

July 9, 2015

**BY ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

**Re: Notice of *Ex Parte* Communication in MB Docket No. 15-71**

Dear Ms. Dortch:

On July 7, and again on July 8, I discussed the above-referenced market modification proceeding on behalf of DIRECTV with Evan Baranoff of the Media Bureau. We discussed the following:

**1. Carriage “Rights” in Modified Areas.** DIRECTV reiterates that nothing in the Communications Act or Copyright Act—including the “carry-one, carry-all” provision<sup>1</sup>—gives stations carriage rights in any particular geographic area of their local markets. This is why, for example, DIRECTV subscribers in Gillette, Wyoming live in the Denver local market but do not receive local stations notwithstanding the fact that DIRECTV provides local stations to subscribers in other parts of the Denver market. Stations should not receive “geographic carriage rights” in modified markets that they indisputably do not have in their original, unmodified markets. Rather, when a station expands its local market, it is best viewed as giving DIRECTV the *right*, but not the *obligation*, to carry the station in the newly added area.

That said, DIRECTV has also indicated repeatedly that, where it has the ability to carry a station in a modified market, it has every incentive to actually do so. As a practical matter, therefore, DIRECTV would not object if the Commission gave new “geographic carriage rights” to stations in their modified markets, so long as:

- A reasonable process exists for demonstrating *per se* technical and economic infeasibility such as certification that DIRECTV has proposed, as well as a process for making different or additional feasibility showings appropriate to the particular situation.
- Any such carriage rights in modified areas are subject to all of the limitations that otherwise apply to local carriage, such as the requirement to deliver a “good quality signal,” the carriage exception for duplicating stations, and any limitations contained in a retransmission consent agreement.

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<sup>1</sup> 47 U.S.C. § 338(a)(2).

- DIRECTV has the ability to demonstrate technical or economic infeasibility at a later date in the event of changed circumstances.

2. **Certification.** DIRECTV proposes clarifying its certification as follows (revised version attached hereto in its entirety):

Based on this analysis, [Satellite Carrier] cannot provide service to [all/some/the following] zip codes associated with this request, **reception of the signal does not meet the minimum performance thresholds for [Satellite Carrier's] service.**

3. **Zip Codes and Counties.** DIRECTV clarifies that, if the Commission were to grant market modifications based on counties only (as opposed to cable communities or other, more amorphous geographic locations), it should be a relatively easy task for either satellite carriers or broadcasters to associate zip codes with particular market modification requests.

4. **Average Life of a Satellite.** While the figure varies for individual satellites, 15 years represents a good “rule of thumb” for the life of a direct-to-home geostationary satellite. *See Amendment of Commission’s Space Station Licensing Rules & Policies*, 17 FCC Rcd. 3847, ¶ 143 (2002) (“The useful lives of most GSO satellites today are longer than the current 10-year satellite license term. Therefore, we find that extending the satellite license term to 15 years is reasonable.”).

\* \* \*

Pursuant to the Commission’s rules, I am filing one copy of this letter in the above-captioned docket.

Respectfully submitted,

/s/

Michael Nilsson

*Counsel to DIRECTV, LLC*

cc (by email):

Mary Beth Murphy  
Kalpak Gude  
Steven Broeckaert  
Ryan Brunner  
Evan Baranoff  
Sean Mirzadegan  
Susan Aaron  
Amalia Reiss  
Chip Fleming

**Form of Certification Regarding Spot Beam Coverage**  
**Modified July 9, 2015**

1. My name is [name]. I am [title] at [Satellite Carrier]. As such, I am responsible for determining service areas for television stations carried on [Satellite Carrier's] spot beams.
2. [Satellite Carrier] has reviewed the request of [Television Station] to include [communities] in its local market. [Satellite Carrier] has analyzed, with respect to each zip code associated with this request, the expected performance against specific performance criteria. The following factors have been included in this analysis:
  - a. The measured performance of the spot beam covering [Television Station's] local market.
  - b. Estimated atmospheric effects for reception of the signal.
  - c. Estimated levels of interference.
  - d. The amount of capacity currently used, and reasonably expected to be used, on the spot beam.
  - e. The target availability figure used for all television stations offered on the spot beam.
3. From this analysis, [Satellite Carrier] has derived the following metrics, which it has used to evaluate the potential to provide service in the zip code(s) in question:
  - a. Signal availability.
  - b. Clear sky signal margin.
  - c. Total carrier-to- interference ratio.

4. [Satellite Carrier] has conducted this analysis in substantially the same manner and using substantially the same parameters used to determine the geographic area in which it currently offers stations carried on the spot beam.
5. Based on this analysis, [Satellite Carrier] cannot provide service to [all/some/the following] zip codes associated with this request because reception of the signal does not meet the minimum performance thresholds for [Satellite Carrier's] service.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on [date]

[Signature]