



Status of Competition for Video Services in Michigan

In compliance with Public Act 480 of 2006

January 31, 2020

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Contents

Executive Summary 1

Introduction..... 3

Responsibilities and Activities of the Commission..... 3

 Statutory Responsibilities..... 3

 Outreach..... 5

 Complaint/Inquiry Handling 5

 Informal/Formal Customer Complaints 6

 Franchise Entity vs. Video/Cable Provider Complaints 8

2019 Commission Survey to Franchise Entities and Providers 9

 Franchise Entities’ Responses to the Commission Survey 9

 Complaints..... 9

 Impact of the Video Franchise Act on Communities 10

 Changes in Quality of Service and/or Service Offerings of Providers..... 10

 Franchise Entities’ Suggestions or Comments 11

 Providers’ Responses to the Commission Survey 13

 Video/Cable Subscribers 13

 Video/Cable Competition 14

 Disputes 15

 Investment in Michigan 15

 Video/Cable Providers’ Improvements/Enhancements in 2019..... 16

Recommendations..... 17

Conclusion 18

Executive Summary

This annual report, submitted by 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), describes the status of competition for video/cable services in Michigan. There are currently 37 video and cable television providers offering service to Michigan customers, a slight reduction from the 39 providers offering service in 2018, and they are continuing to report more competition in their franchise areas since the Act took effect. This report provides information regarding the responsibilities and activities of the Commission, the results from the 2019 Commission survey to gather information from franchise entities and video/cable providers, as well as recommendations to the Legislature. It is important to note that the Act does not provide jurisdiction over satellite television providers and as such, this report does not include information regarding satellite providers or their customers.

The Commission continues to educate and inform customers of the dispute resolution process that was adopted in 2009 and will continue to oversee complaints regarding video/cable services in Michigan. 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 the state. The Commission will also continue to assist individual customers, franchise entities, and providers with their questions and/or complaints, as well as inform the Governor and Legislature of any future developments and make the appropriate recommendations for needed legislation.

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 thirteenth year, the Commission has collected 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) during 2019. This report also includes information relating to recommendations for legislative changes and the Commission's conclusion on the status of video/cable competition for 2019.

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 2019 calendar year. These responsibilities and activities have been divided into the following categories: Statutory Responsibilities, Outreach, and Complaint Handling.

Statutory Responsibilities

This 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.¹

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 vs. provider; franchise entity vs. provider; and provider vs. provider.

The Act provides that a video service provider shall not deny access to service to any group of potential residential customers because of the race or income of the residents, pursuant to Section 9. In addition, the Act also 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. Commission Staff follow-up annually with the appropriate video/cable providers to ensure compliance with this section of the Act. To date, the Commission has not received any such waiver requests.

The Act also provides that video/cable providers shall notify their customers of the dispute resolution process under Section 10 of the Act. Commission Staff follow-up with video/cable providers annually to ensure compliance with the Act.

Lastly, the Act also requires providers to submit to the Commission any information requested by the Commission necessary for the preparation of the annual report required under Section 12 of the Act.

The Commission issued two Show Cause orders in 2019 against video/cable providers for possible violations of the Act (U-20504 and U-20505).² In Case No. U-20504, the Commission issued an

¹ The Agreement, as well as the Act, can be located at: https://www.michigan.gov/mpsc/0,9535,7-395-93309_93439_93464_94117_94119---,00.html

² U-20504, Commission Show Cause Order against Martell Cable Service, Inc. (See: <https://mi-psc.force.com/s/case/500t000000G2YNMAA3/in-the-matter-on-the-commissions-own-motion-directing-martell-cable-services-inc-to-show-cause-why-it-should-not-be-found-to-be-in-violation-of-the-uniform-video-services-local-franchise-act-2006-pa-480-mcl-4843301-et-seq>) and U-20505, Commission Show Cause Order against Negaunee Cable Co. (See: <https://mi-psc.force.com/s/case/500t000000G2YPIAA3/in-the-matter-on-the-commissions-own-motion-directing-negaunee-cable-co-to-show-cause-why-it-should-not-be-found-to-be-in-violation-of-the-uniform-video-services-local-franchise-act-2006-pa-480-mcl-484-3301-et-seq>). Both Show Cause Orders pertained to potential violations of Section 9 and 12 of the Act.

order fining the provider \$1,500 for three violations of the Act. For Case No. U-20505, it was determined that the provider had ceased operations and ceased to exist prior to the due date of the required company filings. The Commission dismissed Case No. U-20505.

Outreach

Commission Staff continue to make efforts to communicate and meet with representatives from various cable companies as well as local municipalities to keep communication open between the Commission and those impacted by the Act. Similar to previous years, Staff mailed copies of the Commission's Video/Cable Consumer Tips to over 1,700 municipalities in 2019 in an effort to have the municipalities share the dispute resolution process and Commission's contact information with their residents, as well as provide information to municipalities regarding any issues that they may be encountering with their video/cable provider.

Updates and enhancements are continually being made to the Commission's video franchise webpage.³ The video franchise webpage provides a link to "Video/Cable Providers Offering Service in Michigan", where a person can view an updated list of all video/cable providers offering service, as well as contact information for each provider. In addition, there is a link on the video franchise webpage to Michigan's Interactive Broadband Map⁴. 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.⁵

Other items on the video franchise webpage include: 2006 PA 480, Frequently Asked Questions (FAQs), the Uniform Video Services Dispute Resolution Process (Public Act 4 of 2009), the Uniform Video Services Local Franchise Agreement, Video/Cable Consumer Tips⁶, information on the process for filing an informal or formal complaint, an online complaint form, contact information for Video Franchise, and an archive containing previous Video Competition Reports.

Complaint/Inquiry Handling

Consumers can contact the Commission with complaints and inquiries using several methods: by calling the Commission's toll-free telephone line, faxing, mailing, submitting an online complaint form, or filing a complaint in person at the Commission office. Commission Staff also receives complaint and inquiry referrals from the Governor's office, legislative staff, the Attorney General's

³ MPSC Video/Cable webpage:

https://www.michigan.gov/mpsc/0,9535,7-395-93308_93325_93425_94040_94044---.00.html

⁴ https://www.michigan.gov/mpsc/0,9535,7-395-93309_93439_93464_94143-502822--.00.html

⁵ 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.

⁶ https://www.michigan.gov/mpsc/0,9535,7-395-93308_93327_93335_94463_94468---.00.html

office, the Director of the Department of Licensing and Regulatory Affairs, and other state agencies.

After contacting the Commission, a customer record is created for each customer complaint and/or inquiry. These records allow the Commission to track the history and progress of the customer's complaint from initial contact to resolution and collect data to analyze complaint and inquiry trends. Commission Staff respond directly to a customer's inquiry or complaint, and complaints are forwarded to a video/cable provider complaint representative for resolution. The Commission follows the dispute resolution process as set forth in Public Act 4 of 2009.

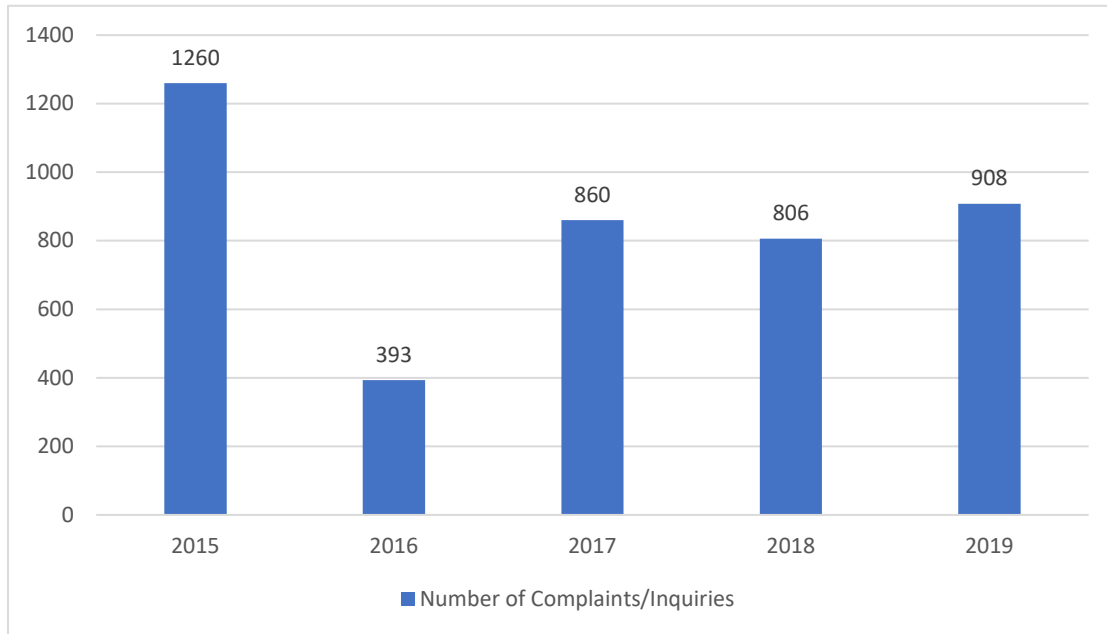
Informal/Formal Customer Complaints

The Commission received 908 video/cable customer complaints and inquiries from January 1, 2019 to December 31, 2019, a 13 percent increase over 2018. Figure 1 below shows the number of video/cable complaints and inquiries filed at the Commission over the past five years (2015 – 2019):⁷

⁷ As noted in last year's annual report, due to a lack of funding authority at that time, MPSC Video/Cable operations ceased between January 1, 2016 and June 30, 2016, resulting in a lower number of complaints handled in 2016.

Figure 1

Total Number of Video/Cable Complaints & Inquiries Reported to the Commission (2015-2019)

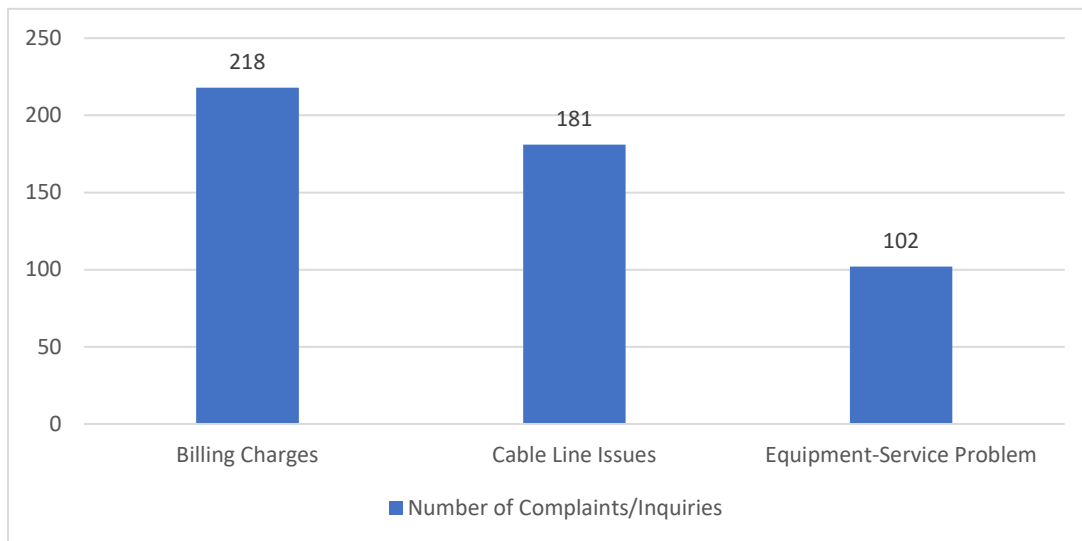


Source: MPSC Complaint Data

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.

Commission Staff continues to assist customers on a variety of issues regarding billing, false/misleading information, 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 2019:

Figure 2
Most Common Video/Cable Complaints & Inquires



Source: MPSC Complaint Data

The numbers above show a significant increase over the complaints and inquiries made in 2018, including an increase in billing charge issues (up from 121 to 218) and cable line issues (up from 106 to 181). Of the 37 cable providers operating in Michigan, the Commission received video/cable complaints and inquiries pertaining to 11 different cable providers. The three providers with the most complaints filed with the Commission in 2019 were Comcast (42 percent), AT&T (24 percent) and Charter (20 percent).

Customers who remain dissatisfied with the complaint resolution offered during the informal complaint process have the option to file a formal complaint pursuant to the Act. There were six formal customer complaints (U-20454, U-20570, U-20624, U-20636, U-20663, and U-20656) filed in 2019, one of which was withdrawn, four were not found to be prima facie, and one that was dismissed. Again, this is twice the number of formal complaints filed in 2018. The Commission issued one Order (U-20352) in 2019 on a formal complaint that had originally been filed in 2018. The Commission found that the complaint should be dismissed.

Franchise Entity vs. Video/Cable Provider Complaints

The Commission received one complaint filed on behalf of a franchise entity against a video/cable provider in 2019. The complaint was filed pursuant to the Act, and the franchise entity requested that the Commission Staff conduct an informal mediation in an attempt to resolve the dispute. With the assistance of the Commission Staff, the parties were able to resolve the dispute and the informal complaint was withdrawn.

2019 Commission Survey to Franchise Entities and Providers

As in the past, the Commission continued to use its electronic survey for franchise entities, as well as a separate survey for providers.

Franchise Entities' Responses to the Commission Survey

Similar to previous years, the Commission posted the survey form on its website for franchise entities to complete. The online survey was available October 18 – November 15, 2019.

Although the franchise entity survey is not mandatory and not required by the Act, the Commission believes 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 encouraged communities to respond. The Commission also included with the notification letter two Video Franchise Consumer Tip Sheets, one that describes the dispute process for customers to file a video/cable complaint, and one for municipalities that explains the process to file a complaint against a video/cable provider.

Of the more than 1,700 municipalities that the survey notification letters were sent to, 345 communities responded and 96 responded for the first time this year. The compiled responses provide a cross-section of information necessary for analyzing video/cable service and competition in Michigan. The Commission believes it is important to include this information in this report; however, the responses do not necessarily reflect the views of the Commission.

Complaints

Of those municipalities that responded to the survey regarding customer complaints, 83 percent indicated they no longer take video/cable complaints. The Commission has continued to try to inform municipalities about Public Act 4 of 2009 (the dispute resolution process), resulting in 68 percent of the respondents in this year's survey stating they are aware of Public Act 4 of 2009. 72 percent of responding municipalities indicated they are aware the Commission can assist customers, franchise entities, and providers with video/cable inquiries and/or complaints.

Of those municipalities that continue to respond to video/cable complaints from their residents, the four most frequent complaints received by municipalities are rates⁸, service equipment issues/outages, customer service, and billing issues. Although less frequently, municipalities also received various other complaints⁹. In 2019, 99 percent of respondents indicated they have not had any form of dispute with a provider regarding a franchise agreement.

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

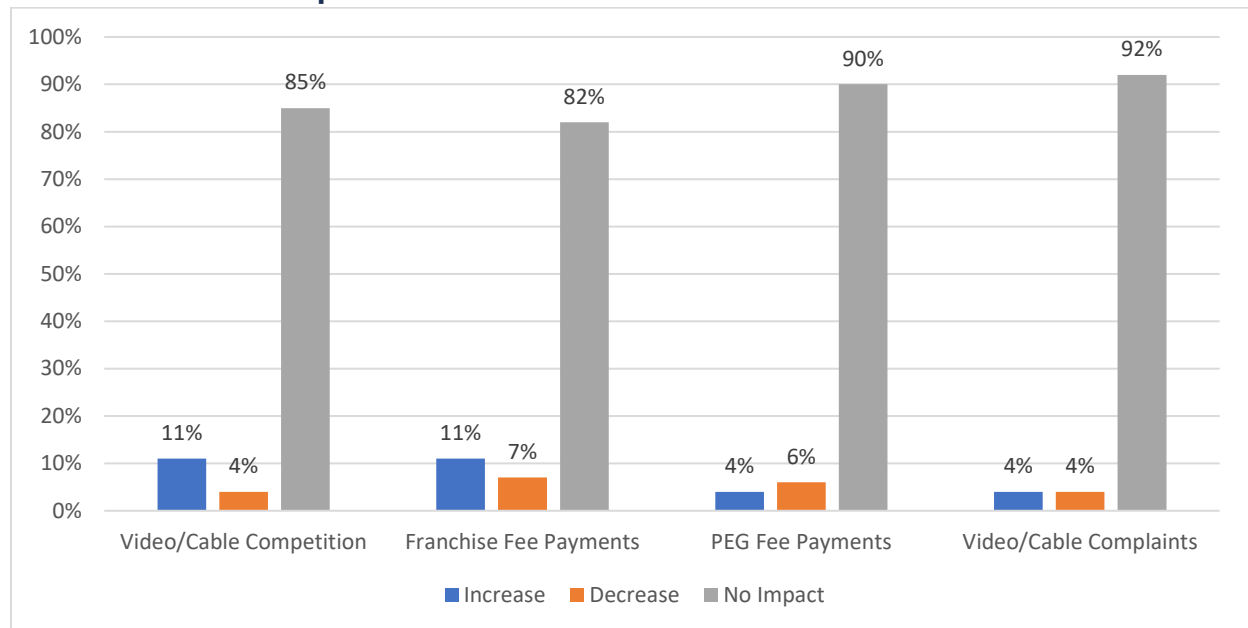
⁹ "Other" complaints received included: lack of access or no choice, and cable line issues.

Impact of the Video Franchise Act on Communities

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

Figure 3

Impact on Communities Since Act Became Effective



Source: MPSC Franchise Entity Survey

Again, like previous years, a high percentage of communities that responded reported no impact in each of the four categories.¹⁰

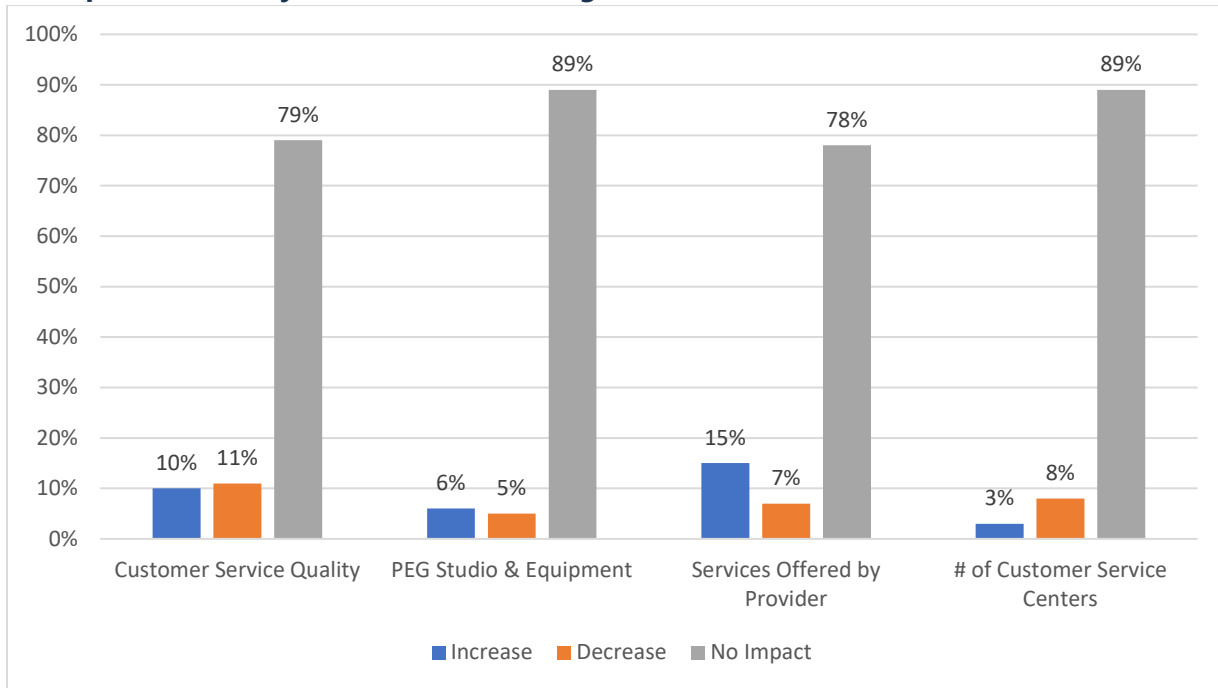
Changes in Quality of Service and/or Service Offerings of Providers

As in previous years, the Commission asked the municipalities to report any changes they perceived during 2019 regarding Customer Service Quality, PEG Studio and Equipment, Services Offered by Providers, and the Number of Customer Service Centers. Figure 4 reflects those responses from the municipalities:

¹⁰ It is important to keep in mind that those communities that responded last year are not necessarily the same communities that responded this year. Therefore, it is important not to make a direct comparison and assume that this is representative of the entire state.

Figure 4

Impact on Quality of Service & Offerings in Communities Since Act Became Effective



Source: MPSC Franchise Entity Survey

For 2019, 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, 32 percent of municipalities indicated their community has a designated PEG channel.

Franchise Entities’ Suggestions or Comments

Franchise entities were provided the opportunity to offer any comments, recommendations, and/or suggestions.¹¹ The following summarized comments, organized by topic area, were received by the Commission:

¹¹ These recommendations and suggestions are the sole opinion of some of the franchise entities and do not necessarily reflect the views of the Commission. These recommendations and comments are the views of only those franchise entities who provided comment, and do not necessarily reflect the same opinion of other franchise entities throughout Michigan.

Access:

For several of the franchise entities that submitted comments in the survey, the franchise entities stated that access to service is a problem, due to their location and/or sparse population. A few commented that they don't have any franchise agreements for video/cable service; their residents only have a satellite service option. One franchise entity commented that approximately 25% of the residents cannot receive cable and must turn to alternatives. Another franchise entity felt that the MPSC should require continuing infrastructure creation so a whole township can be served. Another franchise entity commented that despite repeated requests to video/cable providers for upgrades in their area, video/cable providers have cited high costs as the reason for not building into the community.

Competition:

A few franchise entities commented that lack of competition is still a concern within their community. One commented that small providers are unable to compete because of the cost of bringing cable into an area. Another franchise entity commented that they are at a competitive disadvantage because of where they work and live.

Rates:

A few franchise entities mentioned concerns regarding rates. One franchise entity stated that the costs for cable should be mandated so companies are not allowed to overcharge customers. Another franchise entity mentioned that the MPSC should listen to municipalities to decrease prices.

Functionality of the Video Survey:

Some franchise entities provided feedback regarding the MPSC's video franchise entity survey. They offered suggestions regarding changes that could be made to the survey.

Miscellaneous Comments:

There were a few franchise entities that had specific comments that were not mentioned by other franchise entities. One such franchise entity stated that it would be helpful if the video/cable provider offered some necessary video operating equipment to the community. Another franchise entity noted concerns regarding the Act, and the timeframe for the renewal process. The franchise entity suggests changing the 30-day timeframe to 45 days, to allow a community's board more time to approve the agreement and process the paperwork. Lastly, a franchise entity stated concerns regarding changes that were being made by the Federal Communications Commission about franchise fees and how they could have a severely negative impact on the support of their Public, Education, Government (PEG) channel.

Providers' Responses to the Commission Survey

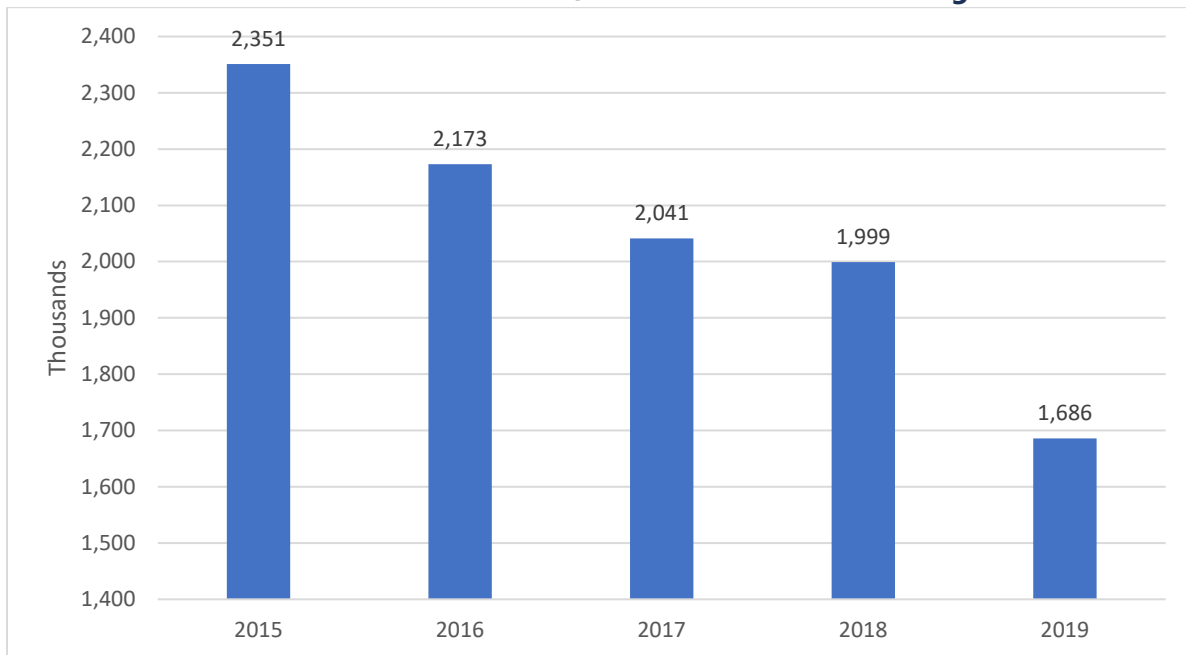
In 2019, the Commission continued to use its electronic survey to gather responses from providers. The survey notification letter was sent by e-mail on December 2, 2019 to all providers of video/cable service in Michigan. The survey was also available on the Commission's webpage beginning December 2, 2019. Accounting for any closures and/or mergers of companies and with the addition of new providers, there are now a total of 37 video/cable providers offering service in Michigan, a decrease of 2 from 2018¹²

Video/Cable Subscribers

During 2019, there were a total of 1,686,006¹³ video/cable customers reported for Michigan. This is a decrease of 313,066 customers compared to the number reported in 2018 - a trend that appears to be consistent with the national trend as consumers shift away from subscribed video services to video streaming services over the internet. Figure 5 shows the evolution in video/cable subscribership since 2015:

Figure 5

Total Number of Video/Cable Subscribers in Michigan



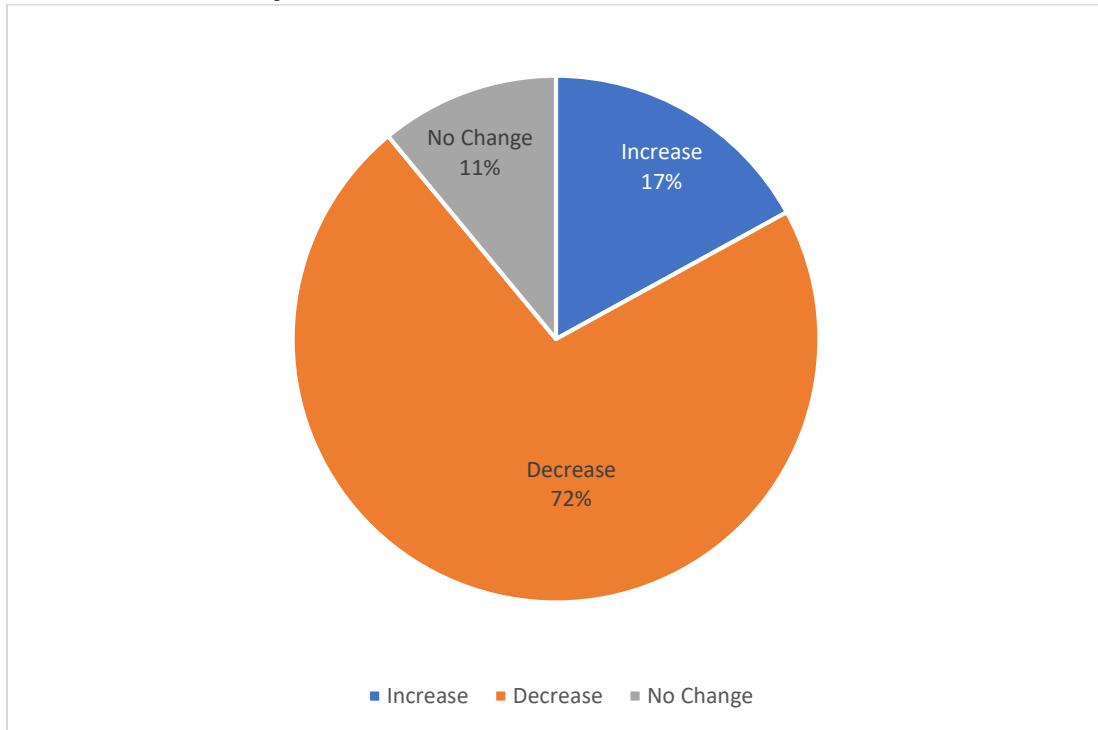
Source: MPSC Provider Survey

¹² Negaunee Cable Company and Mutual Data Services notified the Commission in 2019 that they are no longer providing video/cable service in Michigan.

¹³ 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.

In addition to the overall number of subscribers, Figure 6 shows the cumulative breakdown of the providers' customer bases in 2019:

Figure 6
Impact on Providers' Customer Base (2019)



Source: MPSC Provider Survey

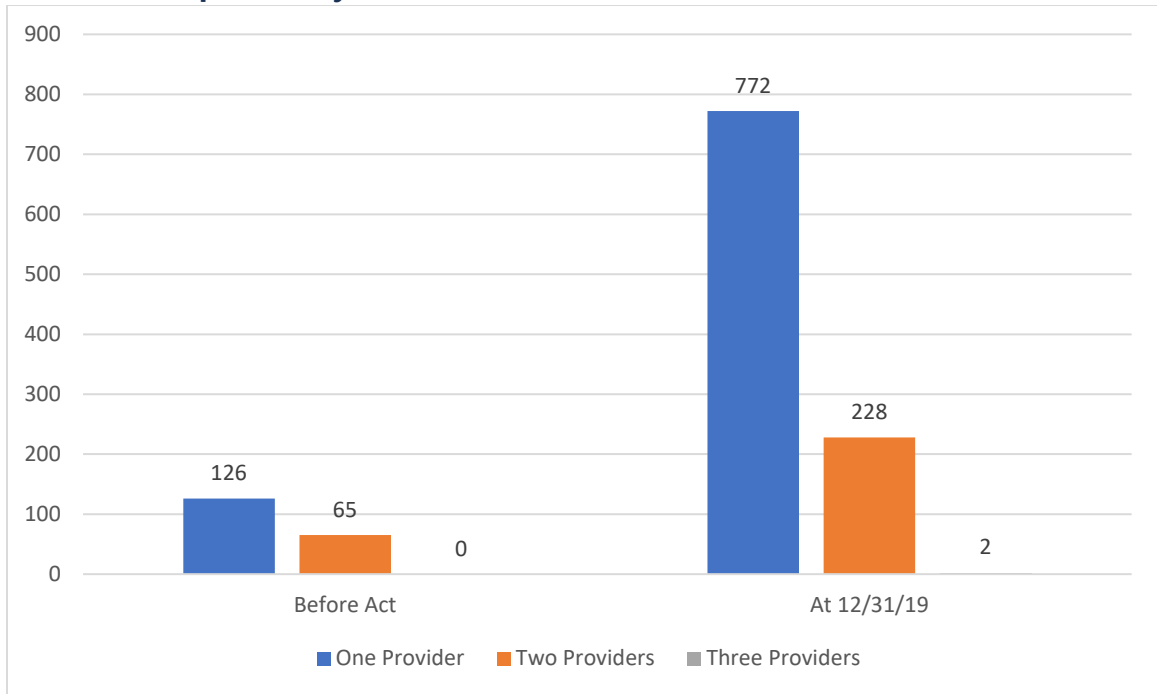
Video/Cable Competition

Overall, there are currently 2,104 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 2018, this number remains the same.

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 existing in their franchise areas before and since the Act took effect. Like previous years, providers have reported a continued increase of competitors entering their franchise areas. Figure 7 shows this comparison:

Figure 7

Number of Competitors by Franchise Area Before Act (1/1/07) and At (12/31/19)



Source: MPSC Provider Survey

Disputes

One provider reported having an informal dispute with a franchise entity regarding their Uniform Video Services Local Franchise Agreement. The dispute involved PEG fees.

Investment in Michigan

Like previous years, the Commission requested information from providers regarding how many dollars they have invested into the Michigan market.¹⁴ Twelve (12) of the 37 video/cable providers reported investing over \$4.3 million into the Michigan video/cable market during 2019. This represents an increase over the \$3 million in investment reported in 2018.

¹⁴ The information that was submitted by the providers was done so on a voluntary basis.

Video/Cable Providers' Improvements/Enhancements in 2019

Video/Cable providers were also given the opportunity to provide information regarding improvements/enhancements to customer service, technical upgrades, or any other improvements made in 2019.¹⁵ Video/Cable providers offered the following information regarding improvements and/or enhancements they have made in 2019 regarding customer service, technical upgrades, service offerings, etc.:

Charter continues to offer one-hour appointment windows for service visits, including evenings and weekends. With the launch of Spectrum Mobile, Charter has opened additional retail locations to better serve its customers. Through continued investment and upgrades, Charter stated that it offers 100 megabits per second (Mbps) service, as well as 400Mbps residential speeds and Gigabit residential service in its entire Michigan footprint. Charter stated that it continues to deliver a wide range of TV, internet and voice services to residential and business customers through the Spectrum brand. Lastly, Charter highlighted its low-cost high-speed broadband program, Spectrum Internet Assist, which is aimed at helping bridge the digital divide.

ATI Networks replaced several transceivers that had become obsolete due to ATI being on an analog system. ATI is currently looking to migrate to ISP delivery of channels which will allow ATI to improve their end user service options and expand our network to include direct fiber and wireless high-speed internet distributed services. ATI stated that they have expanded their reach across Michigan via Fiber optic distribution and hope to be able to achieve more territory opportunities.

Buckeye Cablevision, Inc. added 160 miles of fiber plant. They also incorporated an IPTV option for customers; upgraded fiber-to-the-home (FTTH) delivery in some areas from RFoG to GPON; and upgraded DOCSIS high-speed data platform.

CCI Systems Inc., dba Astrea initiated upgrades to acquired service areas to 750Mhz head ends for better quality video and internet.

D&P Cable added a new mini package cable offerings that allow customers more flexibility when selecting cable from D & P. They also upgraded internet speeds to a new minimum speed of 25MB for all non-DOCSIS 2.0 customers. Buckeye also continued to increase their FTTH footprint by expansion and overbuilding some HFC areas.

Lewiston Communications made channel additions, including HD programming, upgraded their video processing equipment, and built further additions at their Head End location

¹⁵ This information voluntarily submitted to the Commission should not be construed as verified by the Commission, nor should it be construed as the Commission supporting video/cable services of any particular provider.

Michigan Cable Partners optimized fiber optic nodes and upgraded their HITS-NAS format.

Northside TV Corporation upgraded to an all Digital TV and High Definition TV, upgraded their Digital/HD Receivers, and installed a new satellite dish system for better reception of signals.

Parish Communications built all new extensions; these extensions are FTTH and will enhance their video and broadband service.

Sister Lakes Cable added more programming and streaming options.

Town and Country Cable and Telecommunications made upgrades to their video platform.

TVC, Inc. continued to add several new HD channels.

Vogtmann Engineering, Inc. made improvements to their battery backups capabilities to prevent power loss.

Westphalia Broadband enhanced training for their customer service representatives, technicians, and their 24x7 Call Center in an effort to better serve their customers. Westphalia continued to add new channels to their lineup.

Wyandotte Cable continued working on projects that began in 2018. They also began a FTTH system rebuild.

Recommendations

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

First, 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.

Second, 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. Having this information would ensure the Commission has accurate contact information available to it for complaints, as well as for future information and data collection pursuant to the Act.

Third, 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.

Conclusion

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

As in past years, since the Act took effect, there are now hundreds of franchise areas that have at least 2 video/cable providers in those areas. Video/cable providers continue to invest millions in the video/cable market in Michigan, and enhance equipment, infrastructure, and service offerings to customers. 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.

