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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Satellite Delivery of Network Signals )  
to Unserved Households for Purposes )  
of the Satellite Home Viewer Act )  
)  
Part 73 Definition and Measurement of )  
Signals of Grade B Intensity )

CS Docket No. 98-201  
RM-9335  
RM-9345

JOINT COMMENTS OF  
CORDILLERA COMMUNICATIONS, INC.  
COSMOS BROADCASTING CORPORATION  
COX BROADCASTING, INC.  
INDEPENDENCE TELEVISION COMPANY  
AND MEDIA GENERAL BROADCASTING, INC.

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December 11, 1998

No. of Copies rec'd 278  
List A B C D E

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## Summary and Introduction

The present conflict between owners of copyrighted broadcast programming and the satellite industry has raged almost since the inception of the direct-to-home ("DTH") satellite industry in 1979 when the Commission removed mandatory licensing procedures for domestic receive-only earth stations.<sup>1/</sup> Several times throughout the intervening years, the satellite industry has attempted to convince Congress, the Commission and the federal courts that it should be permitted to retransmit network and local affiliate programming indiscriminately throughout the country. On each occasion, the government properly has protected valuable copyrights in this programming, while also ensuring the preservation of localism and other public benefits. Not only does the Commission lack jurisdiction to depart from the lessons of the past, the agency lacks a public interest justification to do so.

As explained in comments submitted in response to the filing of EchoStar Communications Corp.'s petition for rulemaking, the Commission already has recognized serious policy concerns about satellite delivery of distant broadcast network signals to households served by local affiliates.<sup>2/</sup> In particular, the Commission understood that the importation of network signals from out-of-market affiliates would threaten localism and the network/affiliate distribution system. In light of the same concerns, Congress rejected proposals advanced by various DTH satellite providers that would have permitted the indiscriminate distribution of these distant signals to satellite subscribers throughout the country. In addition, Congress

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<sup>1/</sup> See *Regulation of Domestic Receive-Only Satellite Earth Stations*, 74 FCC 2d 205 (1979).

<sup>2/</sup> See, e.g., *Comments of Cosmos Broadcasting Corporation and Cox Broadcasting, Inc.* in RM No. 9345, filed Sept. 25, 1998, at 3-4, citing *Scrambling of Satellite Television Signals and Access to those Signals by Owners of Home Satellite Dish Antennas*, 2 FCC Rcd. 1669 (1987) ("*Scrambling Report*").

explicitly rejected proposals that would have authorized the Commission to set the terms of satellite retransmissions of network signals.<sup>3/</sup>

Ultimately, Congress deliberately balanced the competing public interests of providing network signals to families residing in "white areas" with the need to preserve localism and the integrity of network-affiliate relationships. The legislature therefore enacted only a "limited" and "narrow" exception to the exclusive copyright protection in network programming in the Satellite Home Viewer Act, 17 U.S.C. § 119.<sup>4/</sup> Under the Act, satellite operators may deliver network programming only to those subscribers who reside in "unserved households." Congress defined an "unserved household" as one that: (1) cannot receive a signal of at least a "Grade B" intensity of the local network affiliate station with a conventional rooftop antenna; and (2) has not received the signal of that network via cable within the preceding ninety days.<sup>5/</sup> Unless a customer satisfies these two criteria, a satellite company has no legal right to deliver the copyrighted material to that customer.<sup>6/</sup>

The Commission now is faced with radical requests by certain copyright infringers seeking changes to FCC rules that would sanction the satellite retransmission of network programming well beyond "white areas." These requests have been made despite the explicit

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<sup>3/</sup> *Id.* at 2.

<sup>4/</sup> *See ABC, Inc. v. PrimeTime 24, Joint Venture*, 17 F. Supp.2d 467, 471 (M.D.N.C. July 16, 1998); *Notice* at ¶¶ 2-3, 36.

<sup>5/</sup> 17 U.S.C. § 119(d)(10). The second criterion discourages an individual from canceling a subscription to cable (which offers local affiliates' signals) in favor of DTH satellite service (which cannot offer local affiliates' signals).

<sup>6/</sup> The Act grants a limited compulsory copyright only. It does not prevent DTH satellite operators from negotiating in the open market for the right to retransmit broadcast programming.

limitations in the Act and despite Congress' repeated rejection of such a scheme. The Commission, however, lacks jurisdiction to revise the copyright laws to advance the private interests of the DTH satellite industry. In particular, the Commission cannot mandate the use of a prediction method to determine subscriber eligibility under the Act, which explicitly requires actual measurements. The Commission also may not alter its Grade B standards for purposes of applying the SHVA, because to do so would sacrifice the very goals that motivated Congress when it created and reauthorized the narrow copyright exception.

The Joint Broadcasters own and operate (sometimes through subsidiaries) more than forty full-power television stations affiliated with the Big Four broadcast networks in markets as geographically and demographically diverse as San Francisco-Oakland-San Jose, California (DMA No. 5), Seattle-Tacoma, Washington (DMA No. 12), Louisville, Kentucky (DMA No. 50), Lynchburg-Roanoke, Virginia (DMA No. 68), Biloxi-Gulfport, Mississippi (DMA No. 158) and Butte-Bozeman, Montana (DMA No. 192). Any FCC change to the administration of the SHVA would affect adversely and substantially the ability of the Joint Broadcasters to provide valuable local service to every household within their stations' service areas.

Fortunately, a relatively simple solution to the complex dilemma created by the DTH copyright infringers is available. The retransmission of local affiliates' signals into their own markets by DTH satellite operators would provide all subscribers with access to their local affiliates' programming, thus furthering the objectives of the SHVA while also ending debate about which households qualify for distant network signals. Accordingly, the Joint Broadcasters urge the Commission to recommend that Congress authorize "local-into-local" service and thereby put an end to current controversies.

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CORDILLERA COMMUNICATIONS, INC.  
COSMOS BROADCASTING CORPORATION  
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INDEPENDENCE TELEVISION COMPANY  
AND MEDIA GENERAL BROADCASTING, INC.**

Cordillera Communications, Inc., Cosmos Broadcasting Corporation, Cox Broadcasting, Inc., Independence Television Company, and Media General Broadcasting, Inc. (collectively, the "Joint Broadcasters"), by their attorneys, hereby submit these Joint Comments concerning the Commission's *Notice of Proposed Rule Making* ("*Notice*") in the above-captioned matter. The Joint Broadcasters submit that the Commission lacks jurisdiction to undertake any rule changes that would affect the administration of the Satellite Home Viewer Act ("SHVA" or "Act"). Moreover, the revisions to the Commission's Grade B standards proposed in the *Notice* would reduce significantly the service areas of local network affiliates, thus undermining the very objectives of the Act. Instead of adopting these radical changes, the Commission should ensure the protection of the public interest by recommending the adoption of local-into-local legislation.

**I. The Commission Lacks Jurisdiction to Rewrite the SHVA by Adopting SHVA-Specific Rules.**

**A. The Commission May Not Second-Guess Congress' Determination as to the Proper Balance of Competing Public Interest Objectives Concerning a Copyright Act Provision.**

The framers of the Constitution authorized Congress to create and provide for the legal enforcement of a limited, exclusive monopoly in the exhibition of creative works, despite any adverse effects such a monopoly might have on competition.<sup>7/</sup> By prohibiting the unauthorized duplication of a work, copyrights promote the value of the protected work as well as the independent creation of additional competitive works.<sup>8/</sup>

Copyright laws enable the Washington Post Company, for example, to avail itself of the government's aid in stopping the wholesale photocopying and retail distribution of the *Washington Post*, even though a "competing" distributor would be advancing the otherwise apparently valid public interest goal of fostering "competition" in the local newspaper market. Congress (and the founders) wisely understood this tension between protecting investment in a creative work and the need to foster open markets.

Although the technology at issue in the instant proceeding differs from that of newspapers, the legal protections and mechanisms are identical. The Joint Broadcasters have been licensed the right to distribute network programming within their local markets. In contrast, DTH providers hold no right to distribute any network programming to served

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<sup>7/</sup> U.S. Const. art. I, § 8, cl. 8. *See generally, Sony Corp. of America v. Universal City Studios*, 464 U.S. 417 (1984).

<sup>8/</sup> *See* Robert A. Gorman and Jane C. Ginsburg, *Copyright for the Nineties: Cases and Materials* 15 (4th ed. 1993).

households within those markets. Indeed, satellite companies possess no more authority to retransmit network signals to such households than the "competitors" who would distribute photocopies of the *Washington Post*.

Congress, of course, has already granted satellite distributors a very narrow exception to the copyright laws so that "unserved" households may receive television network signals. In crafting this exception, Congress performed the necessary balancing of competing public interests and determined the allocation of rights that it believes best promotes the public interest. The Commission need not and, indeed, cannot revisit or rebalance the public interest judgments made by Congress when it added Section 119 to the Copyright Act.<sup>9/</sup>

This simple fact precludes the Commission from adopting most of the proposals being discussed in this proceeding. Indeed, it is simple "hornbook" law that the Commission cannot act in a way that would rewrite a statute. The U.S. Supreme Court, in fact, has repeatedly warned administrative agencies that they cannot change the force or effect of statutes duly enacted by Congress: "As we so often admonish, only Congress can rewrite [a] statute."<sup>10/</sup> Modifying the FCC's Grade B standards would alter the way in which the SHVA is administered because it would change the very definition of subscriber eligibility for satellite-delivered network signals. Similarly, the substitution of a prediction model for the actual measurement standard contained in the SHVA would violate the express terms that define subscriber eligibility. Simply stated, the Commission lacks the legal authority to rewrite the SHVA by

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<sup>9/</sup> *Nat'l Ass'n of Reg. Util. Comm'rs v. FCC*, 880 F.2d 422, 428 (D.C. Cir. 1989) ("Either way, we cannot countenance the Commission's attempt to rewrite the statute").

<sup>10/</sup> *Louisiana Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 376 (1986).

adopting the changes proposed by the DTH satellite industry -- even if the FCC were to conclude that a different copyright regime might better promote some other public or private interest.<sup>11/</sup>

In addition, altering the defined terms adopted by Congress would offend impermissibly the intent of the legislature. Two federal courts already have concluded that Congress meant to permit only the very limited provision of satellite-delivered network signals.<sup>12/</sup> The Commission itself has recognized this fact.<sup>13/</sup> If Congress had intended for the Commission to redefine its Grade B rules, it would have ordered the agency to do so or expressly given the agency the ability to do so, just as it has done in another section of the SHVA.<sup>14/</sup> Therefore, an attempt by the Commission to expand eligibility for receiving distant network signals by redefining definitions adopted by Congress not only would conflict with the terms of the statute, it also would violate the expressed intention of the legislature. As such, any change in the Commission's Grade B standards clearly would exceed the agency's jurisdiction.<sup>15/</sup>

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<sup>11/</sup> *Southwestern Bell Corp. v. FCC*, 43 F.3d 1515, 1520 (D.C. Cir. 1995) ("The Commission is not free to circumvent or ignore that [policy] objective. Nor may the Commission in effect rewrite this statutory scheme on the basis of its own conception of the equities of a particular situation").

<sup>12/</sup> *ABC*, 17 F. Supp.2d at 471-72; *CBS Inc. v. Primetime 24 Joint Venture*, 9 F. Supp.2d 1333, 1339, 1345 (S.D. Fla. 1998).

<sup>13/</sup> *Notice* at ¶ 3.

<sup>14/</sup> *See, e.g.*, H. Rpt. No. 100-887 (II) at 26 (directing the Commission to initiate an inquiry and rule making proceeding concerning syndicated exclusivity rules for satellite carriers; no similar mandate was provided with respect to Grade B standards).

<sup>15/</sup> *See Chevron USA Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 843 n.9 (1984).

**B. Congress' Adoption of the FCC's Grade B Definitions Reflects its Judgment as to the Critical Need to Preserve Localism and the Network/Affiliate Relationship.**

Section 307(b) of the Communications Act of 1934 mandates that the Commission "make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution to each of the same." The Commission consistently has interpreted this provision to require the allocation of television stations to individual broadcast service areas; the Commission has not allocated television stations on a nationwide basis. In order to be successful, therefore, television stations must respond to the needs and interests of their local communities rather than those of the population at large.

This focus on localism and local service constitutes the very core of the broadcast service, and distinguishes free over-the-air broadcasting from other communication services regulated by the Commission.<sup>16/</sup> By ensuring a localized broadcast service, the FCC has afforded consumers the ability to receive programming directed toward individual local needs and interests. As a result, local businesses and politicians can communicate with local audiences, who in turn benefit from the dissemination of timely local news, events, political debates, weather, advertisements and emergency information, including local EAS warnings.

Congress not only understood the value of localism, it also recognized that local communities benefit from strong relationships between local stations and broadcast networks.<sup>17/</sup>

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<sup>16/</sup> See *Notice* at ¶ 36 ("localism is central to our policies governing broadcasting...").

<sup>17/</sup> See, e.g., H. Rpt. No. 100-887 (I) at 14, *reprinted in* 1988 U.S.C.C.A.N. 5577 ("the bill respects the network/affiliate relationship and promotes localism"); *Notice* at ¶ 3.

Economies of scale from the affiliate distribution system enable networks to obtain popular programming otherwise beyond the reach of most television stations, especially those located in relatively smaller markets. Local audiences benefit because they receive a unique package of network programming that otherwise would be unavailable as well as high-quality local programming (supported in part by the revenues generated from advertisements locally inserted into network-provided shows).

In order to protect their investments in network programs, the networks own copyrights in those works. Networks license their respective affiliates to exhibit this programming within each affiliate's local market. These copyright licenses provide the critical incentive for the local affiliate to invest in the promotion and protection of the network brand and the network's programming within its service area. A strong affiliate benefits the network by providing local programming responsive to the needs of its community and thereby delivering local audiences for network programming. These local efforts enhance the network's "good will," expand its audience and advertising revenue, and enable the network to secure more desirable high-quality programming.

Under the scheme set up by Congress, the only households that lawfully may receive satellite-delivered network programming are those relatively few households not located within the service area of a broadcast network affiliate who, consequently, cannot benefit from the local service offered by the television station.<sup>18/</sup> In other words, Congress established a limited exception that ensured that those persons who reside within the local service area of a network

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<sup>18/</sup> See, e.g., H. Rpt. No. 100-887 (I) at 15 (1988), *reprinted in* 1988 U.S.C.C.A.N. 5577 ("The bill will benefit rural America, where significant numbers of farm families are inadequately served by broadcast stations regulated by the [FCC]").

affiliate would continue to benefit from the station's service.<sup>19/</sup> Accordingly, Congress' adoption of a limited and narrow copyright exception was designed to protect the public interests in localism, strong local stations, and the network/affiliate system.<sup>20/</sup>

For these reasons, satellite retransmission of network signals must be restricted to those few households truly residing in "white areas." Congress determined that any deviation from this mandate would threaten impermissibly the preservation of the valid public interest goals of localism and the network/affiliate distribution system. The Commission quite simply lacks the jurisdiction to revisit these public interest determinations. Moreover, it is clear that altering any of its rules to favor the DTH satellite industry would only serve to undermine the very goals that Congress sought to protect. Accordingly, consistent with clear statutory and judicial constraints, the Commission cannot revise its long-standing Grade B standards for SHVA purposes.

**II. The Public Interest Would Be Disserved by Adopting the DTH Satellite Industry's Proposals.**

**A. Modifying the FCC's Grade B Standards Would Harm the Public Interest by Jeopardizing the Explicit and Crucial Public Interest Benefits of the Act.**

The illegal importation of network signals by satellite carriers threatens the public interest benefits that result from the operation of local television stations and the network/affiliate distribution system, in direct conflict with the clear objective of the SHVA. The provision by satellite carriers of another market's broadcast network signals enables DTH

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<sup>19/</sup> See Notice at ¶¶ 3, 36. The Joint Broadcasters utilize television translators to provide service to those who live in areas of hostile terrain (*i.e.*, hilly or mountainous areas). Congress recognized the value television translators provide by extending the SHVA's protection of local markets to include areas covered by translators. 17 U.S. Code § 119(d)(2)(A) (1998).

<sup>20/</sup> See Notice at ¶ 36.

subscribers to view programming tailored to a distant market rather than the local programming, public service announcements, public affairs programs and commercial advertising carried by local television stations. Among other things, these subscribers are deprived of local political debates, press conferences and advertisements from local politicians. They are robbed of coverage of local news and other events. They are denied weather announcements, school closings, traffic alerts, and EAS warnings. They are deprived of commercials for local businesses that, without support from local consumers, are less able to employ local residents. Meanwhile, these viewers dilute the value of each network program for which the local affiliate contracted by subtracting from that affiliate's local audience, and, consequently, reducing the affiliate's local and national advertising revenue.<sup>21/</sup> Moreover, the distribution of network programming within a local market by third parties duplicates network programming already available from local affiliates and undermines the incentive local affiliates otherwise would have to promote the network in their communities and provide high-quality local programming.<sup>22/</sup>

Modifying the FCC's Grade B standards would precipitate the same negative consequences that Congress sought to avoid when it enacted the SHVA. These harms would result because, as explained below, any increase in Grade B field strength values as well as any change to location and time variability factors would reduce significantly local stations'

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<sup>21/</sup> See *Scrambling Report*, 2 FCC Rcd. at ¶ 197 ("The record reveals that some two-thirds of the 1.6 million HSD owners have network service available, either off-air or through cable. Satellite viewing could mean the loss of many of these homes by the local affiliate in audience ratings for both national and local purposes and a corresponding reduction in revenues from both sources").

<sup>22/</sup> See *id.* at ¶ 159 ("In the absence of an exclusive distribution system, these incentives are attenuated because other distributors that did not share the costs of promotion would nevertheless benefit from it").

protected service areas, thereby threatening localism. Thus, should the Commission adopt a new Grade B standard for purposes of applying the SHVA, DTH satellite providers would be able to offer out-of-market network signals to a significant percentage of households now considered by the agency and the broadcasting industry to be an integral part of local stations' service areas. Manipulating the definition of "white areas" to include households now served by television stations would sanction the full-scale attack on localism and the network system that the SHVA was adopted to protect. Such a result would be both absurd and indefensible.

**B. Altering the Grade B Definition Would Jeopardize the Public Interest Without Producing Any Measurable Benefits.**

In addition to offending the objectives of Congress, modifying the definition of "Grade B intensity" by increasing field strength values clearly would not serve the public interest. Preliminarily, it should be noted that the petitioners in this proceeding did not request such a change in the context of an expedited rule making proceeding. NRTC did not propose any change to the Grade B definition, and EchoStar only suggested in a footnote that the FCC "has the power to revise its numerical definitions of Grade B intensity."<sup>23/</sup> EchoStar recognized that any such change "may require careful, fully informed and elaborate analysis" in a future proceeding. The Joint Broadcasters agree with EchoStar that it would be inappropriate for the Commission to address the complex Grade B definition in this expedited proceeding.

In any event, the Commission already has determined that Grade B intensity adequately and accurately reflects the actual service areas of analog television stations. In the DTV proceeding, the agency allocated DTV channels in a manner that corresponded to existing

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<sup>23/</sup> See Notice at ¶ 27.

stations' current analog coverage areas.<sup>24/</sup> The "service replication" principle was based on the determination that viewers in the digital world should have "access to the station that they can now receive over-the-air."<sup>25/</sup> After long and careful consideration, the Commission selected Grade B contours as the best proxy for determining stations' current service areas. Despite years of attacking broadcasters' rights in network programming, the DTH satellite industry has produced no evidence to support its claim that the Grade B definition improperly reflects local markets and, by extension, that the Commission improperly allocated DTV spectrum among the nation's television stations.

The absence of such evidence is not surprising. Since the Commission adopted the current Grade B field strength values in the 1950s, the television industry has changed dramatically. Television antennas, as the DTH satellite industry has acknowledged, can pull in weaker signals than ever before.<sup>26/</sup> At the same time, technological advances in the design of television receivers over the past four decades have provided viewers with better reception from signals previously too weak to yield acceptable pictures. Indeed, technological refinements

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<sup>24/</sup> *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Sixth Report and Order*, 12 FCC Rcd 14588, 14595-96 (1997).

<sup>25/</sup> *Id.* at ¶ 14.

<sup>26/</sup> Bob Shaw, *Customers Get Local Channels Free with Every DSS*, DSS Insider (Winter 1997), at 18 ("What consumers don't understand is that antenna technology has improved dramatically over the years and TV stations[] signals are stronger than ever. Today's antennas ... are capable of bringing in a high quality signal [that] will almost always be a cleaner, more stable, and more reliable signal than cable TV!).

suggest that, if the Commission were to alter the definition of Grade B signal intensity, it should *lower* rather than *raise* the field strength values, thus expanding local television service areas.<sup>27/</sup>

Moreover, altering the Grade B definition by increasing the location and time variability percentages, as EchoStar has requested, also would harm the public interest. Because signal strength varies over location and time, signal propagation must be considered on a statistical basis.<sup>28/</sup> The Commission's propagation curves predict the occurrence of median signal strengths (*i.e.*, the field strength predicted to be exceeded at 50% of the locations at 50% of the time); the agency then adds these variability factors to the signal level to achieve the desired statistical reliability. Increasing these factors to 99% and 99%, however, would reduce substantially the Grade B contours of television stations and, therefore, the population considered to be "served" by local stations. Detailed analyses prepared by Dataworld, as reported in maps and tables attached hereto as *Appendix A*, demonstrate clearly that this redefinition of Grade B would slash twenty percent or more of the potential viewership of certain stations owned by the Joint Broadcasters. In particular, this redefinition of Grade B would cause WSB-TV (ABC), Atlanta, Georgia, to lose 20.6 percent of the population predicted by Longley-Rice (F(50,50)) to be within its Grade B contour. In other words, WSB-TV would lose its network non-duplication protection with regard to about one-fifth of its current service area. Similarly, KTVU(TV)

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<sup>27/</sup> See *Television and FM Field Strength Curves, Report and Order*, 53 FCC 2d 855, 865-66 (1975) (evaluating proposal to lower Grade B field strength values in light of improvements in equipment since the 1950's). The Commission eventually determined that there was no "urgent need, from an engineering standpoint, to redefine the Grade B contour." The ensuing equipment refinements in the twenty-three years since that decision further support lowering rather than raising the field strength values used to define Grade B signal intensity.

<sup>28/</sup> See *Notice* at ¶ 32.

(Fox), Oakland, California, would lose 22.2 percent of its market, WFIE-TV (NBC), Evansville, Indiana, would lose 38.9 percent, and KAIT(TV) (ABC), Jonesboro, Arkansas, would lose an astonishing 72.7 percent. Similar analyses for other stations report significant losses as well.

In any event, altering the Grade B definition would not further the DTH satellite industry's professed goal of enhancing their ability to compete effectively with cable. The Miami litigation demonstrated that PrimeTime 24 and its distributors provided distant network signals overwhelmingly to those households closest to urban centers, rather than to households in sparsely populated areas along the outer edge of affiliates' Grade B contour.<sup>29/</sup> Shrinking the service areas of television stations at the outer edges would authorize increased competition to cable only in outlying, typically rural areas in which cable may not even be available. Playing with Grade B standards would not allow DTH satellite operators to offer network signals in more populous areas.<sup>30/</sup> Changing Grade B standards for SHVA purposes therefore would not even serve the alleged goals of its proponents. The public interest accordingly does not permit the Commission to alter for SHVA purposes the field strength values or location and time variability factors used to define Grade B intensity.

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<sup>29/</sup> CBS, 9 F. Supp.2d at 1343 (noting that signal strength tests conducted in accordance with 47 C.F.R. § 73.686 demonstrated that all 100 randomly chosen PrimeTime 24 subscribers resided within the Grade B contours of the local CBS and Fox affiliates, and that "almost all 100 subscribers received a signal of Grade A intensity from both stations").

<sup>30/</sup> Despite the less populated nature of outlying areas, all viewers within the Grade B contour of a station are integral parts of a station's service areas. Those who reside close to the fringe of a station's Grade B contour are no less entitled to benefit from local news, weather, political coverage, sports and other programming as those who reside much closer to a local affiliate's transmitter (*i.e.*, in urban areas).

**III. The Act Requires Actual, Not Predicted, Measurements of Grade B Intensity, Thus Preventing the FCC from Mandating the Use of a Prediction Model for SHVA Purposes.**

Prediction models have no legal relevance to the ultimate determination of subscriber eligibility for receiving distant network signals by satellite under the Act. Congress adopted an eligibility scheme in the SHVA pursuant to which a particular subscriber qualifies for out-of-market network signals if the actual intensity of the local network affiliate's signal is below the requisite dBu at that customer's residence (and the customer did not subscribe to cable within the previous ninety days).<sup>31/</sup> The two federal courts that have examined the SHVA have concluded that the unambiguous statutory language requires actual measurements to determine compliance with the Act.<sup>32/</sup> It is thus legally irrelevant for purposes of determining subscriber eligibility under the SHVA that a particular household happens to be located within a station's Grade B coverage area as predicted by the FCC or any other methodology.

Congress placed the burden of proof on satellite carriers to comply with the SHVA by testing the intensity of local network affiliates' signals at the homes of potential customers. While a carrier may use a predictive model such as Longley-Rice to make preliminary determinations as to subscriber eligibility, the internal use of such a predictive tool cannot excuse a carrier's copyright infringements. Instead, such a predictive tool merely enables the carrier to assess which customers likely would be eligible for receiving out-of-market signals. Because the Act requires actual measurements, the particular prediction method adopted for

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<sup>31/</sup> 17 U.S.C. § 119(d)(10).

<sup>32/</sup> *ABC*, 17 F. Supp. 2d at 471-72 (rejecting PrimeTime 24's argument that the SHVA did not establish an actual measurement standard); *CBS*, 9 F. Supp. 2d at 1339 (same).

internal administrative ease by a DTH satellite operator can amount to no more than a presumption rebuttable by actual measurements at a particular household.

The use of a predictive measurement methodology nevertheless may be a valuable tool for satellite carriers. By selecting for strictly internal purposes a model with a high degree of accuracy, a satellite carrier can reduce dramatically and efficiently the number of households it otherwise would have to test. The Longley-Rice model applied in the Miami litigation, for example, could save a satellite carrier significant resources because it predicts which households can receive a signal of Grade B intensity with very high accuracy. On the other hand, relying on a model with a low degree of accuracy would underpredict the extent of a station's Grade B coverage area and thus result in a much larger number of SHVA violations. Regardless of which predictive tool it might choose, however, a satellite company will satisfy its statutory obligations only if it delivers network signals to those households that actually fail to receive a Grade B intensity off-air signal.

The clear statutory requirement of actual measurements for eligibility determinations precludes the Commission from mandating the use of a particular prediction model for SHVA purposes. Only Congress can determine whether the government should embrace a predictive methodology for administrative purposes. If Congress deemed it appropriate to authorize the use of a prediction model for such a reason, the Commission could use its technical expertise in the field to recommend the endorsement of a method that is consistent with the goals of the Act. Recommending to Congress a prediction model with a high degree of accuracy, such as the Longley-Rice method adopted by the Miami court, would ensure the protection of localism, the

integrity of broadcasters' local markets, and the preservation of network/affiliate relationships as required by the terms of the SHVA.

**IV. The Commission Should Propose That Congress Authorize the Satellite Delivery of Local Broadcast Signals into Local Television Markets.**

The satellite retransmission of local affiliates' signals into their local markets would solve the concerns raised by all parties to this proceeding. If local-into-local service were available to every household, there would be no need to determine which homes are "served" and which are "unserved" for purposes of the SHVA. The alleged "need" for the Commission to review the definition, prediction and measurement of Grade B signal intensity would disappear. Indeed, because every household could receive local network signals by satellite (if not over-the-air), the very need for importing distant affiliates' signals would vanish. Moreover, local-into-local service would further Congress' interest in assisting the satellite industry in its efforts to compete with the cable industry because both industries would be able to offer consumers local broadcast signals along with those of the traditional "cable" networks.

The copyright statute currently authorizes only a limited compulsory copyright permitting DTH providers the right to retransmit the signals of certain broadcast stations to only a few households. As a result, DTH operators cannot lawfully initiate local-into-local service unless and until Congress amends the copyright laws. The Joint Broadcasters urge the Commission to recommend that Congress immediately authorize such service.

**Conclusion**

Congress already has rejected the suggestions that the DTH satellite industry should be permitted to retransmit broadcast programming more widely. It clearly did so to protect localism, local broadcast affiliates and the network/affiliate distribution system. The legislature

also decided to grant the right to enforce the Act to the federal courts, rather than the Commission. Meanwhile, federal courts have insisted on strict adherence to the unambiguous text of the SHVA. As a result, the Commission has no authority to alter the administration of the SHVA for any reason. Moreover, any FCC rule changes that reduce affiliates' local markets would undermine localism and threaten the existence of other public benefits in direct conflict with the objectives and intent of the SHVA.

The Commission thus should undertake the only legitimate alternative available to it: it should recommend to Congress that it enact legislation authorizing local-into-local service. Such legislation would enable all viewers to benefit from the strong local service provided by their hometown affiliates.

Respectfully submitted,

CORDILLERA COMMUNICATIONS, INC.  
COSMOS BROADCASTING CORPORATION  
COX BROADCASTING, INC.  
INDEPENDENCE TELEVISION COMPANY  
MEDIA GENERAL BROADCASTING, INC.

By 

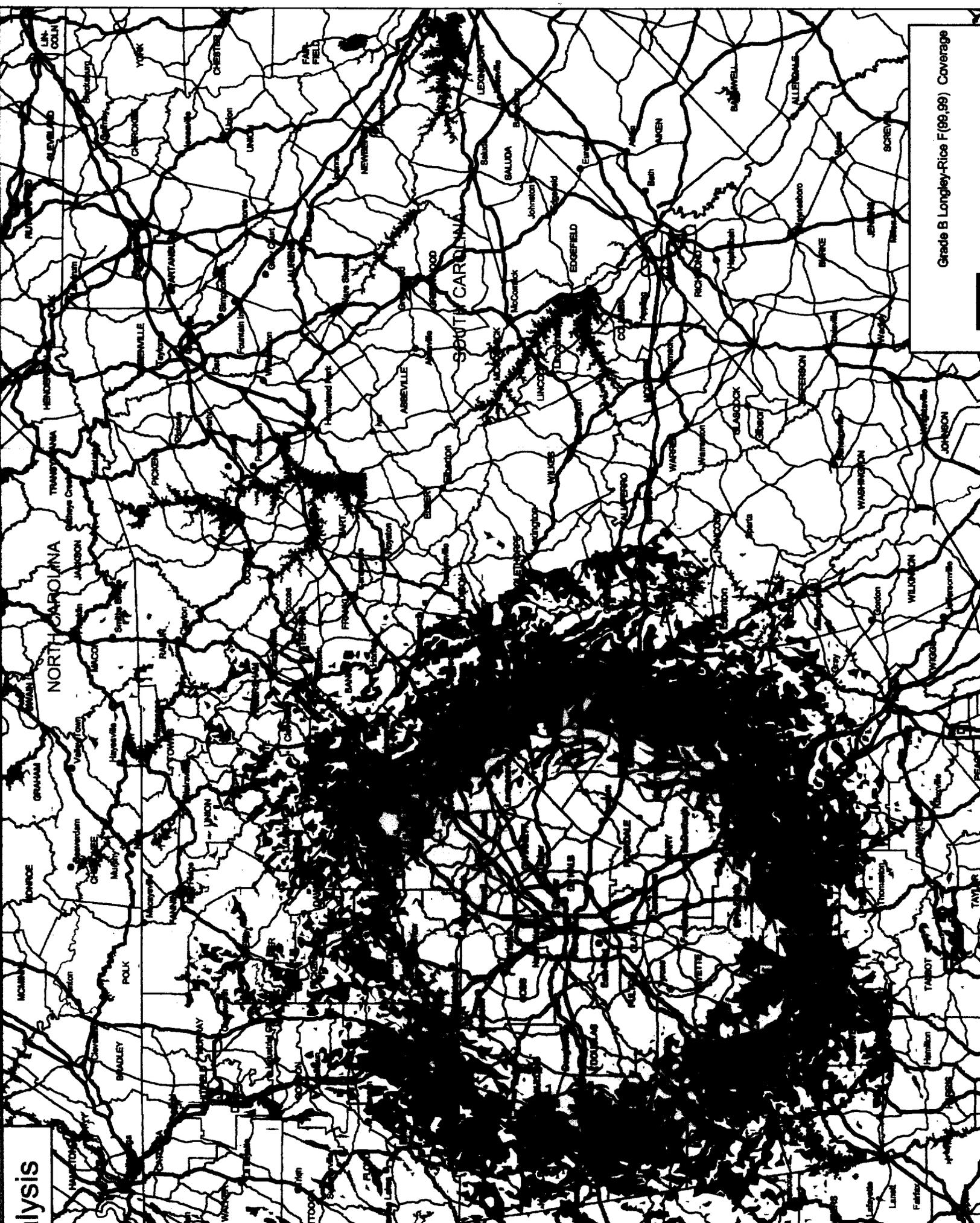
Werner K. Hartenberger  
John R. Feore, Jr.  
Kevin F. Reed  
Kevin P. Latek

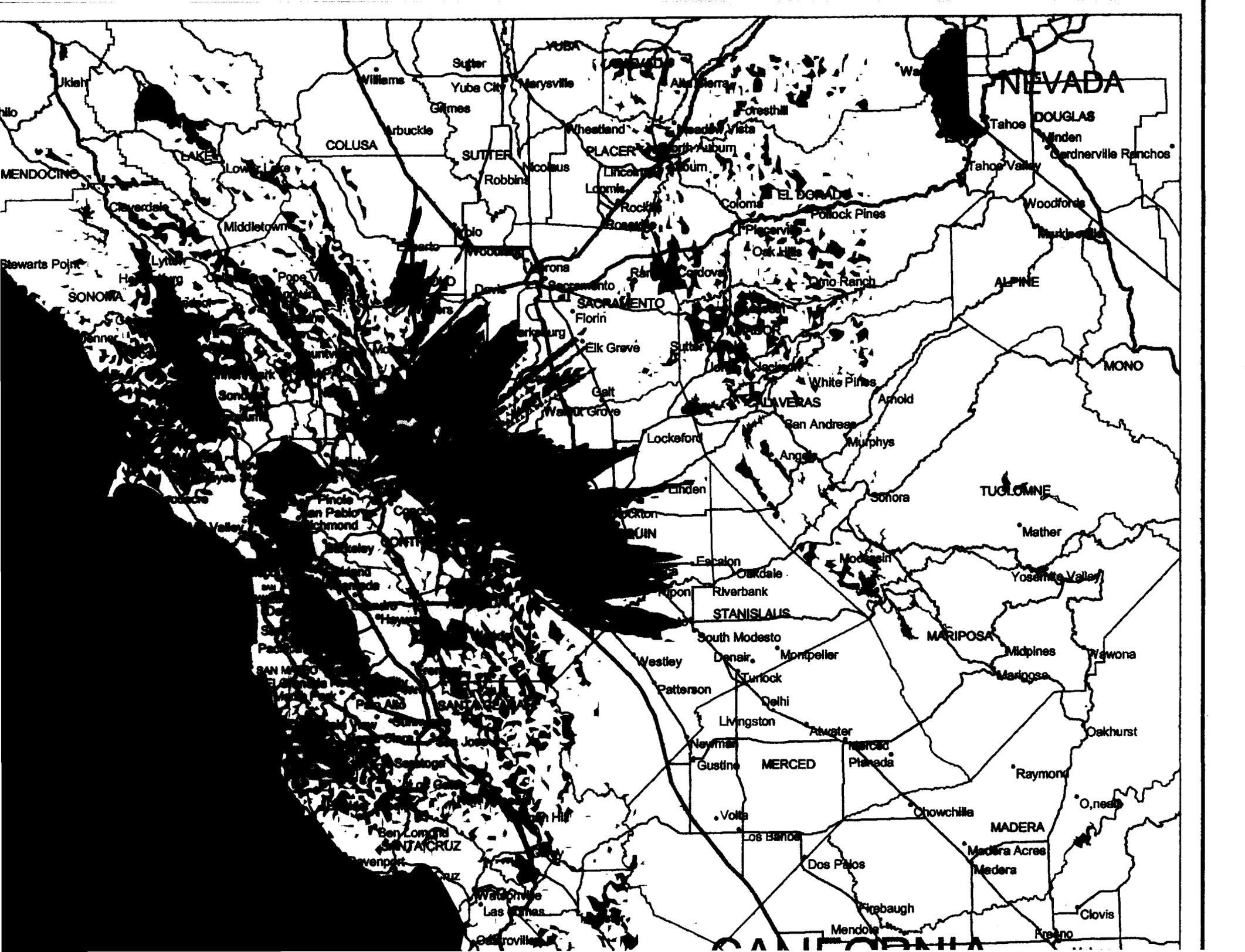
Their Counsel

DOW, LOHNES & ALBERTSON, PLLC  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 776-2000

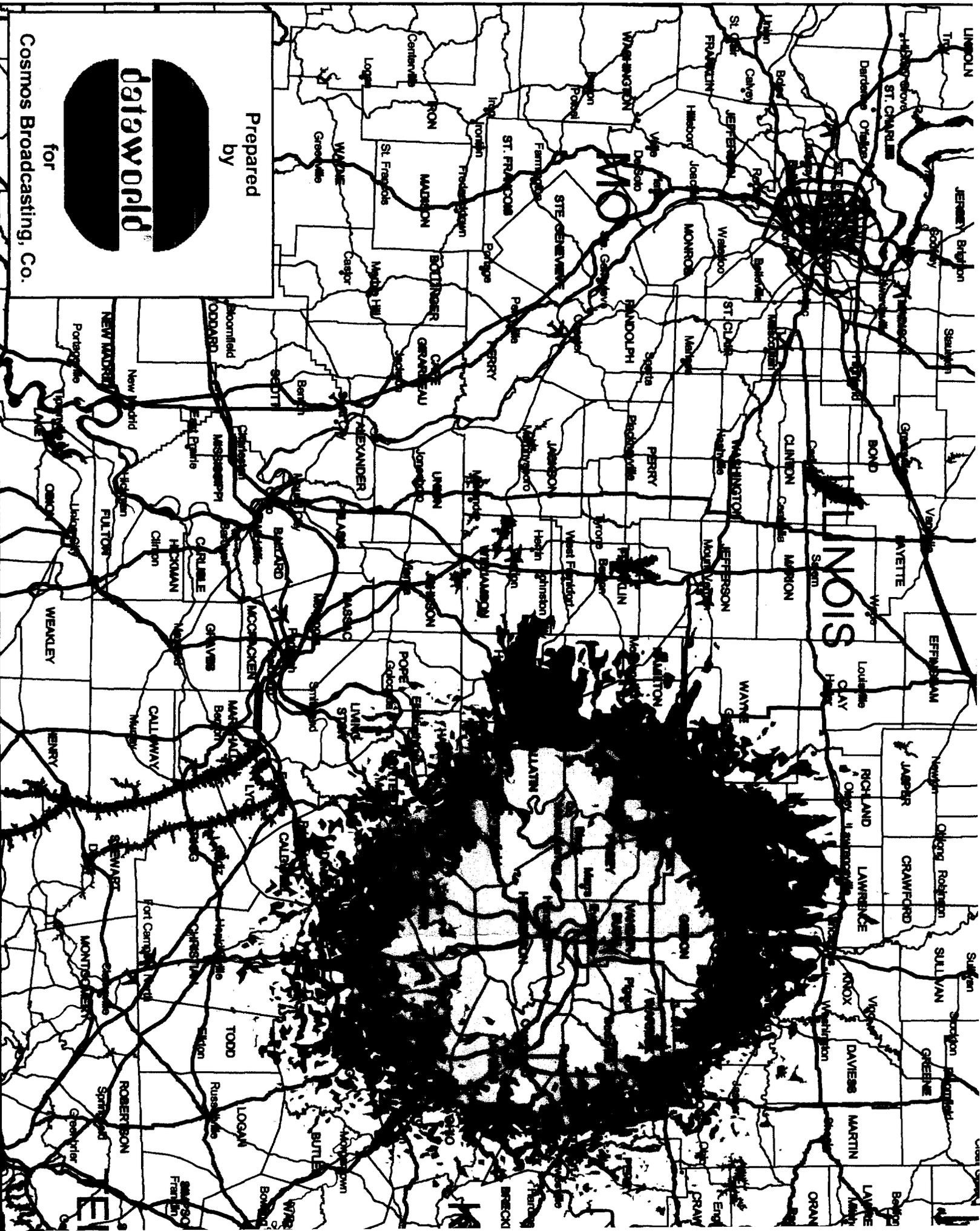
December 11, 1998

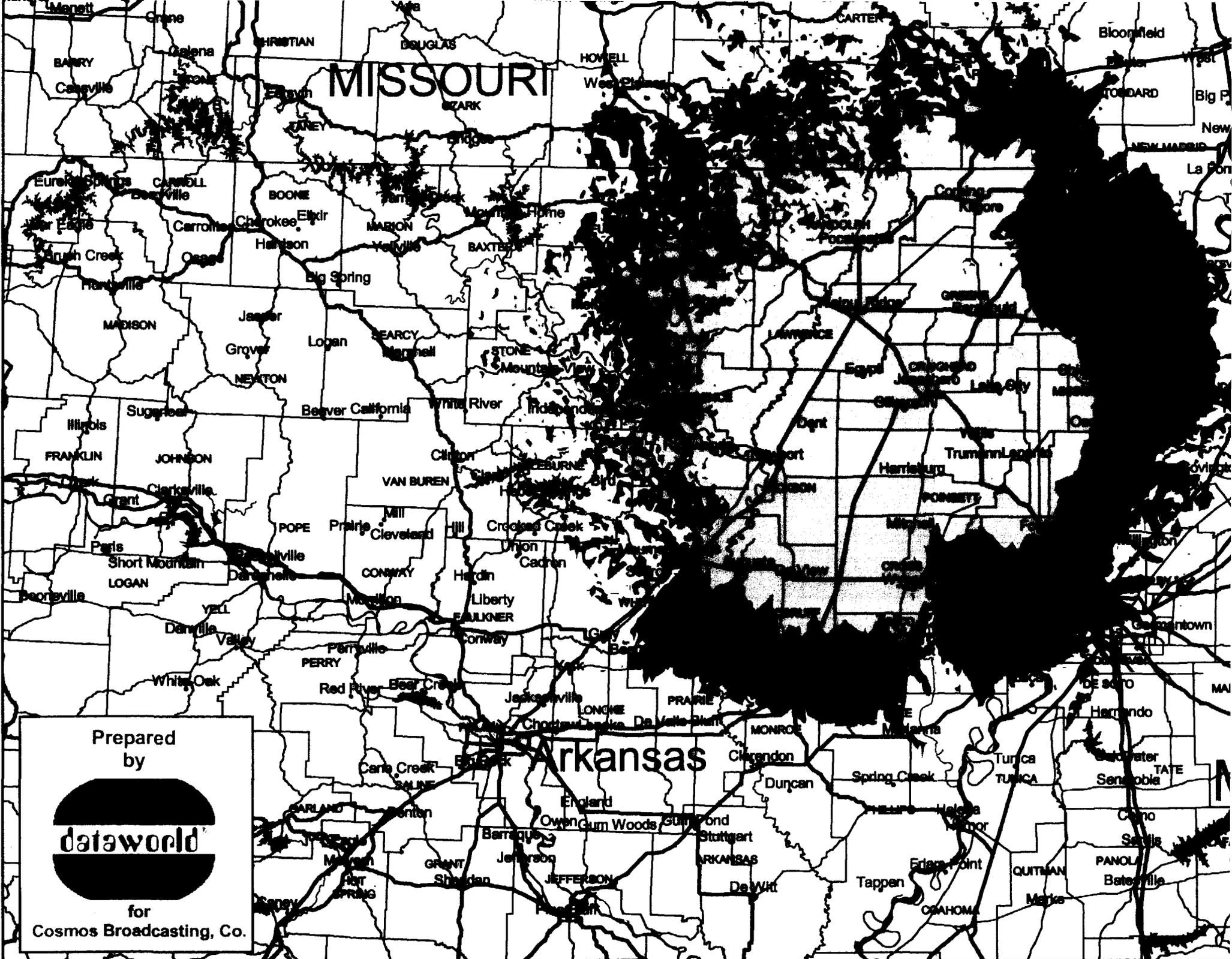
## APPENDIX A





Prepared  
by  
**datavorld**  
for  
Cosmos Broadcasting, Co.

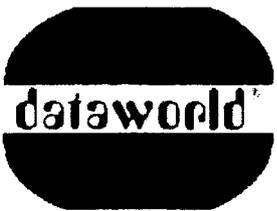




# MISSOURI

# Arkansas

Prepared by



for  
Cosmos Broadcasting, Co.



# WSB-TV Coverage Analysis

December 03, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Calhoun County	AL	116,034	46,753	595	0.5	235	0.5	0	0.0	0	0.0	100.0	100.0
Chambers County	AL	36,876	14,910	1,003	2.7	416	2.8	0	0.0	0	0.0	100.0	100.0
Cherokee County	AL	19,543	9,379	1,066	5.5	415	4.4	0	0.0	0	0.0	100.0	100.0
Clay County	AL	13,252	5,608	546	4.1	231	4.1	0	0.0	0	0.0	100.0	100.0
Cleburne County	AL	12,730	5,232	2,370	18.6	973	18.6	0	0.0	0	0.0	100.0	100.0
DeKalb County	AL	54,651	22,939	2,016	3.7	839	3.7	0	0.0	0	0.0	100.0	100.0
Lee County	AL	87,146	36,636	60	0.1	30	0.1	0	0.0	0	0.0	100.0	100.0
Randolph County	AL	19,881	8,728	3,677	18.5	1,602	18.4	0	0.0	0	0.0	100.0	100.0
Baldwin County	GA	39,530	14,200	1,073	2.7	403	2.8	0	0.0	0	0.0	100.0	100.0
Banks County	GA	10,308	4,193	2,397	23.3	988	23.6	0	0.0	0	0.0	100.0	100.0
Barrow County	GA	29,721	11,812	29,185	98.2	11,610	98.3	3,064	10.5	1,238	10.7	89.5	89.3
Bartow County	GA	55,911	21,757	47,588	85.1	18,644	85.7	6,021	12.7	2,215	11.9	87.3	88.1
Bibb County	GA	149,967	61,462	11,699	7.8	5,043	8.2	0	0.0	0	0.0	100.0	100.0
Butts County	GA	15,326	5,536	15,326	100.0	5,536	100.0	2,442	15.9	1,016	18.4	84.1	81.6
Carroll County	GA	71,422	27,736	68,067	95.3	26,405	95.2	14,078	20.7	5,378	20.4	79.3	79.6
Chattooga County	GA	22,242	9,142	737	3.3	344	3.8	0	0.0	0	0.0	100.0	100.0
Cherokee County	GA	90,204	33,840	89,140	98.8	33,407	98.7	67,040	75.2	24,932	74.6	24.8	25.4
Clarke County	GA	87,594	35,971	49,061	56.0	21,261	59.1	0	0.0	0	0.0	100.0	100.0
Clayton County	GA	182,052	71,926	182,052	100.0	71,926	100.0	182,052	100.0	71,926	100.0	0.0	0.0
Cobb County	GA	447,745	189,872	447,745	100.0	189,872	100.0	442,086	98.7	187,467	98.7	1.3	1.3

\* Percentages shown relative to F(50,50,50) coverage

# WSB-TV Coverage Analysis

December 03, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Coweta County	GA	53,853	20,413	53,736	99.8	20,366	99.8	23,113	43.0	8,681	42.6	57.0	57.4
Crawford County	GA	8,991	3,279	778	8.7	290	8.8	0	0.0	0	0.0	100.0	100.0
Dade County	GA	13,147	4,998	836	6.4	157	3.1	0	0.0	0	0.0	100.0	100.0
Dawson County	GA	9,429	4,321	8,107	86.0	3,492	80.8	1,628	20.1	750	21.5	79.9	78.5
DeKalb County	GA	545,837	231,520	545,837	100.0	231,520	100.0	545,837	100.0	231,520	100.0	0.0	0.0
Douglas County	GA	71,120	26,495	71,120	100.0	26,495	100.0	70,132	98.6	26,166	98.8	1.4	1.2
Fannin County	GA	15,992	8,363	85	0.5	47	0.6	0	0.0	0	0.0	100.0	100.0
Fayette County	GA	62,415	22,428	62,415	100.0	22,428	100.0	61,044	97.8	21,930	97.8	2.2	2.2
Floyd County	GA	81,251	32,821	23,282	28.7	9,100	27.7	0	0.0	0	0.0	100.0	100.0
Forsyth County	GA	44,083	17,869	42,580	96.6	17,245	96.5	26,248	61.6	10,334	59.9	38.4	40.1
Franklin County	GA	16,650	7,613	1,447	8.7	560	7.4	0	0.0	0	0.0	100.0	100.0
Fulton County	GA	648,951	297,503	648,951	100.0	297,503	100.0	648,426	99.9	297,304	99.9	0.1	0.1
Gilmer County	GA	13,368	6,986	3,484	26.1	1,775	25.4	13	0.4	11	0.6	99.6	99.4
Gordon County	GA	35,072	13,777	7,422	21.2	2,757	20.0	0	0.0	0	0.0	100.0	100.0
Greene County	GA	11,793	4,699	5,514	46.8	2,252	47.9	0	0.0	0	0.0	100.0	100.0
Gwinnett County	GA	352,910	137,608	352,876	100.0	137,596	100.0	346,350	98.2	135,347	98.4	1.8	1.6
Habersham County	GA	27,621	11,076	7,996	28.9	2,840	25.6	0	0.0	0	0.0	100.0	100.0
Hall County	GA	95,428	38,315	79,618	83.4	32,446	84.7	7,079	8.9	2,969	9.2	91.1	90.8
Hancock County	GA	8,908	3,396	47	0.5	16	0.5	0	0.0	0	0.0	100.0	100.0
Haralson County	GA	21,966	9,016	19,548	89.0	8,009	88.8	2,213	11.3	931	11.6	88.7	88.4
Harris County	GA	17,788	7,814	1,590	8.9	757	9.7	0	0.0	0	0.0	100.0	100.0
Hart County	GA	19,712	8,942	40	0.2	13	0.1	0	0.0	0	0.0	100.0	100.0

\* Percentages shown relative to F(50,50,50) coverage

# WSB-TV Coverage Analysis

December 03, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Heard County	GA	8,628	3,536	6,350	73.6	2,639	74.6	291	4.6	124	4.7	95.4	95.3
Henry County	GA	58,741	21,275	58,741	100.0	21,275	100.0	57,747	98.3	20,915	98.3	1.7	1.7
Jackson County	GA	30,005	11,775	23,151	77.2	9,160	77.8	107	0.5	47	0.5	99.5	99.5
Jasper County	GA	8,453	3,637	8,311	98.3	3,573	98.2	646	7.8	333	9.3	92.2	90.7
Jones County	GA	20,739	7,722	3,670	17.7	1,322	17.1	0	0.0	0	0.0	100.0	100.0
Lamar County	GA	13,038	5,066	11,968	91.8	4,661	92.0	129	1.1	43	0.9	98.9	99.1
Lumpkin County	GA	14,573	5,729	7,296	50.1	3,028	52.9	359	4.9	158	5.2	95.1	94.8
Madison County	GA	21,050	8,428	4,133	19.6	1,626	19.3	0	0.0	0	0.0	100.0	100.0
Marion County	GA	5,590	2,152	163	2.9	62	2.9	0	0.0	0	0.0	100.0	100.0
Meriwether County	GA	22,411	8,409	18,746	83.6	6,921	82.3	1,349	7.2	510	7.4	92.8	92.6
Monroe County	GA	17,113	6,401	12,823	74.9	4,884	76.3	0	0.0	0	0.0	100.0	100.0
Morgan County	GA	12,883	4,814	11,077	86.0	4,131	85.8	37	0.3	14	0.3	99.7	99.7
Murray County	GA	26,147	10,207	413	1.6	188	1.8	42	10.2	17	9.0	89.8	91.0
Newton County	GA	41,808	15,494	41,579	99.5	15,373	99.2	36,206	87.1	13,456	87.5	12.9	12.5
Oconee County	GA	17,618	6,561	13,529	76.8	5,020	76.5	56	0.4	19	0.4	99.6	99.6
Oglethorpe County	GA	9,763	3,936	2,058	21.1	857	21.8	0	0.0	0	0.0	100.0	100.0
Paulding County	GA	41,611	15,237	41,611	100.0	15,237	100.0	32,822	78.9	12,096	79.4	21.1	20.6
Peach County	GA	21,189	7,537	1,643	7.8	599	7.9	0	0.0	0	0.0	100.0	100.0
Pickens County	GA	14,432	6,403	11,041	76.5	4,817	75.2	6,334	57.4	2,598	53.9	42.6	46.1
Pike County	GA	10,224	3,797	9,581	93.7	3,561	93.8	1,362	14.2	497	14.0	85.8	86.0
Polk County	GA	33,815	13,585	22,362	66.1	8,769	64.5	150	0.7	96	1.1	99.3	98.9
Putnam County	GA	14,137	7,113	4,728	33.4	2,004	28.2	0	0.0	0	0.0	100.0	100.0

\* Percentages shown relative to F(50,50,50) coverage

# WSB-TV Coverage Analysis

December 03, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Rabun County	GA	11,648	7,883	528	4.5	472	6.0	0	0.0	0	0.0	100.0	100.0
Rockdale County	GA	54,091	19,963	54,091	100.0	19,963	100.0	54,091	100.0	19,963	100.0	0.0	0.0
Spalding County	GA	54,457	20,702	54,457	100.0	20,702	100.0	34,150	62.7	12,885	62.2	37.3	37.8
Stephens County	GA	23,257	10,254	3	0.0	1	0.0	0	0.0	0	0.0	100.0	100.0
Talbot County	GA	6,524	2,645	627	9.6	300	11.3	0	0.0	0	0.0	100.0	100.0
Taylor County	GA	7,642	3,162	1,060	13.9	458	14.5	0	0.0	0	0.0	100.0	100.0
Troup County	GA	55,536	22,426	22,664	40.8	9,169	40.9	0	0.0	0	0.0	100.0	100.0
Union County	GA	11,993	6,624	248	2.1	217	3.3	33	13.3	15	6.9	86.7	93.1
Upson County	GA	26,300	10,667	4,483	17.0	1,826	17.1	40	0.9	14	0.8	99.1	99.2
Walker County	GA	58,340	23,347	722	1.2	281	1.2	0	0.0	0	0.0	100.0	100.0
Walton County	GA	38,586	14,514	38,568	100.0	14,507	100.0	24,468	63.4	9,197	63.4	36.6	36.6
White County	GA	13,006	6,082	3,062	23.5	1,409	23.2	274	8.9	126	8.9	91.1	91.1
Whitfield County	GA	72,462	28,832	8,125	11.2	3,041	10.5	0	0.0	0	0.0	100.0	100.0
Wilkinson County	GA	10,228	4,151	77	0.8	25	0.6	0	0.0	0	0.0	100.0	100.0
Graham County	NC	7,196	4,132	248	3.4	120	2.9	0	0.0	0	0.0	100.0	100.0
Jackson County	NC	26,846	14,052	22	0.1	23	0.2	0	0.0	0	0.0	100.0	100.0
Macon County	NC	23,499	17,174	432	1.8	506	2.9	0	0.0	0	0.0	100.0	100.0
Oconee County	SC	57,494	25,983	137	0.2	84	0.3	0	0.0	0	0.0	100.0	100.0
Hamilton County	TN	285,536	122,588	1,628	0.6	612	0.5	0	0.0	0	0.0	100.0	100.0

\* Percentages shown relative to F(50,50,50) coverage

WSB-TV Coverage Analysis

December 03, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Total		5,047,029	2,100,879	3,398,868	67.3	1,401,267	66.7	2,699,559	79.4	1,123,238	80.2	20.6	19.8

\* Percentages shown relative to F(50,50,50) coverage



# KTVU Coverage Analysis

December 03, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Alameda County	CA	1,279,182	504,109	1,278,850	100.0	503,995	100.0	1,248,757	97.6	492,654	97.7	2.4	2.3
Amador County	CA	30,039	12,814	8,407	28.0	4,283	33.4	0	0.0	0	0.0	100.0	100.0
Calaveras County	CA	31,998	19,153	1,451	4.5	778	4.1	0	0.0	0	0.0	100.0	100.0
Contra Costa County	CA	803,732	316,170	803,555	100.0	316,098	100.0	534,886	66.6	215,176	68.1	33.4	31.9
El Dorado County	CA	125,995	61,451	23,603	18.7	9,803	16.0	0	0.0	0	0.0	100.0	100.0
Lake County	CA	50,631	28,822	1,834	3.6	933	3.2	0	0.0	0	0.0	100.0	100.0
Marin County	CA	230,096	99,757	229,452	99.7	99,502	99.7	218,699	95.3	94,949	95.4	4.7	4.6
Mendocino County	CA	80,345	33,649	36	0.0	15	0.0	0	0.0	0	0.0	100.0	100.0
Monterey County	CA	355,660	121,224	22,756	6.4	5,933	4.9	0	0.0	0	0.0	100.0	100.0
Napa County	CA	110,765	44,199	95,740	86.4	37,491	84.8	45,430	47.5	17,774	47.4	52.5	52.6
Nevada County	CA	78,510	37,352	6,568	8.4	2,761	7.4	0	0.0	0	0.0	100.0	100.0
Placer County	CA	172,796	77,879	21,528	12.5	8,959	11.5	0	0.0	0	0.0	100.0	100.0
Sacramento County	CA	1,041,219	417,574	39,304	3.8	14,977	3.6	0	0.0	0	0.0	100.0	100.0
San Benito County	CA	36,697	12,230	5,820	15.9	2,121	17.3	0	0.0	0	0.0	100.0	100.0
San Francisco County	CA	723,959	328,471	723,959	100.0	328,471	100.0	723,959	100.0	328,471	100.0	0.0	0.0
San Joaquin County	CA	480,628	166,274	298,153	62.0	103,267	62.1	0	0.0	0	0.0	100.0	100.0
San Mateo County	CA	649,623	251,782	649,394	100.0	251,651	99.9	643,947	99.2	249,483	99.1	0.8	0.9
Santa Clara County	CA	1,497,577	540,240	1,435,848	95.9	520,861	96.4	1,329,187	92.6	483,177	92.8	7.4	7.2
Santa Cruz County	CA	229,734	91,878	22,508	9.8	8,828	9.6	274	1.2	122	1.4	98.8	98.6
Solano County	CA	340,421	119,533	299,737	88.0	106,791	89.3	137,265	45.8	51,143	47.9	54.2	52.1

\* Percentages shown relative to F(50,50,50) coverage

# KTVU Coverage Analysis

December 03, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Sonoma County	CA	388,222	161,062	331,071	85.3	132,949	82.5	36,874	11.1	15,012	11.3	88.9	88.7
Stanislaus County	CA	370,522	132,027	2,965	0.8	965	0.7	0	0.0	0	0.0	100.0	100.0
Tuolumne County	CA	48,456	25,175	350	0.7	151	0.6	0	0.0	0	0.0	100.0	100.0
Yolo County	CA	141,092	53,000	17,305	12.3	6,335	12.0	0	0.0	0	0.0	100.0	100.0
Yuba County	CA	58,228	21,245	32	0.1	16	0.1	0	0.0	0	0.0	100.0	100.0
<b>Total</b>		<b>9,356,127</b>	<b>3,677,070</b>	<b>6,320,226</b>	<b>67.6</b>	<b>2,467,934</b>	<b>67.1</b>	<b>4,919,278</b>	<b>77.8</b>	<b>1,947,961</b>	<b>78.9</b>	<b>22.2</b>	<b>21.1</b>

\* Percentages shown relative to F(50,50,50) coverage



# WFIE Coverage Analysis

December 09, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Clay County	IL	14,460	6,270	73	0.5	33	0.5	0	0.0	0	0.0	100.0	100.0
Crawford County	IL	19,464	8,464	9	0.0	4	0.0	0	0.0	0	0.0	100.0	100.0
Edwards County	IL	7,440	3,260	7,078	95.1	3,122	95.8	0	0.0	0	0.0	100.0	100.0
Franklin County	IL	40,319	18,430	78	0.2	24	0.1	0	0.0	0	0.0	100.0	100.0
Gallatin County	IL	6,909	3,197	6,843	99.0	3,174	99.3	3,044	44.5	1,460	46.0	55.5	54.0
Hamilton County	IL	8,499	4,013	4,660	54.8	2,279	56.8	0	0.0	0	0.0	100.0	100.0
Hardin County	IL	5,189	2,403	1,465	28.2	642	26.7	235	16.0	143	22.3	84.0	77.7
Jefferson County	IL	37,020	16,075	29	0.1	11	0.1	0	0.0	0	0.0	100.0	100.0
Lawrence County	IL	15,972	6,980	4,664	29.2	1,991	28.5	0	0.0	0	0.0	100.0	100.0
Pope County	IL	4,373	2,154	204	4.7	99	4.6	0	0.0	0	0.0	100.0	100.0
Richland County	IL	16,545	7,142	996	6.0	384	5.4	0	0.0	0	0.0	100.0	100.0
Saline County	IL	26,551	12,350	20,916	78.8	9,819	79.5	25	0.1	9	0.1	99.9	99.9
Wabash County	IL	13,111	5,572	12,989	99.1	5,523	99.1	0	0.0	0	0.0	100.0	100.0
Wayne County	IL	17,241	7,622	7,966	46.2	3,615	47.4	0	0.0	0	0.0	100.0	100.0
White County	IL	16,522	7,797	16,123	97.6	7,598	97.4	1,534	9.5	713	9.4	90.5	90.6
Williamson County	IL	57,733	25,183	744	1.3	288	1.1	0	0.0	0	0.0	100.0	100.0
Crawford County	IN	9,914	4,374	173	1.7	61	1.4	0	0.0	0	0.0	100.0	100.0
Daviess County	IN	27,533	10,985	3,772	13.7	1,640	14.9	0	0.0	0	0.0	100.0	100.0
Dubois County	IN	36,616	13,964	9,128	24.9	3,364	24.1	0	0.0	0	0.0	100.0	100.0
Gibson County	IN	31,913	13,454	31,532	98.8	13,267	98.6	20,832	66.1	8,580	64.7	33.9	35.3

\* Percentages shown relative to F(50,50,50) coverage

# WFIE Coverage Analysis

December 09, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Knox County	IN	39,884	16,730	10,410	26.1	4,473	26.7	0	0.0	0	0.0	100.0	100.0
Martin County	IN	10,369	4,116	149	1.4	60	1.5	0	0.0	0	0.0	100.0	100.0
Perry County	IN	19,107	7,404	8,228	43.1	2,930	39.6	0	0.0	0	0.0	100.0	100.0
Pike County	IN	12,509	5,487	10,192	81.5	4,424	80.6	367	3.6	167	3.8	96.4	96.2
Posey County	IN	25,968	10,401	25,968	100.0	10,401	100.0	24,537	94.5	9,743	93.7	5.5	6.3
Spencer County	IN	19,490	7,636	17,918	91.9	7,150	93.6	9,713	54.2	4,045	56.6	45.8	43.4
Vanderburgh County	IN	165,058	72,637	165,058	100.0	72,637	100.0	165,058	100.0	72,637	100.0	0.0	0.0
Warrick County	IN	44,920	16,926	44,920	100.0	16,926	100.0	43,600	97.1	16,426	97.0	2.9	3.0
Breckinridge County	KY	16,312	8,261	41	0.3	15	0.2	0	0.0	0	0.0	100.0	100.0
Butler County	KY	11,245	4,698	449	4.0	211	4.5	0	0.0	0	0.0	100.0	100.0
Caldwell County	KY	13,232	5,794	3,632	27.4	1,532	26.4	0	0.0	0	0.0	100.0	100.0
Christian County	KY	68,941	23,429	1,438	2.1	534	2.3	0	0.0	0	0.0	100.0	100.0
Crittenden County	KY	9,196	4,039	5,595	60.8	2,404	59.5	364	6.5	135	5.6	93.5	94.4
Daviess County	KY	87,189	35,041	86,677	99.4	34,853	99.5	73,505	84.8	29,507	84.7	15.2	15.3
Grayson County	KY	21,050	10,446	73	0.3	31	0.3	0	0.0	0	0.0	100.0	100.0
Hancock County	KY	7,864	3,080	5,482	69.7	2,142	69.5	59	1.1	23	1.1	98.9	98.9
Henderson County	KY	43,044	17,932	43,044	100.0	17,932	100.0	43,044	100.0	17,932	100.0	0.0	0.0
Hopkins County	KY	46,126	19,325	39,678	86.0	16,602	85.9	5,126	12.9	1,916	11.5	87.1	88.5
Livingston County	KY	9,062	4,177	385	4.2	180	4.3	0	0.0	0	0.0	100.0	100.0
Logan County	KY	24,416	10,303	165	0.7	65	0.6	0	0.0	0	0.0	100.0	100.0
Lyon County	KY	6,624	3,460	58	0.9	19	0.5	0	0.0	0	0.0	100.0	100.0
McLean County	KY	9,628	4,042	9,585	99.6	4,022	99.5	4,930	51.4	2,031	50.5	48.6	49.5

\* Percentages shown relative to F(50,50,50) coverage

# WFIE Coverage Analysis

December 09, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Muhlenberg County	KY	31,318	12,754	23,782	75.9	9,705	76.1	187	0.8	84	0.9	99.2	99.1
Ohio County	KY	21,105	8,680	11,910	56.4	4,980	57.4	656	5.5	266	5.3	94.5	94.7
Todd County	KY	10,940	4,415	269	2.5	115	2.6	0	0.0	0	0.0	100.0	100.0
Union County	KY	16,557	6,091	16,300	98.4	6,001	98.5	10,409	63.9	3,464	57.7	36.1	42.3
Webster County	KY	13,955	5,914	13,955	100.0	5,914	100.0	5,168	37.0	2,099	35.5	63.0	64.5
<b>Total</b>		<b>1,218,433</b>	<b>512,907</b>	<b>674,803</b>	<b>55.4</b>	<b>283,196</b>	<b>55.2</b>	<b>412,393</b>	<b>61.1</b>	<b>171,380</b>	<b>60.5</b>	<b>38.9</b>	<b>39.5</b>

\* Percentages shown relative to F(50,50,50) coverage



# KAIT Coverage Analysis

December 09, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Baxter County	AR	31,186	15,549	128	0.4	64	0.4	0	0.0	0	0.0	100.0	100.0
Clay County	AR	18,107	8,362	18,061	99.7	8,338	99.7	7,819	43.3	3,592	43.1	56.7	56.9
Cleburne County	AR	19,411	10,802	3,567	18.4	1,675	15.5	428	12.0	189	11.3	88.0	88.7
Craighead County	AR	68,956	28,434	68,956	100.0	28,434	100.0	68,956	100.0	28,434	100.0	0.0	0.0
Crittenden County	AR	49,939	18,875	49,186	98.5	18,165	96.2	897	1.8	349	1.9	98.2	98.1
Cross County	AR	19,225	7,254	18,808	97.8	7,107	98.0	15,063	80.1	5,742	80.8	19.9	19.2
Fulton County	AR	10,037	4,839	7,111	70.8	3,369	69.6	318	4.5	154	4.6	95.5	95.4
Greene County	AR	31,804	13,216	31,804	100.0	13,216	100.0	31,151	97.9	12,939	97.9	2.1	2.1
Independence County	AR	31,192	12,838	30,434	97.6	12,526	97.6	12,280	40.3	4,796	38.3	59.7	61.7
Izard County	AR	11,364	5,535	7,251	63.8	3,513	63.5	381	5.3	164	4.7	94.7	95.3
Jackson County	AR	18,944	8,086	18,911	99.8	8,073	99.8	18,202	96.3	7,784	96.4	3.7	3.6
Lawrence County	AR	17,457	7,692	17,457	100.0	7,692	100.0	17,139	98.2	7,535	98.0	1.8	2.0
Lee County	AR	13,053	5,085	6,515	49.9	2,476	48.7	0	0.0	0	0.0	100.0	100.0
Lonoke County	AR	39,268	15,009	378	1.0	143	1.0	0	0.0	0	0.0	100.0	100.0
Mississippi County	AR	57,525	22,232	57,525	100.0	22,232	100.0	8,821	15.3	3,642	16.4	84.7	83.6
Monroe County	AR	11,333	5,063	5,070	44.7	2,069	40.9	0	0.0	0	0.0	100.0	100.0
Poinsett County	AR	24,664	10,271	24,664	100.0	10,271	100.0	24,664	100.0	10,271	100.0	0.0	0.0
Prairie County	AR	9,518	4,340	3,419	35.9	1,526	35.2	0	0.0	0	0.0	100.0	100.0
Randolph County	AR	16,558	7,343	16,548	99.9	7,336	99.9	15,442	93.3	6,781	92.4	6.7	7.6
Sharp County	AR	14,109	7,617	13,394	94.9	7,118	93.4	6,312	47.1	2,888	40.6	52.9	59.4

\* Percentages shown relative to F(50,50,50) coverage

# KAIT Coverage Analysis

December 09, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
St. Francis County	AR	28,497	10,958	25,408	89.2	9,830	89.7	1,685	6.6	672	6.8	93.4	93.2
Stone County	AR	9,775	4,548	2,244	23.0	1,005	22.1	154	6.9	83	8.3	93.1	91.7
Van Buren County	AR	14,008	7,580	153	1.1	83	1.1	0	0.0	0	0.0	100.0	100.0
White County	AR	54,676	21,658	22,837	41.8	9,154	42.3	2,697	11.8	1,164	12.7	88.2	87.3
Woodruff County	AR	9,520	4,169	9,520	100.0	4,169	100.0	7,433	78.1	3,174	76.1	21.9	23.9
Butler County	MO	38,765	17,046	33,936	87.5	14,648	85.9	1,171	3.5	514	3.5	96.5	96.5
Carter County	MO	5,515	2,693	1,601	29.0	731	27.1	0	0.0	0	0.0	100.0	100.0
Dunklin County	MO	33,112	14,102	26,945	81.4	11,589	82.2	496	1.8	209	1.8	98.2	98.2
Howell County	MO	31,447	13,326	5,779	18.4	2,340	17.6	0	0.0	0	0.0	100.0	100.0
New Madrid County	MO	20,928	8,557	1,619	7.7	659	7.7	0	0.0	0	0.0	100.0	100.0
Oregon County	MO	9,470	4,484	7,273	76.8	3,487	77.8	225	3.1	111	3.2	96.9	96.8
Pemiscot County	MO	21,921	8,806	19,718	90.0	7,964	90.4	0	0.0	0	0.0	100.0	100.0
Reynolds County	MO	6,661	3,537	16	0.2	7	0.2	0	0.0	0	0.0	100.0	100.0
Ripley County	MO	12,303	5,597	11,772	95.7	5,305	94.8	5,012	42.6	2,146	40.5	57.4	59.5
Shannon County	MO	7,613	3,312	552	7.3	228	6.9	0	0.0	0	0.0	100.0	100.0
Stoddard County	MO	28,895	12,288	2,263	7.8	877	7.1	0	0.0	0	0.0	100.0	100.0
Wayne County	MO	11,543	6,406	161	1.4	120	1.9	0	0.0	0	0.0	100.0	100.0
DeSoto County	MS	67,910	24,472	5,632	8.3	2,081	8.5	0	0.0	0	0.0	100.0	100.0
Dyer County	TN	34,854	14,384	1,304	3.7	614	4.3	0	0.0	0	0.0	100.0	100.0
Haywood County	TN	19,437	7,475	1	0.0	2	0.0	0	0.0	0	0.0	100.0	100.0
Lauderdale County	TN	23,491	9,343	7,572	32.2	2,966	31.7	0	0.0	0	0.0	100.0	100.0
Shelby County	TN	826,330	327,796	299,443	36.2	120,112	36.6	0	0.0	0	0.0	100.0	100.0

\* Percentages shown relative to F(50,50,50) coverage

# KAIT Coverage Analysis

December 09, 1998

County	State	County total		F(50,50,50)				F(99,99,50) *				% Change	
		POP	HU	POP	%	HU	%	POP	%	HU	%	POP	HU
Tipton County	TN	37,568	14,071	17,407	46.3	6,557	46.6	0	0.0	0	0.0	100.0	100.0
<b>Total</b>		<b>1,867,889</b>	<b>765,050</b>	<b>902,343</b>	<b>48.3</b>	<b>369,871</b>	<b>48.3</b>	<b>246,746</b>	<b>27.3</b>	<b>103,333</b>	<b>27.9</b>	<b>72.7</b>	<b>72.1</b>

\* Percentages shown relative to F(50,50,50) coverage

## CERTIFICATE OF SERVICE

I, Vanese E. Hargrove, hereby certify that I sent a true and correct copy of the foregoing Joint Comments on this 11th day of December 1998, via U.S. mail postage-prepaid to the following:

Chairman William E. Kennard\*  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Commissioner Susan Ness\*  
Federal Communications Commission  
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Washington, D.C. 20554

Commissioner Harold Furchtgott-Roth\*  
Federal Communications Commission  
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Commissioner Michael K. Powell\*  
Federal Communications Commission  
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Washington, D.C. 20554

Commissioner Gloria Tristani\*  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Deborah Lathen, Esquire\*  
Chief, Cable Services Bureau  
Federal Communications Commission  
2033 M Street, N.W.  
Washington, D.C. 20554

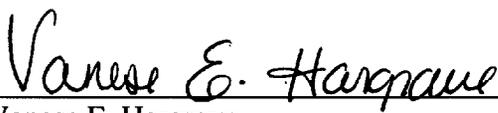
Mr. Richard M. Smith\*  
Chief, Office of Engineering and Technology  
Federal Communications Commission  
2033 M Street, N.W.  
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\* Denotes hand-delivery