February 8, 2016

BY ELECTRONIC FILING

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

Re: *MB Docket No. 15-64*

Dear Ms. Dortch:

On February 4, 2016, EchoStar Technologies Corporation ("EchoStar") and DISH Network Corporation ("DISH") met with Holly Saurer and Karl Gerner from the office of Commissioner Mignon Clyburn. EchoStar was represented by Jennifer A. Manner, Vice President, Regulatory Affairs and Deborah Broderson, Director & Communications Regulatory Counsel. DISH was represented by Hasass Kogan, Corporate Counsel.

In the meeting, EchoStar/DISH's presentation followed the attached talking points and discussed the previously-filed EchoStar/DISH ex parte from December 15, 2015.

This letter is submitted consistent with the Commission's ex parte rules. Please direct any questions concerning this filing to the undersigned.

Sincerely,

/s/

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Jennifer A. Manner
Vice President, Regulatory Affairs
EchoStar Satellite Operating Corporation
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cc: Holly Saurer
Karl Gerner

DISH/EchoStar Talking Points on the DSTAC Recommendations

- DISH/EchoStar do not oppose exploration of the DSTAC's recommendations regarding adoption of competitive navigation devices, but recommend that the Commission avoid adopting overly simplistic solutions that could damage competition and hinder innovation.
    - DBS has served as an important disruptor in the MVPD marketplace and following AT&T's acquisition of DIRECTV, DISH is uniquely positioned to provide competition to terrestrial MVPDs.
    - DISH/EchoStar have led the industry in introducing advanced video devices, including the SlingBox, DTV converter box, MPEG-4 navigation devices, whole home DVRs, and SlingTV.
    - The Commission should structure any AllVid requirements to encourage ongoing, robust MVPD competition and to complement, rather than replace, market forces and industry standards initiatives.

- DISH/EchoStar encourage the Commission to consider the following issues should it pursue further action in this area:

    - ***Consumer privacy***
        - What obligations do third-party navigation device manufacturers have to protect the privacy of the consumers who utilize their equipment? Federal law requires cable operators to notify subscribers at the time service is initiated and at least once each year about any personally identifiable information (PII) to be collected, and how it will be used, including:
            - The nature, frequency, and purpose of PII collected;
            - The nature, frequency, and purpose of any disclosure of such PII, including an identification of the types of persons to whom the disclosure will be made;
            - The period during which PII will be maintained;
            - The times and places at which the subscriber may access her PII; and
            - Any limitations placed on the cable operator regarding collection and disclosure of PII, as well as subscribers' rights to enforce the limitations.
        - Should a similar obligation apply to consumer electronics manufacturers that create navigation devices?
            - Does the Commission have statutory authority to impose such an obligation?
            - Should MVPD subscribers have a reasonable expectation that the same privacy rules will apply, regardless of whose navigation device they choose to use?

    - ***Customer support***
        - How should an MVPD handle subscriber calls seeking support for a navigation device built by a third party?
            - MVPDs cannot reasonably be expected to maintain intimate familiarity with all aspects (including proprietary information) of compatible third party devices, especially if such devices proliferate. Unless there is a method to identify the proper avenue for raising such issues directly with the appropriate

manufacturer, consumers may not be able to resolve whatever problem is preventing them from fully enjoying their MVPD service.

- Manufacturers are already required to make contact information available for the receipt and handling of certain accessibility-related complaints, but not for general support-related questions. By contrast, video programming distributors have a broader obligation; they must post contact information for the receipt and handling of consumers' closed captioning concerns on their web sites, in telephone directories, and in billing statements, as well as being required to file such information with the Commission for dissemination.
    - Should the Commission adopt this broader approach for manufacturers in order to enable consumers to identify the proper contact points with the manufacturer of their devices, and also provide MVPDs with the information needed to make quick and accurate referrals when they receive a call related to a third-party device?
    - What permission must an MVPD obtain from a subscriber before sharing information with a third–party manufacturer to help process support calls in a quick and accurate manner?

- ***Accessibility compliance***
    - The Commission's rules impose a host of accessibility requirements upon MVPDs. Many of those provisions place responsibility for compliance on both MVPDs and their consumer-electronics-manufacturer business partners.
    - How should MVPDs and third party consumer electronics companies work together to ensure compliance with accessibility requirements?
        - For example, if an MVPD develops and implements a new stream of data to enhance accessibility that a legacy third-party navigation device cannot support, what obligation does the manufacturer have to the consumer to incorporate that information?

- ***Repair/replacement***
    - If a third-party navigation device has "bugs" or other technical errors that render parts of one or more MVPD's service unusable, what duty does the manufacturer have to fix those errors or replace the defective navigation device so that the consumer can enjoy the entire service she is paying for an entitled to?
    - If an MVPD either adds new services or delivers existing services in a way that requires a hardware or software upgrade, what obligation does a consumer electronics manufacturer have to offer upgraded equipment or provide software updates to older devices?

- ***Contract compliance***
    - MVPDs enter into license agreements with content suppliers in order to establish the terms and conditions under which the MVPD may carry copyrighted programming.

Manufacturers of third-party navigation devices are not parties to those agreements, yet their devices may display programming in ways that violate the terms of the MVPDs' carriage agreements and are not covered by any compulsory license.

- What, if any, avenues do content suppliers have to ensure that their content is not being exhibited by a third party consumer electronics navigation device in a way that violates their copyright or the terms of their carriage agreements?

- ***Interference***
  - Section 76.613 of the Commission's rules provides that "[a]n MVPD that causes harmful interference shall promptly take appropriate measures to eliminate the harmful interference," which may include suspension of service in certain situations.
  - If a consumer's use of a third-party navigation device causes such interference, who is responsible for taking appropriate measures to eliminate it?
    - Moreover, if features of one consumer's third-party navigation device interfere with another consumer's reception of MVPD service, what party or parties bear responsibility for correcting the problem?
    - How should a consumer respond if she believes a neighbor's device is causing such harm? Is there a complaint procedure available?

- ***Channel placement***
  - MVPDs are required to give local broadcasters specific channel placement on their systems. In addition, cable operators are required to notify their subscribers before changing the channel placement of local broadcast stations.
  - Should the manufacturers of third-party navigation devices be obligated to observe those same requirements, or should they be permitted to re-map channels at their own discretion?

- ***Unidirectional service***
  - Will all third-party navigation devices be required to operate with MVPD services (such as satellite video) that use unidirectional technology but do not offer a return path for communications over their own systems?
    - If not, how must a manufacturer label navigation devices that require a broadband connection in order to operate?
  - Is there a minimum feature set that must be supported by unidirectional-capable navigation devices, and a corresponding obligation to alert consumers to device or service features that are not supported?

- ***Security of programming and services***
  - The same federal statute that directs the Commission to adopt regulations to assure the commercial availability of navigation devices from providers other than MVPDs also prohibits the Commission from adopting regulations that "would jeopardize security of multichannel video programming and other services offered over

multichannel video programming systems, or impede the legal rights of a provider of such services to prevent theft of service."

- What constraints should be placed on consumer electronics manufacturers to help ensure that third-party navigation devices do not jeopardize these important interests? Many program carriage agreements include provisions that require MVPDs to take certain actions in case of a security breach, which may include removing the content from the MVPD's service to a compromised device until the breach has been corrected.
- When an MVPD reasonably believes that a third-party navigation device jeopardizes its security, does it have the right to prevent theft of service by, for example, limiting or shutting off service to those devices?
    - If so, who is responsible for any revenue the MVPD loses as a result of the diminished service?
    - If not, what liability does the manufacturer of the third-party navigation device have to the programmer whose content is compromised?
- What expectations should the owners of those devices have that the manufacturer will provide replacement devices or software to restore service?