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January 29, 2015

Honorable Rick Snyder  
Governor of Michigan

Honorable Members of the Senate  
Secretary of the Senate

Honorable Members of the House of Representatives  
Clerk of the House of Representatives

The enclosed annual report, Status of Competition for Video Services in Michigan, is submitted on behalf of the Michigan Public Service Commission (Commission) in accordance with Section 12(2) of the Uniform Video Services Local Franchise Act (2006 PA 480, or the Act). This report will be made available on the Commission's website at [michigan.gov/mpsc](http://michigan.gov/mpsc). The purpose of this report is to describe the status of competition for video/cable services in Michigan. This report also details Commission activities for 2014 and provides an overview of the survey responses from franchise entities and video/cable service providers.

There are now 42 video/cable providers offering service to over 2.3 million video/cable customers in Michigan. Subscribership decreased by over 17,000 from 2013, and providers are continuing to report more competition in their franchise areas. Providers reported investing over \$3.1 billion into the Michigan market since the Act became effective.

Investment by video/cable providers in Michigan continues to increase. The number of complaints and inquiries received by the video franchise Staff at the Commission has continued to rise as well. The Commission will continue to educate and inform customers of the dispute resolution process adopted in 2009, and will continue to monitor complaints regarding video/cable services in Michigan.

Similar to previous reports, it is noted that the Act does not cover satellite providers and as such this report does not include information on satellite providers which are viewed as a competitor to video/cable service providers.

The Commission also provides recommendations for legislative revisions pursuant to Section 12(2) of 2006 PA 480 to help improve the Commission's ability to more effectively implement provisions of the Act.

January 30, 2015

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The Commission will continue to monitor the status of video/cable services competition in Michigan, which includes receiving and analyzing information from both franchise entities and video/cable service providers throughout Michigan. The Commission will also continue to assist individual customers, franchise entities, and providers with their questions and/or complaints. Finally, the Commission will inform the Governor and Legislature of any future developments and make the appropriate recommendations for needed legislation.

Sincerely,



John D. Quackenbush, Chairman  
Michigan Public Service Commission



Greg R. White, Commissioner  
Michigan Public Service Commission



Sally A. Talberg, Commissioner  
Michigan Public Service Commission

# **STATUS OF COMPETITION FOR VIDEO SERVICES IN MICHIGAN**

**John D. Quackenbush, Chairman  
Greg R. White, Commissioner  
Sally A. Talberg, Commissioner**

**MICHIGAN PUBLIC SERVICE COMMISSION**  
Department of Licensing and Regulatory Affairs  
In compliance with Public Act 480 of 2006

January 29, 2015



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## **Introduction**

On January 1, 2007, the Uniform Video Services Local Franchise Act (hereinafter referred to as “2006 PA 480” or the “Act”) became effective. Section 12(2) of the Act states:

The commission shall file a report with the governor and legislature by February 1 of each year that shall include information on the status of competition for video services in this state and recommendations for any needed legislation. A video service provider shall submit to the commission any information requested by the commission necessary for the preparation of the annual report required under this subsection. The obligation of a video service provider under this subsection is limited to the submission of information generated or gathered in the normal course of business.

This Act directs the Michigan Public Service Commission (Commission) to provide information regarding the status of competition for video/cable services in Michigan, as well as any recommendations for needed legislation to the Governor and Legislature by February 1 of each year. For the eighth year, the Commission has gathered information regarding the status of competition of video/cable services by developing electronic surveys for use by franchise entities (also referred to as municipalities or communities) and video/cable service providers operating throughout Michigan. The surveys, as well as the information collected from the surveys, are explained in further detail within the body of this report.

In addition to the survey information, this report provides a brief description of the Commission’s role as it pertains to the Act as well as the Commission’s video/cable franchise activities (including complaint handling) throughout the 2014 calendar year. This report also includes information relating to recommendations for legislative changes and the Commission’s conclusion on the status of video/cable competition for 2014.

## **I. Responsibilities and Activities of the Commission**

This section provides an overview and analysis of the responsibilities and activities of the Commission since the Act became effective, and more specifically, during the 2014 calendar year. These responsibilities and activities have been divided into the following categories: Statutory Responsibilities, Outreach and Complaint Handling.

### **A. Statutory Responsibilities**

The Act became effective on January 1, 2007. The Commission established a statewide uniform standardized form to be used by both video/cable service providers (providers) and franchise entities pursuant to Section 2(1) of the Act. The Uniform Video Service Local Franchise Agreement (Agreement) was formally approved on January 30, 2007 by the Commission in Case No. U-15169. The Agreement can be found on the Video/Cable section of the Commission's website.<sup>1</sup>

The Act required the Commission to develop a proposed dispute resolution process, which was submitted to the Legislature in compliance with Section 10(3) of the Act. Public Act 4 of 2009 established the video/cable dispute resolution process. The Commission offers the dispute resolution process for the following types of complaints: customer versus provider; franchise entity versus provider; and provider versus provider.

The Act provides that the Commission shall receive and rule on waiver requests from providers for an extension of requirements in Section 9 of the Act (deployment of services) and provides for the monitoring of the providers' compliance through annual reports. To date, the Commission has not received any such waiver requests.

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<sup>1</sup> The Agreement, as well as the Act, can be located at: [michigan.gov/mpsc/0,1607,7-159-49641---,00.html](http://michigan.gov/mpsc/0,1607,7-159-49641---,00.html).

## **B. Outreach and Customer Education**

Throughout 2014, the Commission's Video Franchise Staff in conjunction with the Commission's Service Quality Staff attended numerous consumer outreach events throughout Michigan. These events allowed Staff to engage directly with Michigan citizens and provide them with Consumer Tips, and answer questions about video/cable matters. Consumer Tips are posted on the MPSC website.<sup>2</sup> Approximately 3,000 video/cable Consumer Tips Sheets were distributed to individuals as well as franchise entities.

Updates and enhancements are continually being made to the Commission's video franchise web page.<sup>3</sup> An interested party can go to the video franchise webpage and click on "Video Cable Providers Offering Service in Michigan" and view an updated list of all video/cable providers offering service as well as contact information for each provider. When Video Franchise staff becomes aware of a new provider or changes to an existing provider, the list is updated accordingly. In addition, there is a link on the video franchise webpage to Michigan's Interactive Broadband Map.<sup>4</sup> The map is detailed, user-friendly, and allows users to see if Internet service – including Internet service offered by a video/cable provider – is available in a particular area, and if so, which providers are offering those services.<sup>5</sup>

Other items on the video franchise web page include: 2006 PA 480, Frequently Asked Questions (FAQs), the Uniform Video Services Dispute Resolution Process (Public Act 4 of 2009), an online complaint form, contact information for Video Franchise, and an archive containing the Video Competition Reports.

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<sup>2</sup> [http://www.michigan.gov/mpsc/0,4639,7-159-16368\\_16408---,00.html](http://www.michigan.gov/mpsc/0,4639,7-159-16368_16408---,00.html)

<sup>3</sup> <http://www.michigan.gov/mpsc/0,1607,7-159-49641---,00.html>

<sup>4</sup> <http://connectmi.org/>

<sup>5</sup> The map provides broadband Internet information from participating providers. In addition, since providers continually expand and enhance their infrastructure, it is recommended that consumers contact the potential provider for assurance that service is available and can be offered.

### **C. Complaint/Inquiry Handling**

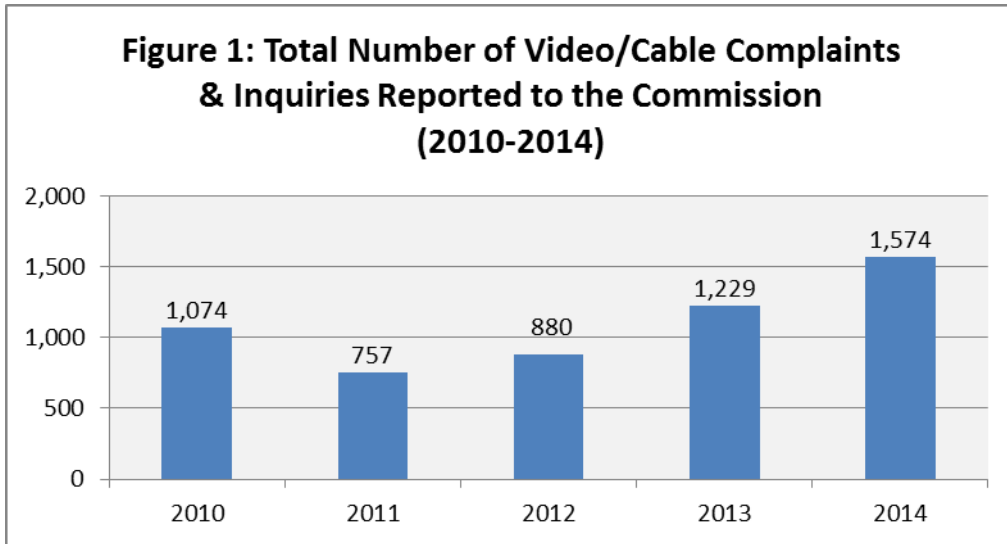
Complaints and inquiries are received by calling the Commission's toll-free and general telephone lines, fax, mail, online complaint form, and customers who walk into the Commission's office. The video/cable franchising section also receives complaint and inquiry referrals from the Governor's office, legislative staff, the Attorney General's office, the Director of the Department of Licensing and Regulatory Affairs, and other state agencies.

When contacting the Commission, a customer record is created for each customer complaint and/or inquiry. These records allow staff to track the history and progress of the customer's complaint to resolution and collect data to analyze complaint and inquiry trends. Video Franchise Staff responds directly to the customer's inquiry or complaint, and when appropriate the complaint is forwarded to a provider complaint representative for resolution. The Commission follows the dispute resolution process as set forth in Public Act 4 of 2009.

#### **1. Informal/Formal Customer Complaints**

The Commission received 1,574 video/cable customer complaints and inquiries from January 1, 2014 to December 31, 2014, which is an increase of 345 complaints and inquiries, 28%, when compared to 2013. Figure 1 below shows the number of video/cable complaints and inquiries filed at the Commission over the past five years (2010 – 2014):

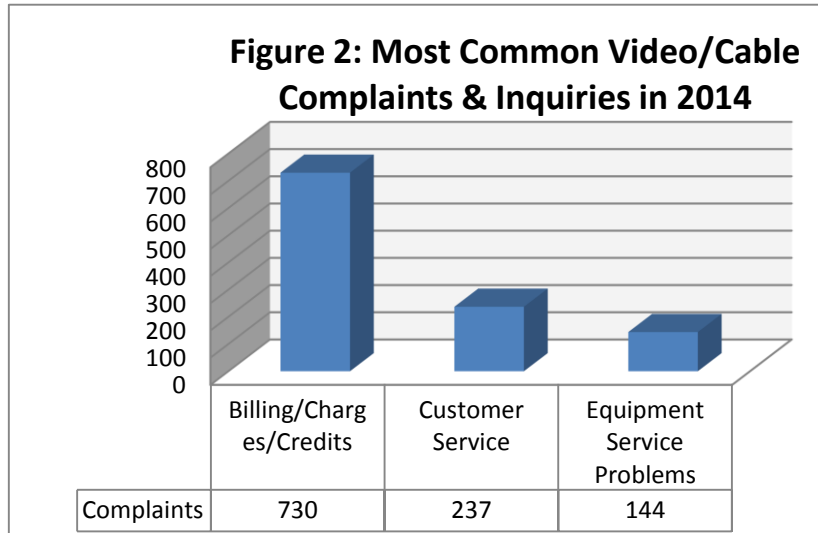




Source: MPSC Complaint Data

The 1,574 complaints and inquiries are those that are fully documented and reported to the Commission and do not include calls where customers were not willing to provide their name and contact information. Follow-up calls and the reopening of a complaint are not documented as a new complaint unless the complaint consists of an additional problem not originally reported by the customer.

The Commission continues to assist customers on a variety of issues concerning billing, equipment service problems, cable line issues, customer service, and request for service – among others. Figure 2 provides a listing of the most common types of video/cable complaints and inquiries filed with the Commission in 2014:



Source: MPSC Complaint Data

Of the 42 cable providers operating in Michigan, the Commission received video/cable complaints and inquiries pertaining to 14 different cable providers. The three providers with the most complaints and inquiries filed with the Commission were Comcast (59 percent), Charter (12 percent) and AT&T (11 percent).

Customers who remain dissatisfied with the informal complaint process have the option to file a formal complaint pursuant to the Act. There were nine formal customer complaints filed in 2014; five of which were mediated and led to the issuance of Commission orders approving the settlements, two were withdrawn by customers, one is proceeding via the mediation process, and one escalated to a formal hearing and is awaiting a Commission order.

## 2. Franchise Entity vs. Video/Cable Provider Complaints

This past year, the Commission received 14 informal complaints between franchise entities and video/cable providers, all of which were successfully mediated by Commission Staff. Issues raised in these complaints involved franchise agreements and the process for completion, rights of way, franchise fees, digital transition/equipment fees, and competition.

The Commission received one formal complaint filed on behalf of a cable provider against a municipality, which is currently proceeding in the formal complaint process.<sup>6</sup>

## **II. 2014 Commission Survey to Franchise Entities and Providers**

As in the past, the Commission developed an electronic survey for franchise entities, as well as a separate survey for providers.

### **A. Franchise Entities' Responses to the Commission Survey**

As in prior years, the Commission made the survey form available on its website for franchise entities to complete. The online survey was available October 31 – November 30, 2014.

Although the franchise entity survey is not mandatory and not required by the Act, it is important to continue collecting information from municipalities regarding the video/cable environment in their communities. Notification letters were sent to over 1,700 municipalities informing them of the location and availability of the survey, and encouraging communities to respond. The Commission also included two Video Franchise Consumer Tips; one that describes the dispute process for customers to file a video/cable complaint, and one for municipalities to file a complaint against a cable provider.

Of the more than 1,700 municipalities that were sent the survey notification letters, 282 communities responded and 142 responded for the first time this year. The compiled responses serve as a cross-section of information necessary for analyzing video/cable service and competition in Michigan. It is important to include this information in this report; however, the

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<sup>6</sup> <http://efile.mpsc.state.mi.us/efile/viewcase.php?casenum=17758>

responses do not necessarily reflect the views of the Commission. Of the municipalities that responded, 86 requested to be placed on the Commission's listserv.<sup>7</sup>

## **1. Complaints**

Of those municipalities that responded to the survey regarding customer complaints, 70 percent indicated they no longer take video/cable complaints. The Commission has informed municipalities about Public Act 4 of 2009 resulting in 71 percent of the respondents in this year's survey stating they are aware of Public Act 4 of 2009, while 78 percent of responding municipalities indicated they are aware the Commission can assist customers, franchise entities, and providers with video/cable inquiries and/or complaints.

The four most frequent complaints received by municipalities are service equipment issues/outages, customer service, rates,<sup>8</sup> and billing issues. Although less frequently, municipalities also received various other complaints.<sup>9</sup> In 2014, 95 percent of respondents indicated they have not had any form of dispute with a provider regarding a franchise agreement.

## **2. Impact of the Video Franchise Act on Communities**

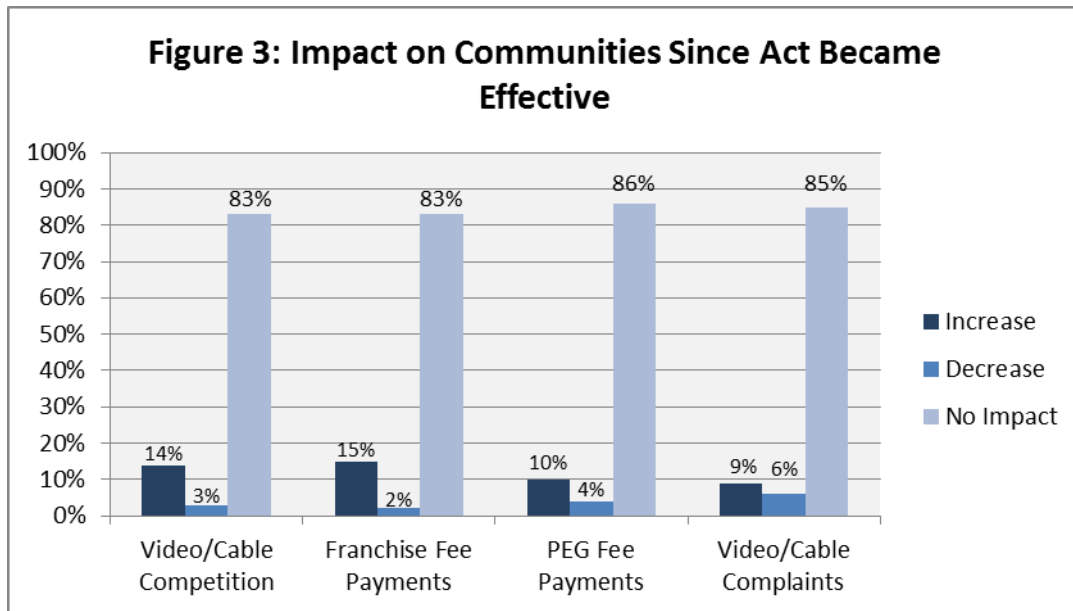
Municipalities were surveyed on the impacts they have witnessed within their communities since the Act took effect. Similar to previous years, the impacts that were highlighted are: Video/Cable Competition, Franchise Fee Payments, Government Programming (PEG) Fee Payments, and Video/Cable Complaints. Figure 3 displays community responses relative to the four categories since the Act became effective.

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<sup>7</sup> The Commission's listserv is an email distribution list to which individuals may voluntarily subscribe to in order to receive updates and information related to the activities at the Commission.

<sup>8</sup> Pursuant to 2006 PA 480, neither the Commission, nor the franchise entity has rate regulatory authority or control over a provider. The Commission does not regulate video/cable rates.

<sup>9</sup> "Other" complaints received included: customer service, lack of quality, availability/no service, expansion of services/lack of development, channel line-up/programming, lack of competition/monopoly, unburied/low hanging cable, property damage, equipment fees, maintenance issue/technical assistance, and no local facility.



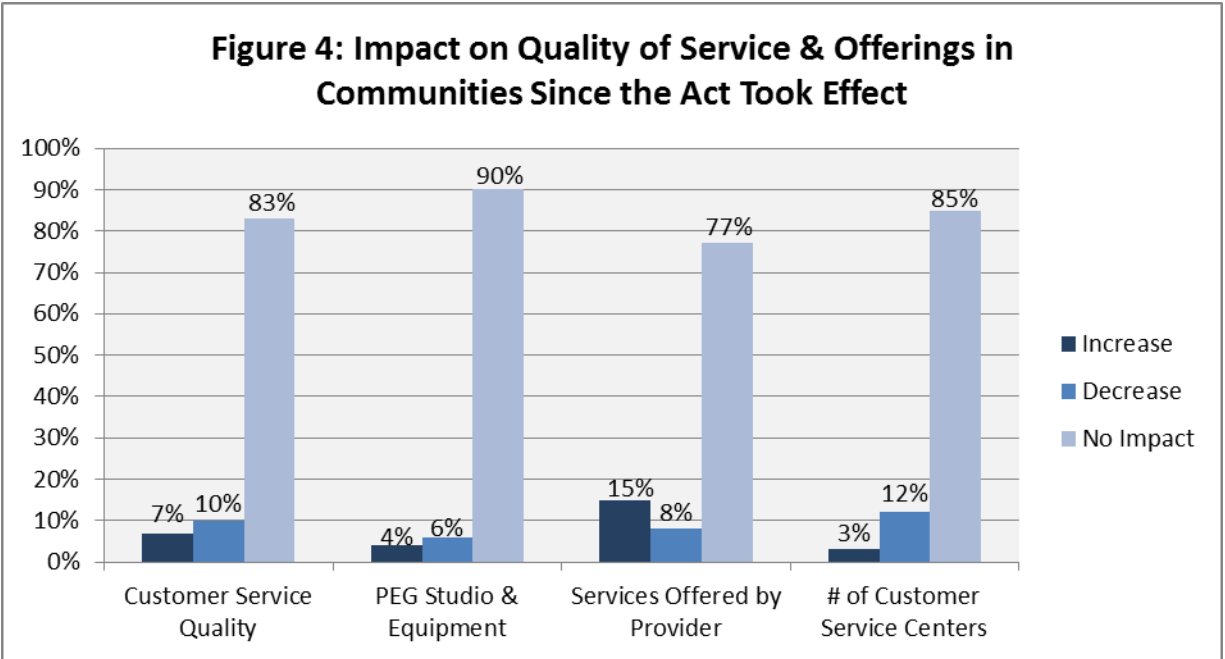
Source: MPSC Franchise Entity Survey

Similar to previous years, a high percentage of communities that responded reported no impact in each of the four categories.<sup>10</sup>

### 3. Changes in Quality of Service and/or Service Offerings of Providers

Similar to previous years, the Commission asked the municipalities to report on the changes they perceived to occur throughout their communities during 2014 regarding Customer Service Quality, PEG Studio and Equipment, Services Offered by Provider, and the Number of Customer Service Centers. Figure 4 reflects those responses from the municipalities.

<sup>10</sup> Because those communities that responded to last year's survey are not necessarily the same communities that responded this year, it is important to not make direct comparisons to responses of previous years. In addition, with only 16.5 percent of communities responding, responses may not represent the views of the entire state.



Source: MPSC Franchise Entity Survey

In 2014, a large percentage of municipalities reported “no impact” in each of the four categories since the Act took effect.

Municipalities also provided feedback regarding whether a PEG channel is available. Based on the responses received, 52 percent of municipalities indicated their community has a designated PEG channel.

#### **4. Franchise Entities’ Suggestions or Comments**

Franchise entities were provided the opportunity to offer any comments, recommendations, and/or suggestions.<sup>11</sup> The comments received are summarized in Appendix A attached to this report.

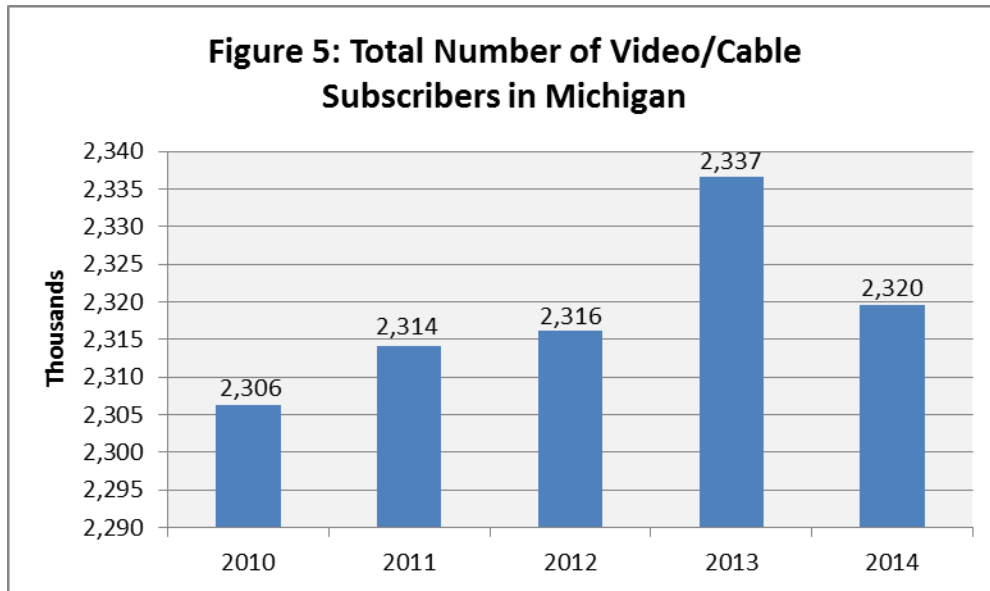
<sup>11</sup> These recommendations and suggestions are the sole opinion of some of the franchise entities and do not necessarily reflect the views of the Commission.

## B. Providers' Responses to the Commission Survey

In 2014, the Commission continued to use its electronic survey to gather responses from providers. The survey notification letter was mailed on November 26, 2014, and sent by e-mail on December 1, 2014 to all providers of video/cable service in Michigan. The survey became available on the Commission web page beginning December 1, 2014. With the merging or closure of some companies, there are now a total of 42 video/cable providers offering service in Michigan compared to 44 providers in 2013.<sup>12</sup>

### 1. Video/Cable Subscribers

During 2014, 2,319,536<sup>13</sup> video/cable customers were reported for Michigan. This is a decrease of 17,020 customers compared to the 2,336,556<sup>14</sup> video/cable customers reported in 2013. Figure 5 shows the evolution in video/cable subscribership since 2010:



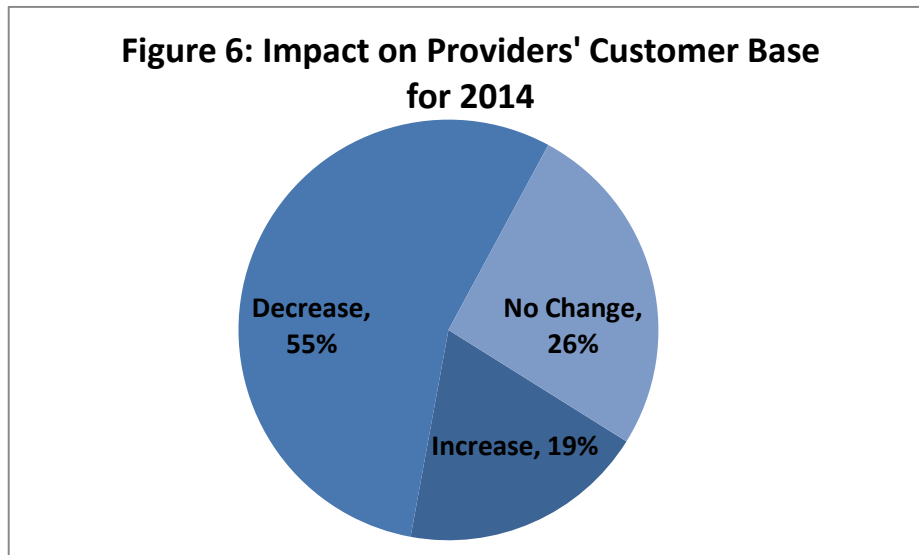
Source: MPSC Provider Survey

<sup>12</sup> MediaGate Digital (dba Crystal Cable) closed, and Allendale Telephone merged with another company.

<sup>13</sup> This represents subscribership from 41 of the 42 providers per the Provider Survey. One cable provider did not supply the requested data; therefore, subscriber information was generated from the assessment information gathered in August for that provider only. This number does not include satellite providers. Satellite providers are not required to have franchise agreements with franchise entities and are not required to report to the Commission.

<sup>14</sup> This number is a corrected number to what was reported in the January 31, 2014 report.

In addition to the overall number of subscribers, Figure 6 shows the trends in providers' customer bases in 2014.



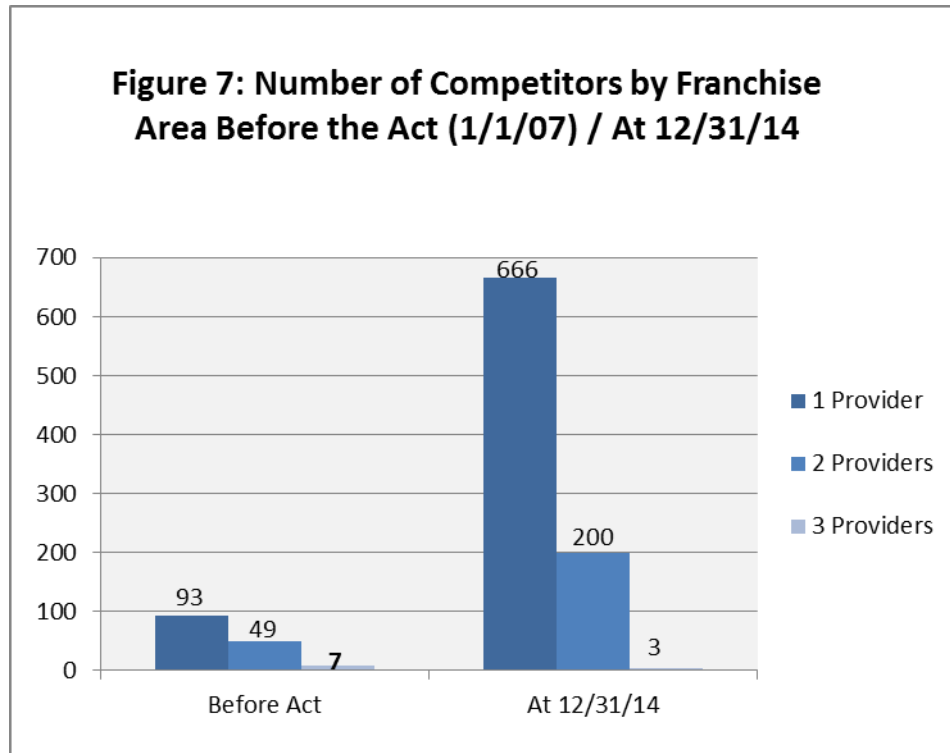
Source: MPSC Provider Survey

## 2. Video/Cable Competition

Overall, there are currently 2,002 franchise agreements in existence in Michigan (both individual franchise agreements entered into before the Act that have not yet expired, and the Uniform Video Service Local Franchise Agreements as required by the Act). When compared to 2013, this represents an increase of 33 franchise agreements. Of the 2,002 existing franchise agreements, 1,584 (79 percent) are now using the Uniform Video Service Local Franchise Agreement, an increase of 90 from the previous year.

Consistent with previous years, the Commission asked providers to submit information regarding the competition encountered in their franchise areas. Providers' submitted information on the number of competing providers encountered in their franchise areas before and since the Act took effect. Similar to previous years, providers have reported a continued increase in competitors entering their franchise areas. Figure 7 shows this comparison.





Source: MPSC Provider Survey

### 3. Disputes

Only three providers reported having an informal or formal dispute with a franchise entity regarding an Agreement. The disputes involved PEG fees and completeness of the Agreement.

### 4. Investment in Michigan

Similar to previous years, the Commission requested information from providers regarding how many dollars they have invested in Michigan. Twenty seven of the 42 video/cable providers reported investing a total of \$388,851,551 in the Michigan video/cable market during 2014 and over \$3.1 billion since the Act took effect.

### 5. Cable Providers' Comments

As with the franchise entity survey, cable providers were also given the opportunity to provide comments/suggestions. The comments received included: a) a concern about increased

difficulty to operate due to high increases in retransmission agreements, and due to demographics are unable to charge higher rates for their services as they have already been faced with a 400% increase just for signal, b) the rebuilding of a provider's network to an all-digital system has now provided additional channels and increased internet speeds, and c) upgrades to a provider's cable system helped to increase their bandwidth and added 200+ Michigan jobs and now provides better services for customers.

### **III. Recommendations**

This section provides the Commission's recommendations for legislative action pursuant to Section 12 (2) of the Act. The Commission offers the following four areas for consideration.

The first matter concerns the Commission's ability to continue administering the Act. Section 15 of the Act as amended in 2009 provides for the Commission to recover its actual costs in exercising its duties under the Act by an assessment on each video service provider doing business in Michigan. Section 15 states as follows:

Sec. 15. (1) Effective January 1, 2010, the commission within 30 days after the enactment into law of any appropriation to it shall ascertain the amount of the appropriation attributable to the actual costs to the commission in exercising its duties under this act and that amount shall be assessed against each video service provider doing business in this state. Each provider shall pay a portion of the total assessment in the same proportion that its number of subscribers for the preceding calendar year bears to the total number of video service subscribers in the state. The total assessment under this section shall not exceed \$1,000,000.00 annually.

(2) For the state fiscal year commencing October 1, 2009 and annually thereafter, there shall be deducted from any amount to be assessed under subsection (1) an amount equal to the difference by which the actual expenditures of the commission attributable to exercising its duties under this act for the previous fiscal year are less than the amount assessed against each video service provider in the previous fiscal year. The deductions shall be made in the same proportion as the original assessment in subsection (1).

(3) All money paid into the state treasury by a video service provider under subsection (1) shall be credited to a special account, to be utilized solely to finance the cost to the commission of exercising its duties under this act.

(4) This section does not apply after December 31, 2015.

Section 15 sunsets on December 31, 2015 and the Commission recommends that the Legislature take action to extend this sunset date. Extending the sunset date would allow for the Commission to have adequate funding to continue to carry out its responsibilities under this Act.

Second, the Commission recommends that the Legislature extend the due date of the Commission's Annual Report from February 1 of each year, to March 1 of each year. The current due date makes it difficult for respondents to provide timely and accurate year-end information to the Commission. This narrow timeline to receive information from respondents and thoroughly analyze that information so that the Commission can provide a report to the Legislature by February 1 forces the Commission to rely on estimates in some areas instead of actual numbers.

Third, the Commission recommends language be added to the Act similar to the language currently found in Section 211(a) of the Michigan Telecommunications Act, which requires the provider to register the following information with the Commission: the name of the provider; a description of the services provided; the address and telephone number of the provider's principal office; the address and telephone number of the provider's registered agent authorized to receive service in this state; and any other information the Commission determines is necessary. This contact information is necessary so the Commission has accurate contact information available to it for complaints, as well as for future information and data collection.

Fourth, the Commission recommends that if a company changes its name, goes out of business, or is merged into another company, it be required to notify the Commission of this change. Providers do not submit their Franchise Agreements to the Commission; the Franchise

Agreements are submitted to the individual franchise entities. As such, this information is not available to the Commission.

The Commission will continue to monitor the status of video/cable services competition in Michigan and inform the Legislature of any further recommendations for needed legislation.

#### **IV. Conclusion**

The Commission, adhering to its responsibilities as set forth in Section 12(2) of the Act, provides the Legislature and Governor with this report that includes information related to the Commission's role, activities, and responsibilities, as well as summarizes the information that has been collected from franchise entities and providers, and the Commission's legislative recommendations.

The number of providers reporting other competitors within their franchise areas continues to increase. Financial investment in Michigan by video/cable providers has also continued to increase. In addition, the number of video/cable complaints and inquiries reported to the Commission increased in 2014 as well. The Commission will continue to educate and inform customers of the dispute resolution process, and will continue to address complaints regarding video/cable services in Michigan.

## APPENDIX A

### **Franchise Entities' Suggestions or Comments**

Franchise entities were provided the opportunity to offer comments, recommendations, and/or suggestions.<sup>15</sup> Those comments are summarized below.

Municipalities stated they have not seen the predicted benefits of the Act and customers' cable costs have risen while services offered by providers have decreased. They indicated competition has either stayed the same or decreased and residents want more options and customer service centers located within their service area. Some reported providers should not be able to charge an additional fee for each cable box and that providers were more accommodating prior to the Act. One municipality stated providers should provide free internet to city owned buildings as well as "a la carte" options for customers at reasonable prices.

Similar to last year, municipalities reported providers are not doing enough in rural areas. One municipality reported having difficulty getting a provider to build out and that since the Act took effect it has been only beneficial for the cable/video industry while hurting rural area customers' ability to obtain internet services. Another municipality stated they have repeatedly requested a provider upgrade service so premium cable channels and high speed internet would be available but are denied due to the provider's budget. One municipality requested providers should offer a more detailed map which would be beneficial to customers.

Municipalities also requested a requirement that all providers should provide service to all existing areas if they are receiving monies within a specified area - not to service only areas with the highest density and deny providing service to an immediate area where there is a higher cost to provide service. Some municipalities indicated displeasure that providers' infrastructure

consists of “looping,” abandoned, and low-hanging cable lines. Municipalities expressed they would like to be given the ability to drive franchise agreement expansion. One municipality stated they would like to have other broadcasting channels available in their areas. A reoccurring comment from municipalities indicated dissatisfaction with providers changing channel lineups/eliminating channels as costs continue to rise.

Municipalities also shared comments regarding PEG channels. Comments included that one provider is avoiding paying PEG fees to a municipality but still charging customers for PEG, while another indicated a provider was not listing PEG channels appropriately. One community stated they would like the PEG channel broadcasted in HD as well as the channel placed in the same tier as basic channels. One municipality stated they would like legislation passed that allowed municipality-ran video systems to be more competitive.

One comment received indicated the Comcast merger with Time Warner Cable would demonstrate a violation of antitrust laws and would decrease competition overall in the industry especially in the Midwest. Municipalities also stated there is a rise in providers offering to provide service – but without a franchise agreement.

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<sup>15</sup> These recommendations and suggestions are the sole opinion of some of the franchise entities and do not necessarily reflect the views of the Commission.