

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

**In the Matter of** )  
 )  
**REPORT REQUIRED BY THE STELA** )  
**REAUTHORIZATION ACT OF 2014** ) **MB Docket No. 15-43**  
**ON IN-STATE BROADCAST** )  
**PROGRAMMING** )

To: The Commission

**COMMENTS OF VIRGIN ISLANDS PUBLIC TELEVISION SYSTEM**

The Virgin Islands Public Television System, licensee of public television Station WTJX-TV, Charlotte Amalie, St. Thomas, U.S.V.I. (VIPTS), hereby provides its comments for consideration by the Commission in preparation of the report on in-state broadcast programming to be submitted to the appropriate Congressional committees in connection with implementation of Section 109 of the STELA Reauthorization Act of 2014 (STELAR).

1. VIPTS is an agency of the U.S. Virgin Islands that provides noncommercial educational television service to the islands that comprise the Virgin Islands. It is a member of the Public Broadcasting Service, airing national PBS programming and a substantial amount of locally-produced programming. The VIPTS mission is to partner with individuals, foundations, corporations, and Government Agencies, to develop community engagement projects, designed to enhance the quality of life for everyone in the Virgin Islands, with the goal of “educating everyone in the Virgin Islands from the cradle to the rocking chair.” Its

operations are supported by the Corporation for Public Broadcasting, Territorial appropriations, and viewer and business community support.

2. The Commission is seeking views that bear on fine-tuning of the operation of the law with respect to carriage of signals across DMA boundaries. Meanwhile, more fundamentally, the VIPTS public service mission is frustrated because the law requiring direct broadcast satellite operators to carry local television broadcast signals (“carry one, carry all”) has been interpreted by the Commission to exclude U.S. territories, including the Virgin Islands.<sup>1</sup> That reading was based on an assessment of technical difficulties in providing DBS service to the U.S. territories and possessions and on the copyright compulsory

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<sup>1</sup> The Commission concluded: “As explained below, we believe the best construction of this phrase, based on context and the current record before us, is that “a State that is not part of the contiguous United States” was intended to refer only to Alaska and Hawaii and not to the broader definition of the Communications Act which includes territories and possessions. This conclusion is consistent with arguments made by satellite carriers EchoStar and DIRECTV, who point out the serious technical difficulties of serving all the territories and possessions ... As mentioned in the Notice, Alaska is the only one of the 50 states that is not entirely subsumed within one or more DMAs. Similarly, none of the noncontiguous territories and possessions are included in a DMA. However, Section 122 of title 17, which defines “local market” for the statutory copyright license, as well as for Section 338 generally, was amended only to add the areas in the State of Alaska that are outside of all DMAs to the definition of “local market.” Critically, the noncontiguous territories and possessions were not added. Consequently, were we to apply “State” to the noncontiguous territories and possessions, satellite carriers would not have a statutory copyright license to retransmit the stations in these markets because they would not fall within the definition of “local market” in Section 122(j). Satellite carriers do not and are not required to reach all geographic areas that include the possessions and territories of the United States. The Commission has recognized that contiguous United States (“CONUS”) antenna beams modified to include Puerto Rico and the U.S. Virgin Islands could divert power from other regions and potentially adversely affect the services of other countries. We acknowledge that EchoStar and a company affiliated with DIRECTV currently provide service to Puerto Rico, including some local stations, and to the U.S. Virgin Islands ... Based on the serious technical difficulties of serving the territories and possessions, and the fact that the affected satellite carriers have never before served any subscribers in much of these areas, we believe Congress did not have in mind the definition of “State” as set forth in the Communications Act. For all the reasons discussed above, we believe the best reading of the statute, and the one most consistent with Congressional intent, is that section 338(a)(4)’s use of the phrase “State that is not part of the contiguous United States” was not meant to include the noncontiguous territories and possessions, but instead was meant to refer only to the states of Alaska and Hawaii. [Footnotes omitted]. *Report and Order In the Matter of Implementation of Section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 to Amend Section 338 of the Communications Act*, 20 FCC Rcd 14242, 14247 (2005).

license issue presented in DBS carriage outside of a Designated Market Area (DMA).

3. VIPTS produces and broadcasts substantial local programming directly addressing the issues and needs of the Virgin Islands. Its regular programs include the signature public affairs series "Face to Face with Addie Ottley"; "Ritmo Del Doce", providing a service for the Hispanic community; and "Rediscover St. Croix", "Rediscover St. John," and "Rediscover St. Thomas", created by and for Virgin Islanders. It regularly presents special events, such as the Governor's State of the Territory Address and extensive Territorial election coverage, as well as regular coverage of cultural events. It partnered last year with the Virgin Islands Department of Labor to encourage residents to take and to prepare them for a new version of the General Educational Development (GED) test. It mounted a multi-year campaign, on and off air, for improved child nutrition. Yet residents subscribing to DBS service do not receive local-into-local WTJX-TV television service as part of their subscription.

4. More specifically, EchoStar's DISH service carries the signal of a local Virgin Islands commercial television station while DISH refuses to carry the WTJX-TV signal. That is a result that would not be permitted in the 50 states and should not be permissible here. DISH instead carries the national PBS feed, depriving its subscribers of the public television programming funded in part through their government and depriving the station of a means to reach them to garner individual support. The result distorts viewing, public service, and competition. Not surprisingly, VIPTS regularly fields complaints from disgruntled

DISH subscribers who value the overall DISH lineup but lament the absence of WTJX.

5. The absence of WTJX-TV from the local DISH lineup in the Virgin Islands also implicates public safety during local emergencies. The station is part of the DHS/FEMA public television portion of the Wireless Emergency Alert System (WEA). That system allows people who own certain wireless phone models and other enabled mobile devices to receive geographically-targeted, text-like messages alerting them of imminent threats to safety in their area. So not only are the residents of the U.S. Virgin Islands subscribing to DISH service not getting emergency information broadcast on WTJX-TV, but DISH is not carrying the station's signal conveying the WEA data alert messaging to local cell phones, tablets, and other mobile devices throughout the Virgin Islands. That is a particularly dangerous situation in the Virgin Islands, which are all too frequently threatened with hurricanes, tropical storms, and other emergency weather situations.

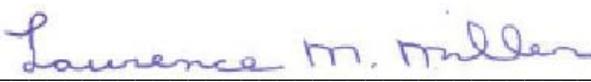
6. VIPTS requests the FCC to include this issue and these Comments in its Report. It urges Congress and the FCC to work together to revise, clarify, or interpret the law so as to apply "carry one, carry all" to the Virgin Islands and other territories where appropriate. The 2005 decision noted that DBS service was being provided to the Virgin Islands at the same time that it determined that there are "serious technical difficulties" in providing DBS service to the territories. VIPTS submits that it is time to reexamine the import of this ten-year-old conclusion. At least with respect to the Virgin Islands, there was not then and there is not now any such impediment. Similarly, Congress should amend the

law as needed to provide clear copyright guidance that the Virgin Islands, and other territories as appropriate, fall within the compulsory copyright license granted to DBS carriers under Section 122 of title 17 of the United States code. The fact that the Virgin Islands is not part of a DMA is logically irrelevant to whether DBS carriage required elsewhere in the country is not required there and should not be a determining factor in the public interest determination that carriage should be required.

For all of these reasons, VIPTS requests that in its reexamination of STELA Congress reconsider the misguided and outdated notion that residents of the Virgin Islands are not entitled to the same benefits of DBS local signal carriage requirements as are enjoyed by the rest of the Nation. VIPTS asks that the Commission provide such additional information as is needed to enable Congress to address this issue.

Respectfully submitted,

VIRGIN ISLANDS PUBLIC TELEVISION SYSTEM

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