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Subcommittee on Communications and Technology

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Thank you for inviting me to provide a consumer perspective on sports and video streaming.

Streaming video has benefited viewers in many ways, and the prevalence of cord-cutting backs that up. Millions of Americans have discovered that they can get the content they want more cheaply and conveniently through streaming services than with traditional multichannel video programming distributors (MVPDS) like cable and satellite TV providers.

With online video, people can pick and choose services, instead of being forced into bloated cable bundles. They can watch video on many different kinds of device, inside the home and outside of it, instead of being limited to rented cable set-top boxes. Online video also gives diverse content creators an opportunity to reach audiences in ways that were not possible when broadcast and MVPDS were the main source of video programming.

When it comes to sports, streaming has brought benefits as well. It is easier for niche and smaller sports to reach fans online. Major services like ESPN+ carry sports like Ultimate Frisbee and Lacrosse. Organizations like the Professional Darts Association provide their own video content online. Apple distributes Major League Soccer, and Formula One racing is finding a larger audience in the United States in part due to the success of “Drive to Survive” on Netflix.

But the transition to streaming hasn't been entirely smooth. The proliferation of streaming services, and the fragmentation of content between them, means that costs of watching streaming video are rising, and for many people can approach what they were paying on their cable bill. Some viewers feel like they finally broke free of the cable bundle only to watch it re-forming between their eyes. New major video apps are launched, shut down, and rebranded on

a regular basis, and people might sign up to a service to watch particular content only to have it disappear without warning.

Having to set up and remember various accounts, having to download and sign in to a proliferation of apps (often from content providers that have no clear brand identity or specialization), and having to track a number of monthly subscription payments can be a burden on viewers. A number of businesses have even sprung up that promise to help people manage their increasing monthly subscriptions.

Streaming apps can be buggy, and apps from different services might work and be organized differently from each other. Many apps do not support “universal search” features even if they are available, meaning that users looking for something to watch might spend more time flipping between apps than people used to spend flipping between channels.

While some streaming services and video streaming devices have excellent accessibility features, many do not. Emergency information and alerts might not reach people who rely primarily on streaming services. Finally, some kinds of content, such as local news, might not be available through streaming platforms.

Some user experience problems with online video can be quite pronounced with sports. To watch MLB Baseball, for instance, a fan might need to subscribe to Apple TV, Amazon Prime, and MLB.tv (as well as a traditional MVPD). Even when MLB games might be on different networks on different days, at least a fan could simply switch channels. Watching games now requires that a fan have a compatible device, a fast broadband connection, an account (free in some cases, not in others) with each service, and the ability to download and configure an app for each service. All of this might be fine for the early adopters of online video. But we're well past that point.

Sports online have a few other sour points as well. Confusing and fan-hostile blackout rules mean that games available online in one market may not be available in another. Due to poor broadband or poor WiFi in the home, video quality might be poor. Online sports streaming may also be significantly laggy, meaning that viewers might be watching events that are 30 to 60 seconds behind real time. In the days of live reactions to games on social media, this means that a viewer may find out what happens in a game on X (formerly Twitter) or Threads before seeing it on screen.

The problems are particularly significant with major professional sports, given their cultural and economic importance. Teams are subsidized by taxpayers through stadiums and other sweetheart deals, and major leagues like the NFL are given special exemptions from antitrust laws. The role of the NFL in particular is outsized. Every year, 9 of the 10 most highly-rated TV programs are NFL games, and the Super Bowl is the most watched event in the United States.

Fan frustration in this area is particularly acute because many games that were once available on free-over-the-air broadcast are moving to paid streaming services, and streaming services have increasingly focused on sports as a way to both attract and retain viewers. Peacock was the exclusive way for out-of-market viewers to watch the recent Chiefs-Dolphins playoff game, and the WWE's move to Netflix is expected to lead to even more changes in how sports and sports-related content are distributed online.

Streaming is no longer an afterthought, and policymakers, content creators, tech platforms, and sports leagues need to take steps to ensure that shifts in the media, technology, and sports landscapes benefit viewers, and lead to cheaper and more convenient options.

Taxpayer-funded sports and teams should be required to commit to making games available free of charge—either by continuing on broadcast, or streaming them for free (at least in their local market). There is no reason for public money to go to private sports organizations unless there is a clear and tangible public benefit.

Congress should consider legislation like the FANS act that would put public interest conditions, such as a prohibition on blackouts stemming from retransmission consent disputes during marquee events, on sports leagues' antitrust exemption.

Concerning online video generally, Public Knowledge has written about the need for policymakers to ensure that the public interest benefits that came along with older forms of media distribution, such as broadcast, are not left behind in the move to streaming.<sup>1</sup> These include diversity, accessibility, and localism.

More broadly, it would benefit everyone in the streaming market to focus more on the customer experience than on customer lock-in. While more competition is good, not every content producer needs to go direct-to-consumer with yet another video streaming app, as opposed to licensing content to the services people already use. Online video services should recognize that viewers often mix and match services, and work to facilitate instead of blocking this.<sup>2</sup> While content and programming bundles are not *per se* bad, they should offer obvious value to subscribers, instead of being ways to get them to pay for costly programming they are not interested in. Video apps should continue to innovate, but services should bear in mind the advantages of consistency and simplicity across different apps. Streamlined ways for users to

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<sup>1</sup> John Bergmayer, *From Airwaves to Streaming: Upholding Public Interest Values in the Digital Age*, Public Knowledge, Dec. 15, 2023, <https://publicknowledge.org/from-airwaves-to-streaming-upholding-public-interest-values-in-the-digital-age>.

<sup>2</sup> For example, online video services on Apple devices can make content discoverable via a universal search feature and a system-wide “Up Next” feature, but some video services like Netflix don’t take advantage of this and require the people first go into their app.

track their different video subscriptions that are not dependent on platform-specific tools from Apple or Google might even make users more likely to trial new services. While some of the inconveniences of online video for viewers can be attributed to growing pains, some design and product decisions seem to put users last.

Sports in particular show the need for consistency and predictability. Leagues should avoid abrupt and radical changes to how people watch games, and should avoid overly complex licensing that fragments individual sports and even teams across a variety of services.

While streaming video has revolutionized how we consume media, offering great convenience and a platform for diverse content creators, it is not without its challenges. The fragmentation of content across numerous streaming services, accompanied by rising costs and an inconsistent experience, has led to a level of complexity and inconvenience that detracts from viewer satisfaction. This is particularly evident in the realm of sports streaming, where issues like blackout rules, video quality, and latency can diminish the enjoyment of live events. I am hopeful that this hearing can be part of an increased focus on the needs of viewers when it comes to video content online and sports in particular.