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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

April 3, 2002

Via HAND DELIVERY

William F. Caton, Acting Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

**Re: In the Matter of: Implementation of the Satellite Home Viewer
Improvement Act of 1999; Broadcast Signal Carriage Issues;
CS Docket No. 00-96
Ex Parte Letter**

Dear Mr. Caton:

Pursuant to Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), EchoStar Satellite Corporation ("EchoStar") hereby briefly responds to the *ex parte* submission of the Association of America's Public Television Stations ("APTS") filed in this docket on March 7, 2002.

While much of the material in the APTS submission duplicates earlier filings and has already been addressed by EchoStar, we would like to make the following points for the record:

1. APTS asserts not only that subscribers are required to have a second dish (provided free of charge) to receive some local channels in certain markets, but also that those stations are "viewable only with . . . in some instances a second receiver." APTS *Ex Parte* Filing, ¶ I. To the extent the assertion is that subscribers require a second set-top receiver box in addition to a second satellite dish to receive these stations, APTS offers no factual support for that assertion, which is incorrect. In all cases, the subscriber needs only one receiver in order to review all local stations.

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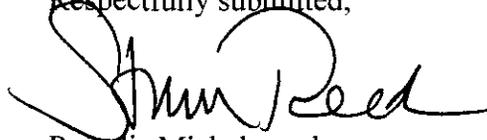
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2. APTS also questions whether EchoStar intended to terminate its free-second-dish offer as of April 1, 2002. APTS *Ex Parte* Filing, ¶ V. EchoStar states unequivocally that its offer has not been rescinded and, unless the Commission rules to the contrary, will remain in effect as long as the second-dish compliance plan remains in place.

3. Finally, APTS speculates that EchoStar may be providing a “worse degree of signal quality for must-carry stations” due to the locations of its non-CONUS satellites. APTS *Ex Parte* Filing, ¶ VI. This is, of course, a detailed factual question and not a legal issue, and therefore is inappropriate for resolution in connection with the NAB petition to modify or clarify the existing rule. In any event, no factual record has been made in this proceeding to suggest there is a significant difference in signal quality between stations on EchoStar’s CONUS satellites and those on its non-CONUS satellites. In fact, in response to a specific complaint from one local broadcaster in Philadelphia, EchoStar filed a declaration (copy attached as Exhibit A) from its Vice President, Space Programs and Operations, reporting the results of a signal strength test in that market. This test showed that “the effective signal strength of the transponder carrying WGTW [from a non-central satellite] is as strong or stronger than the signal strength of the transponder carrying the other local Philadelphia stations.” Exhibit A at ¶ 3. While this test does not prove that the same results would necessarily occur at all locations, it does indicate, at a minimum, that this is a specific factual question that must be addressed on a case-by-case basis, not through a generic ruling of the kind requested here.

Respectfully submitted,



Pantelis Michalopoulos

Steven Reed

Counsel to EchoStar Satellite Corporation

cc: W. Kenneth Ferree
Rockie Patterson
Michael Lance
Deborah Klein
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Rosalie Chiara
John Wong
Ronald Parver
William Johnson
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Exhibit A

**DECLARATION OF DAVID BAIR, VICE PRESIDENT, SPACE PROGRAMS
AND OPERATIONS
ECHOSTAR COMMUNICATIONS CORPORATION**

**IN SUPPORT OF OPPOSITION TO AMENDED MUST CARRY COMPLAINT
OF BRUNSON COMMUNICATIONS, INC. (WGTW)**

I, David Bair, do hereby declare and affirm as follows:

1. I am over the age of twenty-one, and I make this Declaration on the basis of my own personal knowledge, in support of Opposition to the Amended Must Carry Complaint of Brunson Communications.

2. I am the Vice President, Space Programs and Operations for EchoStar Communications Corporation ("EchoStar"). In that capacity, I requested the taking of signal strength measurements in the Philadelphia market to compare the signal strength received from satellites used for providing EchoStar local programming located at the 110° West Longitude and 129° West Longitude orbital slots. Transponder 10 on the 110° West Longitude satellite carries the following local Philadelphia stations: WPVI, WTXF, WHYY, WPHL, KYW, WCAU, and WPSG. Transponder 17 (designated as transponder 23 on EchoStar's receivers) on the satellite located at 129° West Longitude carries the following local stations: WFMZ, WNJS, WUVP, WGTW, and WBYE.

3. Our measurements were taken on March 19, 2002, under cloudy and rainy conditions. We utilized an installed system typical of those recommended for use in this DMA. The standard EchoStar receiver provides a relative readout of signal strength to allow installers to position the dish to receive the most advantageous signal levels. During the tests taken on March 19, 2002, the received signal strength of Transponder 10 of the 110° satellite equaled 58 counts, while the received signal strength of Transponder 17 (23) of the 129° satellite equaled 69 counts. This indicates that the effective signal strength of the transponder carrying WGTW is as strong as or stronger than the signal strength of the transponder carrying the other local Philadelphia stations.

4. Although the actual signal strength numbers might change on any given testing day based on weather conditions and other factors, the relative strength of the two transponders would not change significantly. Based on this test, I believe that under all conditions where an installation in the Philadelphia market is properly done, with clean lines of sight to both satellites, the effective signal strength of the transponder carrying WGTW should remain as strong as or stronger than the signal strength of the transponder carrying the other local Philadelphia stations.

I, David Bair, on behalf of EchoStar Communications Corporation, do hereby declare and affirm, under penalties of perjury, and after first being warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001), that all statements made by me in the foregoing Declaration are made on my own personal knowledge, and those statements are true.

By: 
David Bair, Vice President, Space
Programs and Operations
EchoStar Communications Corporation

Dated: March 20, 2002

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on April 3, 2002, via hand delivery (indicated by *) or by first class mail, upon the following:

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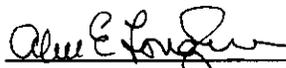
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