

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.

SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3215

(202) 326-7900

FACSIMILE:
(202) 326-7999

May 24, 2016

BY ELECTRONIC FILING AND EMAIL

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

**Re: Notice of *Ex Parte* Communication,
MB Docket No. 16-42, CS Docket No. 97-80**

Dear Secretary Dortch:

On May 20, 2016, at the Commission's request, AT&T and its counsel met with staff of the Media Bureau, Office of Strategic Planning, Competition Policy Division, Wireline Competition Bureau and of the Office of General Counsel, and responded to staff inquiries regarding the unique technical issues created by the NPRM proposal with respect to DIRECTV's one-way satellite service. The following were present at the meeting: Scott Jordan (CTO), Antonio Sweet (OSP), Paul LaFontaine (OSP), Susan Singer (MB), Kathy Berthot (MB), Martha Heller (MB), Calisha Myers (MB), Mary Beth Murphy (MB), Nancy Murphy (MB), Sherwin Siy (WCB/CPD), John Williams (OGC), Steve Dulac (AT&T), Stacy Fuller (AT&T), Alex Starr (AT&T), Raquel Noriega (AT&T), and Dan Dorris (counsel to AT&T).

First, in response to questions from the Commission's staff, AT&T explained how DIRECTV's one-way MVPD satellite service functions as compared to two-way MVPD services. AT&T explained that, as competitive forces in the market evolved and MVPDs started to offer consumers on-demand content, DIRECTV overcame the one-way satellite platform through innovations to their home gateway set-top box. DIRECTV's set-top box has evolved through the years to become an integral part of DIRECTV's network and consumer experience. AT&T further described how on-demand content is purchased and delivered to consumers, including the fact that, for consumers who do not have a two-way Internet connection, DIRECTV simulates real-time purchasing by pushing, on a daily basis, popular content via the one-way satellite connection for storage on the home gateway set-top box.

Marlene H. Dortch
May 24, 2016
Page 2

Second, responding to further questions from the Commission’s staff, AT&T described the processes by which program guide information and customer viewing entitlement messages are delivered via satellite to home gateway set-top boxes. AT&T explained the role of the Cisco Videoguard conditional access system in authorizing content, performing real-time entitlement checks using smart cards, set-top box hardware, and security software all customized for DIRECTV. AT&T expressed concern that it remained unclear how DBS systems’ gateway devices would produce the Information Flows as currently understood and whether current set-top box models would have adequate processing power and memory. Because of this concern, DIRECTV may have to essentially start from scratch – at a massive cost in time, money, and resources – to re-engineer its systems to provide the proposed information to third-party devices. Moreover, AT&T noted that, even though Dish Network and DIRECTV are both one-way satellite systems, their systems differ significantly, such that a navigation device designed to work with one system would not work with the other system.¹

Third, to answer additional questions from the Commission’s staff, AT&T emphasized that, as the NPRM acknowledges (at ¶ 65), “DBS providers specifically will be required to have equipment of some kind in the home to deliver the three Information Flows” if the Commission pursues the NPRM proposal (which it should not).² DIRECTV needs its own robust home gateway set-top box to deliver service to its customers, including by tuning satellite inputs, storing pushed satellite content and program guide information, and inserting dynamic advertising and other interactive features. Without these features, DIRECTV’s ability to compete against MVPDs with two-way services and over-the-top distributors would be jeopardized. Moreover, consistent with the NPRM proposal (at ¶ 2) that MVPDs should remain free to “use different standards for their own equipment and applications, so as not to impede the evolution of MVPD devices and apps,” the Commission should not impose any restrictions on DIRECTV’s home gateway set-top box. Such restrictions also would likely stifle DIRECTV’s attempts to innovate and to compete.

¹ See DSTAC WG4 Report at 19 (describing certain differences between DIRECTV and Dish Network); see also EchoStar Comments at 10-11.

² See also DSTAC WG3 Report at 35 (noting “some form of gateway device will continue to remain a practical necessity for unidirectional distribution networks,” and citing DIRECTV’s Genie as an example); DSTAC WG4 Report at 126.

Marlene H. Dortch
May 24, 2016
Page 3

Sincerely,

/s/ Daniel V. Dorris
Daniel V. Dorris
Counsel to AT&T Services, Inc.

cc: Scott Jordan
Antonio Sweet
Paul LaFontaine
Susan Singer
Kathy Berthot
Martha Heller
Calisha Myers
Mary Beth Murphy
Nancy Murphy
Sherwin Siy
John Williams