

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

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| |) | |
| In the Matter of |) | |
| The State of Competition |) | GN Docket No. 22-203 |
| In The Communications Marketplace |) | Submitted August 1, 2022 |
| |) | |

**REPLY COMMENTS OF THE
MOTION PICTURE ASSOCIATION, INC.**

I. INTRODUCTION

The Motion Picture Association, Inc. (“MPA”) is pleased to provide these Reply Comments in response to the Public Notice seeking input regarding The State of Competition in the Communications Marketplace (GN Docket No. 22-203) dated May 16, 2022 (the “Public Notice”). In particular, the MPA wishes to comment on Section V of the Public Notice concerning competition in the market to deliver video programming services.¹

The MPA is a not-for-profit trade association founded in 1922 to address issues of concern to the motion picture industry. The MPA’s member companies are: Netflix Studios, LLC, Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Universal City Studios LLC, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment Inc. These companies and their affiliates are leading producers and distributors of filmed entertainment in the theatrical, television, and home-entertainment sectors.

¹ Video programming is defined as: “Programming provided by, or generally considered comparable to programming provided by, a television broadcast station that is distributed and is exhibited for residential use.” 47 U.S.C. § 522(20); *see also* 47 CFR § 76.6(ff).

II. PLATFORM DIVERSITY

The COVID-19 pandemic exacted a serious toll on the filmed entertainment business. While the broadcast, subscription TV, and theatrical sectors have not fully recovered compared with 2019, the still relatively nascent digital sector has grown substantially, as detailed in MPA’s 2021 Theatrical and Home Entertainment Market Environment Report (the “THEME Report”).²

Although subscription TV in recent years has continued to account for the largest share of consumer spending in filmed entertainment,³ it and the other distribution channels together provide consumers a large array of choices in how they access content. These choices are enabled through a highly diversified and innovative marketplace that includes motion picture studios, theater owners, broadcast and subscription television companies, traditional retail outlets, streaming services, and other internet services.

The streaming sector has become particularly competitive, with newer services—including Peacock, Paramount+, Disney+, HBO Max, and Discovery+—joining older services such as Netflix, Hulu, and Amazon Prime Video. Several commenters noted the diversity in the streaming sector in their initial comments to the Public Notice.⁴ Consumers have taken advantage of these options, pushing streaming penetration to 80% of U.S. households in the first quarter of 2022.⁵ Streaming services have also created a variety of new subscription and advertising-supported models with attractive pricing options from which consumers may

² The THEME Report is available online at <https://www.motionpictures.org/wp-content/uploads/2022/03/MPA-2021-THEME-Report-FINAL.pdf>.

³ THEME Report at 9.

⁴ See Comments in Response to the Public Notice dated July 1, 2022 (“Comments”) of the National Ass’n of Broadcasters at 1-3; Comments of NCTA at 20-32; Comments of Free State Foundation at 20-24; Comments of Incompas at 33-37.

⁵ Broadcasting + Cable, *Streaming Penetration Rises to 80% as Smaller Services Grow* (April 18, 2022), <https://www.nexttv.com/news/streaming-penetration-rises-to-80-as-smaller-services-grow-analyst>.

choose.⁶ These well-known streaming services are joined by more than 135 legal internet services providing filmed entertainment to U.S. consumers.⁷

III. PRODUCT DIVERSITY

The variety of filmed entertainment itself is also increasing. In 2021, there were 559 original scripted series released on broadcast, subscription TV, and online services aimed at U.S. audiences, a 13% increase compared to 2020.⁸ Expanding the analysis to include additional categories of original series (unscripted shows, children's programs, and daytime dramas), there were 1,826 total original series released in 2021, up 15% from 2020.⁹ There are also more diverse voices being represented in filmed entertainment than ever before, and an ever-increasing number of genres and sub-genres catering to diverse consumer interests.

IV. CONSUMER DIVERSITY

In the home entertainment market, the subscription TV sector mirrors the U.S. population in gender, age and ethnicity, while various forms of digital delivery skews slightly in favor of younger people.¹⁰ Men, younger people, and those of Hispanic/Latino origin are somewhat overrepresented among theatergoers.¹¹ Despite small variances from the U.S. population in certain areas, consumers of filmed entertainment are highly diversified and almost perfectly reflective of the U.S. population.

⁶ CNET, *Best Streaming Service Deals* (July 12, 2022), <https://www.cnet.com/deals/best-streaming-service-deals>.

⁷ *THEME Report* at 19.

⁸ *Id.* at 23.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 54.

V. ECONOMIC BENEFITS

Audiences are not the only beneficiaries of this vibrant film and programming marketplace. So, too, are the national and local economies. In the process of making content available online and off, the film and television industry supports 2.2 million jobs and \$192 billion in wages across all 50 states; enlists more than 110,000 businesses, 89% of which are small businesses employing fewer than 10 people; contributes \$226 billion in sales to U.S. GDP; generates \$17.3 billion in exports; and exports 2.3 times what it imports, yielding a positive balance of trade in every major market in the world and producing a \$9.6 billion trade surplus—larger than each of the surpluses in the telecommunications, transportation, mining, legal, insurance, information, and health-related services sectors.¹² In addition, the industry pays \$27 billion to more than 359,000 local businesses each year.¹³

VI. ADDITIONAL REGULATION IS UNNECESSARY

Filmed entertainment is a challenging, unpredictable, and highly competitive business. There is no guaranteed recipe for a big hit, and many, if not most, creative projects are not commercially successful. The best way to ensure audiences continue to have a robust, diverse array of programming—and that creators are able to continue investing in new content and innovative methods of distribution—is to allow the free market in filmed entertainment to flourish as it has historically done without unnecessary government intervention. That approach allows content creators to develop new shows, featuring ever more diverse voices. It also allows audiences to experiment with different services and programs to find the ones that best meet their

¹² MPA, *The American Motion Picture & Television Industry Creating Jobs, Trading Around the World* (January 28, 2022), https://www.motionpictures.org/wp-content/uploads/2022/01/MPA_US_Economic_Contribution_2020_Final.pdf.

¹³ *Id.*

needs, by providing them the content they want, where and when they want it, on the devices they prefer. And it allows providers to experiment with a variety of business models such as subscription, ad-based, bundled, a la carte, in-home, and mobile to determine the most efficient way to cater to different audience desires. Regulation would hinder this experimentation, chill growth, increase costs, and reduce choices.

The newer distribution channels are still developing. Content providers need continued flexibility to determine how best to arrange their offerings to attract and retain viewers and succeed in the marketplace. Providers must be allowed to diversify and differentiate their program offerings so that subscribers can find services that match their preferences, and so that providers in this new and rapidly evolving business can adapt their offerings in real time in response to consumer preferences, rather than forcing consumers into standardized offerings with little differentiation. The FCC should, therefore, continue to approach the video sector with a light touch to ensure that it continues to grow, innovate, and diversify in new enterprises, business models and product offerings.

Respectfully submitted,



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