WRITTEN STATEMENT
OF
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IAC
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Mr. Chairman, and Members of the Committee, I welcome the invitation and opportunity to appear before you today to discuss the "The Emergence of Online Video: Is It The Future?" IAC is a leading Internet company with more than 50 brands, including Ask.com, Match.com, Citysearch, Electus, and Vimeo. I also serve as the Chairman and Senior Executive of Expedia, Inc., the world's leading online travel company. Prior to my work at IAC and Expedia, I've enjoyed a long career in broadcast and cable television, and in the motion picture industry.

Let me start with perhaps an obvious point, which is: The future of video is here. The confluence of ubiquitous broadband Internet access with incredible advances in consumer devices like the iPad increasingly allows consumers to access the content they want, when they want it, and how they want it. These innovations exponentially increase consumer choice and competition and are consistent with public-policy aspirations for a dynamic, consumer-driven marketplace for video programming, as well as preserving the essential consumer right to broadcast television access.

1. The evolution of video distribution

Contrast today's opportunities with the world of old media. Not so long ago, video content was distributed through a handful of broadcast television stations. In this world, viewers passively consumed a fixed, pre-scheduled menu of content provided by three or four national commercial television networks and one channel of public broadcast programming. And all of this consumption took place on a single device – the humble television.

This world began to evolve in the seventies and eighties. With the advent of cable television and satellite video distribution, consumers were given viewing options beyond those offered by over-the-air broadcasters. Today, there are an estimated 600 national cable programming networks, plus another 100 regional networks.

Alongside the growth of the cable platform, a key technological development took place in 1975 when Sony introduced the Betamax videocassette recorder. Betamax – and soon after VHS – gave consumers the ability to "time-shift" video programming. This time shifting ability gave consumers the freedom to record a video program in advance and watch it later, expanding consumer choice by untethering them from schedules determined by broadcasters.

The VCR also made possible private, "on-demand" consumer consumption of feature films through the sale or rental of prerecorded videocassette tapes.[1] Interestingly, the motion picture studios sought to block the VCR. The case was ultimately decided in favor of Sony by the Supreme Court in *Sony Corporation v. Universal Studios* [2] (also known as the "Betamax" case). Despite the studios' fears, the new market that VCRs made available proved to be one of the most lucrative for those very same studios. Innovation can yield extraordinary benefits that are not always readily and immediately apparent. Later, cable companies began offering Video-On-Demand ("VOD") services that enable viewers to watch broadcast or cable network programming or movies on demand at the consumer's convenience for a limited time. Again, technology progressed and enhanced consumer choice, which benefitted every participant in the video-programming ecosystem.

2. The rise of online video and the exponential growth in available content

Recently, the widespread availability of broadband Internet has, in a short time, transformed video content access and delivery. For example, it has enabled video-on-demand services to migrate to the online environment. Online video distributors are available to any consumer with a broadband Internet connection and provide consumers with even more choices for high-quality (and low-quality) video programming. This marketplace has burst on to the scene and is expected to grow significantly. The number of viewers who watch full-length television shows online grew from 41.1 million in 2008 to 72.2 million in 2011.[3]

When the distribution of full-length video programming is added to user-generated video content and other non-full length video, the number of Americans that watch video online is staggering. In April 2011, U.S. Internet users engaged in over 5.1 billion viewing sessions and 172 million users watched online video content. Cisco forecasts that video traffic is poised to grow to over 60% of Internet traffic by 2015, with an annual growth rate of 48% for consumer Internet video consumption between 2010 and 2015.

[1] In December 1988, Blockbuster became the top video retailer in the U.S., with $200 million in revenue. It had more than 500 stores by the end of that year and replaced Erol's as the top purveyor of prerecorded videocassettes. *EMA*fyi newsletter, http://www.entmerch.org/press-room/industry-history.html.
[2] 464 U.S. 417 (1984).
[3] *Id., citing Reaching Online Video Viewers with Long-Form Content,* eMarketer.com (July 26, 2010), http://www3.emarketer.com/Article.aspx?R=1007830.

Today, consumers access video programming through a variety of platforms, including over-the-air broadcasting, traditional Title VI "cable service" (*e.g.*, Comcast's XFINITY), Internet protocol television ("IPTV") (*e.g.*, Verizon's FiOS and AT&T's U-verse), video "broadcasting" over the public Internet (*e.g.*, MLB.tv), Internet-delivered video-on-demand ("VOD") (*e.g.*, Netflix, iTunes, Amazon.com), and user-generated video providers (*e.g.*, YouTube, Vimeo).

The Internet enables new and varied platforms for viewing options that compete with the traditional media companies. That genuine, robust marketplace competition will in turn lead to different types of consumer offerings including different types of video packages, unbundled content and a la carte pricing. These changes are driven by innovation and consumer choice. Content distribution is in the hands of the many rather than the few.

One of the biggest benefits of this trend is the proliferation and diversification of content. On the Internet, low barriers to entry have provided virtually everyone with the opportunity to create and distribute original video content. Google's YouTube today sees an average of 48 hours of video uploaded per minute. Companies like Netflix are investing in original programming, competing with traditional cable channels like HBO.

These options not only provide more choices for consumers, they can provide more value. A small but growing number of cable customers are "cutting the cable cord" completely in favor of Internet-distributed video. According to one report, 72% of adults who go online at least once a week say the Internet is a better value for the dollar than cable television.

3. Local programming in the online environment

While innovation and competition can and should flourish in the online environment, it is important to protect and preserve the consumer's right to access free over-the-air broadcast television. Right now, roughly 15 percent of Americans rely solely on over-the-air television.[4]

Even with the rise of cable channels and networks, the most popular television programming remains that which is distributed by the major broadcast networks. The four largest broadcast networks attract 8 to 12 million viewers each, whereas the most popular cable networks typically attract approximately 2 million viewers each.[5]

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[4] Fourth Further Notice of Proposed Rulemaking and Declaratory Order, *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, DS Docket 98-120 at 4. (rel. Feb 10, 2012).

[5] Competitive Impact Statement, DOJ, January 19, 2011, *citing* SNL Kagan, *Economics of Basic Cable Networks* 43 (2009); The Nielson Company, *Snapshot of Television Use in the U.S.* 2 (Sept. 2010), http://blog.nielsen.com/nielsenwire/wp-content/uploads/2010/09/Nielsen-State-of-TV-09232010.pdf.

Sometimes, in the face of the ubiquity of cable and satellite, consumers forget that they can access broadcast television with an antenna. In addition, there are sometimes technical challenges to receiving broadcast television signals, whether it is the difficulty of installing a rooftop antenna or problems with reception due to signal interference.

This is a challenge for policy makers on several fronts. As Congress and the Supreme Court have recognized, "the importance of local broadcasting outlets 'can scarcely be exaggerated, for broadcasting is demonstrably a principal source of information and entertainment for a great part of the Nation's population.' . . . Likewise, assuring that the public has access to a multiplicity of information sources is a governmental purpose of the highest order, for it promotes values central to the First Amendment."[6]

The U.S. taxpayer, moreover, has made a significant investment to ensure that these interests are protected in the digital age. Congress appropriated $650 million to ensure that households could receive local broadcast signals after the transition to digital television.

4. Aereo furthers important governmental purposes

Aereo, a company in which I have invested, furthers government interests and does so at no cost to the federal taxpayer by letting consumers watch live, local broadcast television over the Internet. The Aereo system lets consumers watch Internet-delivered live, local broadcast television on an Internet-connected device.

Aereo, which launched just last month, provides its members with use of individual antennae capable of receiving high-definition local broadcasts. Aereo enables consumers to watch that programming on the Internet-connected device of their choice and at the time of their choice. Essentially, it allows a consumer to outsource or locate remotely an antenna and DVR and to use that equipment to access the over-the-air content to which they are entitled on an Internet-connected device.

Aereo reminds consumers that they have a right to access over-the-air broadcasts using an antenna. And Aereo provides a technology solution that brings together the simplicity of the antenna and the convenience of locating equipment remotely.

5. The future of competition in the online environment

Aereo is but one example of how the Internet is injecting some much needed competition into the video marketplace. While all of this competition is good and healthy, the online video marketplace is still in its very early stages of development. Netflix' online video streaming service – the largest in the world – is only five years old.

[6] *Turner Broad. Sys. v. FCC,* 512 U.S. 622, 663 (1994).

Incumbents have the means and incentive to engage in economic and/or technical discrimination against online video distributors. The FCC has sought to protect consumers against some of the technical means of discrimination in its Open Internet rules; but those rules may not survive judicial scrutiny. Even if they do, cable and telecom companies are experimenting with forms of economic discrimination at the margins of current law. For example, broadband providers that also provide video programming could implement broadband caps in a way that favors their own content. Congress should fully explore these issues and prevent cable and telecommunication companies from leveraging their dominance in existing markets for video delivery to control emerging markets.

6. Ensuring that the future of online video happens

I'm extremely bullish on the emerging world of Internet-enabled video distribution. If properly nurtured, the marketplace will develop multiple forms of distribution and many new competitors. This will in turn stimulate new sources of content and creativity that will give a multitude of options to consumers, while enriching our culture and advancing our economy.

At this time, Congress need only to keep a careful watch as the marketplace develops. We know that incumbents have incentives to limit competitive threats, and Congress must be vigilant that the rules of the game favor entry and innovation. But consumer demand is a powerful force, and those who give consumers what they want will be rewarded in the marketplace.

The future of online video is simply "more." More content, more innovation, more competition. For consumers, the future of online video is more choice and more control. Consumers have the lawful right to watch the content they want, when the want it, and how they want it. The Internet has spurred technological innovation that now makes the exercise of that right possible. And that possibility holds great promise and potential benefit for everyone in the online video ecosystem.

Thank you.