seabreeze Ltd. Inc., 901 South America Way, Pier 7, Miami, FL 33132–2073, Vessel: SEABREEZE I

Riverbarge Excursion Lines, Inc., 201 Opelousas Avenue, New Orleans, LA 70114, Vessel: RIVER EXPLORER

Silversea Cruises, Ltd. and Silver Cloud Shipping Company S.A., 110 East Broward Blvd., Fort Lauderdale, FL 33301, Vessels: SILVER CLOUD and SILVER WIND

Premier Operations Ltd., Ulysses Cruises, Inc. (d/b/a Premier Cruises), and International Shipping Partners, Inc., 901 South America Way, Pier 7, Miami, FL 33132–2073, Vessel: REMBRANDT

Princess Cruises, Inc., Princess Cruise Lines, Inc. and The Peninsular and Oriental Steam Navigation Company and CP Shipping Corporation, 10100 Santa Monica Blvd., Suite 1800, Los Angeles, CA 90067–4189, Vessel: SEA PRINCESS

Royal Caribbean Cruises Ltd., Airtours Plc, Rabbit Leasing Limited and Capital Bank Leasing 6 Limited, 1050 Caribbean Way, Miami, FL 33132–2096, Vessel: SONG OF AMERICA

Dated: January 19, 1999.

Bryant L. VanBrakle,

Secretary.

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