DOCKET FILE COPY ORIGINAL
RECEIVED
JUL 19 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming	)))	CS Docket No. 96-133

COMMENTS OF PRIMESTAR PARTNERS L.P.

PRIMESTAR PARTNERS L.P. ("PRIMESTAR"), by its attorneys, hereby submits its comments in response to the Commission's Notice of Inquiry ("NOI") in the above-captioned proceeding.[1]

1. Introduction

PRIMESTAR is a satellite direct-to-home ("DTH") distributor of video and audio programming. PRIMESTAR currently uses a medium power Ku-Band satellite ("K-1") licensed to GE American Communications, Inc. ("GE-Americom"). PRIMESTAR plans to continue its service on the medium power successor to K-1, GE-2, which is scheduled for launch early next year. If government regulatory approvals were to be obtained in a timely manner,[2] PRIMESTAR would transition its

---

1 FCC 96-265 (released June 13, 1996).

2 *Application of Western Telecommunications, Inc.*, Public Notice No. DS-1619 (April 10, 1996).

No. of Copies rec'd 0+4
List ABCDE

service from medium power Ku-band to a high power direct broadcast satellite ("DBS") system, where it would be more competitive with DBS services currently being offered by General Motors ("DirecTv"), United States Satellite Broadcasting Company and Echostar Communications Corp., and soon to be offered by a joint venture of MCI and Australian-based News Corp.

Set forth below are responses to certain questions raised by the NOI with respect to which PRIMESTAR has pertinent information or views it wishes to share.

2. Implementation of Section 207 of the 1996 Act

The Commission seeks comments on the effect of its implementation of Section 207 of the Telecommunications Act of 1996[3] on competition in the market for the delivery of video programming. NOI at ¶ 10. Section 207 directs the Commission to adopt "regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through . . . direct broadcast satellite services."[4]

The Commission issued regulations in March of this year preempting local zoning ordinances directed at certain small satellite antennas (including most of those used by PRIMESTAR's customers) and commenced a further proceeding

---

[3] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

[4] Id. at § 207

looking toward preemption of private restrictions on such antennas.[5] The Commission's Report and Order in that proceeding is the subject of numerous petitions for reconsideration, and no decision has been rendered in the Further Notice of Proposed Rulemaking. Although PRIMESTAR has supported the Commission's efforts, given the limited passage of time since the zoning preemption rules were adopted, and the state of flux of the regulations, it is too early to assess the results of the Commission's efforts to date.

3. Statistical Data

At Paragraph 14 of the NOI, the Commission seeks certain factual information regarding video programming distributors. With respect to PRIMESTAR, certain of the requested information is as follows:

a. Number of Subscribers: As of June 30, 1996, PRIMESTAR had 1,231,741 subscribers;

b. Channel Capacity: PRIMESTAR currently offers 95 channels of video and audio programming

c. Regulatory Developments Affecting PRIMESTAR: As noted above, PRIMESTAR's efforts to obtain regulatory approvals

---

5 *Report and Order and Further Notice of Proposed Rulemaking on Preemption of Local Zoning Regulation of Satellite Stations*, IB Docket No. 95-59, FCC 96-78 (released March 11, 1996).

to offer a competitive DBS service have been ongoing, without success, since 1994.[6]

Respectfully submitted,

PRIMESTAR PARTNERS L.P.

By: _____

Benjamin J. Griffin
Kathleen A. Kirby
REED SMITH SHAW & McCLAY
1301 K Street, N.W.
Suite 1100 - East Tower
Washington, D.C. 20005-3317
(202) 414-9200

Its Attorneys

July 19, 1996

---

[6] See *In the Matter of the Applications of TelQuest Ventures, L.L.C. and Western Telecommunications, Inc.*, DA 96-1128 (released July 15, 1996); Advanced Communications Corp., ___ FCC Rcd ___, FCC 95-428, released October 18, 1995, *aff'd*, Advanced Communications Corp., et al. v. FCC, No. 95-1551 (D.C. Cir. 1996), *pet. for rehearing denied*, June 27, 1996.