

July 27, 2015

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street N.W.  
Washington, DC 20554

James Arden Barnett, Jr.

T 202.344.4695  
F 202.344.8300  
jbarnett@venable.com

Re: Notice of Ex Parte, Applications of AT&T Inc. and DIRECTV for Consent to  
Assign Control of Licenses and Authorizations, MB Docket No. 14-90

Dear Ms. Dortch:

On July 23, 2015, Christopher Albrecht, Chief Executive Officer, and Michael Thornton, Chief Revenue Officer, of Starz met with officials at the Federal Communications Commission (FCC) as detailed below, to discuss the importance of preserving and promoting, for the public interest, diverse programming, and solutions to potential negative impacts on diverse programming in the face of consolidation of distribution companies. Accompanying Mr. Albrecht and Mr. Thornton were Ms. Courtney Kemp Agboh, the creator, writer and executive producer of *Power*, the hit series on Starz, and Mr. Omari Hardwick, the lead actor and star of *Power*. Jamie Barnett, Rear Admiral USN (Retired), Lisa Jose Fales and Gregory Gill, partners in the law firm of Venable LLP, attended as representatives of Starz.

The visits to the FCC consisted of four separate meetings, first with some of the FCC staff who have been responsible for reviewing the AT&T-DIRECTV merger application, then Matthew Berry, Chief of Staff for Commissioner Pai, followed by a meeting with Commissioner Clyburn and her staff, and finally Commissioner Rosenworcel and her staff. The following persons were in attendance:

**First meeting**

Jonathan Sallet, General Counsel  
Maria Kirby, Media Advisor to the Chairman  
Jamillia Ferris, Senior Counsel OGC  
Brendan Murphy, Assistant Chief, Policy Division, Media Bureau  
Carolyn Fleming-Williams, Senior Deputy Director, OCBO  
Crystal Evans, Law Clerk

**Second meeting**

Matthew Berry, Chief of Staff for Commissioner Ajit Pai  
Christine Bealer, Law Clerk

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**Third meeting**

Commissioner Mignon Clyburn  
Chanelle Hardy, her Chief of Staff  
Rebekkah Goodheart, Legal Advisor  
Evan Scott, Law Clerk  
Misha Guttentag, Law Clerk  
Sarah Papadelias, Law Clerk

**Fourth meeting**

Commissioner Jessica Rosenworcel  
Jennifer Thompson, Special Advisor

The contents of the discussions in each meeting were substantially the same and are summarized below.

Starz is an independent, leading provider of premium subscription video programming, carried by multichannel video programming distributor (MVPD) companies, such as AT&T, DIRECTV and other cable, satellite television providers and telecommunications companies. Starz and its sister network ENCORE serve a combined 57.5 million subscribers, including 23.7 million at Starz and 33.8 million subscribers at ENCORE.

Starz is committed to providing entertainment for women and minority communities, including African-American, Hispanic, and LGBT. The Starz commitment to diverse programming manifests itself not only in content, but also in programming that is created, produced, directed and/or written by diverse talent and featuring lead actors and actors in significant roles who are diverse. Unfortunately, this is not the norm in the entertainment industry, where diversity in front of and behind the camera does not always reflect the demographics of the U.S. or anything close to it.

Examples of this commitment to provide diverse entertainment to underserved audiences include Starz in Black, which focuses on black cinema and urban entertainment, carrying an array of first-run hits, classic and Pan-African films as well as original productions. ENCORE BLACK features movies and off-network television series for an African-American audience. ENCORE ESPANOL concentrates on imported and domestic Spanish-language feature films. In addition, *Survivor's Remorse*, executive produced by NBA all-star LeBron James and his producing partner,

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Maverick Carter, an African-American, is a program where all of the major roles are played by African-Americans.

Another successful example is *Power*, now in its second season. The lead is an outstanding actor, Omari Hardwick, who is African-American, and other prominent roles are played by African-American and Hispanic actors. About one-third of the show is spoken in Spanish with English sub-titles. The creator, executive producer and showrunner is Courtney Kemp Agboh, an African-American woman with a tremendous pedigree in entertainment and the arts. Finding high quality, compelling programming is difficult for any video programming provider, and that may be especially true for diverse programming, where the opportunities to develop the skills and experience for women and minorities are scarce. Courtney Kemp Agboh not only serves as a role model in this respect, her writers room is an incubator for the next generation of diverse writers, creators, producers and directors of high quality diverse programming. As an independent provider, Starz is investing in this next generation, an essential ingredient to the continued growth of diverse programming and expanding opportunities for careers for women and minorities in the entertainment industry.

*Power* is the one of the highest performing series in Starz's history. The show has the largest concentration of African-American viewers for a scripted premium series since HBO's *The Wire* in 2006. More than 6.3 million multiplatform views watch each episode of *Power*, a number that does not reflect the phenomenon of "*Power Parties*" where friends gather in a home where there is a Starz subscription to watch. While the show appeals to a broad and growing audience, more than 75 percent of *Power's* viewership is African-American, and it consistently scores as one of the top shows among African-Americans.

The provision of diverse programming and programming produced by diverse talent, particularly by independent companies, is more challenging in an era of consolidation of distribution companies. The access to American viewers is becoming concentrated in hands of fewer, larger MVPDs, whose economic focus will increasingly be on programming with the broadest appeal, a dynamic which tends to work against underserved and minority audiences. The dynamic also means less demand and potentially fewer opportunities for diverse writers, producers and actors. Minority-owned programmers and production companies are part of the solution, but if the effort for diverse programming is limited to minority-owned programming and networks, the broadest opportunity for high quality diverse programs which can be afforded by premium providers could be lost.

The danger to diverse programming is reflected in the 2014 statement of AT&T regarding the merger with DIRECTV. In a regulatory filing, AT&T stated that as a result of the merger, it

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intended to cut programming costs by “20 percent or more”, amounting to the “most significant part” of the combined company’s goal to cut costs by more than \$1.6 billion on an annual basis.<sup>1</sup> These programming cuts are most likely to be forced on independent and small providers to the direct detriment of diverse audiences and diverse talent.

The size and power differential between the independent programmers and diverse production companies on the one hand and the MPVDs on the other is so significant that most companies will not raise concerns to the FCC or in public for fear of retribution. The record in this proceeding is remarkably silent on independent and diverse programming for this very reason. Indeed, Starz only raised its concerns about the effect on diverse programming when it appeared that its best performing show, *Power*, might not get a full second season on AT&T.

The Congress has given the FCC the responsibility and the authority to promote the public interest, convenience and necessity by increasing competition and diversity in the multichannel video programming market.<sup>2</sup> The “public interest” standard transcends profits and financial results; the standard necessarily “includes ensuring a diversity of information sources and services to the public.”<sup>3</sup> For diversity in the public interest to be achieved, it must encompass more than just ownership. Diversity must include opportunities for the production of quality diverse programming, an essential ingredient of which is opportunity for diverse talent to create, produce and act. What diversity programming will be cannot be dictated by a small number of distribution conglomerates. Their natural tendency will be towards programming with the broadest appeal to the detriment of niche and diverse audiences and at the expense of small and independent programmers. The FCC’s public interest responsibilities require attention to ensure a level playing field.

Starz did not oppose the AT&T-DIRECTV merger. Starz does, however, strongly advocate for the FCC’s attention to the effect of this merger and other consolidations in distribution on independent programmers, diverse programming and programming by diverse talent and producers.

This notice of ex parte is being filed electronically with your office pursuant to Section 1.1206 of the Commission’s rules for inclusion in the public record. Please do not hesitate to contact me if you have questions or concerns.

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<sup>1</sup> AT&T Inc. Securities and Exchange Commission Form 8-K Current Report, Item 8.01, June 3, 2014.

<sup>2</sup> 1992 Cable Act, Pub. L. No. 102-385, §19, 106 Stat 1460, 1494 (1992).

<sup>3</sup> Jonathan Sallet, FCC General Counsel, *FCC Transaction Review: Competition and the Public Interest*, Official FCC Blog (Aug. 12, 2014, 12:39 PM), <https://www.fcc.gov/blog/fcc-transaction-review-competition-and-public-interest>.

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Sincerely,

*/s/ James Arden Barnett, Jr.*

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James Arden Barnett, Jr., Esq.,  
Rear Admiral USN (Ret.)  
Lisa Jose Fales, Esq.  
Gregory M. Gill, Esq.  
*Venable LLP*

David Weil, Starz General Counsel  
9242 Beverly Boulevard, Suite 200  
Beverly Hills, California 90210

cc: Honorable Mignon Clyburn, Commissioner  
Honorable Jessica Rosenworcel, Commissioner  
Jonathan Sallet  
Maria Kirby  
Jamillia Ferris  
Brendan Murphy  
Carolyn Fleming-Williams  
Chanelle Hardy  
Rebekkah Goodheart  
Matthew Berry  
Jennifer Thompson  
Maureen R. Jeffreys, Arnold & Porter  
Scott Feira, Arnold & Porter LLP  
William M. Wiltshire, Harris, Wiltshire & Grannis LLP