

STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

ORIGINAL

1330 Connecticut Avenue, NW
Washington, DC 20036-1795

Telephone 202.429.3000
Facsimile 202.429.3902
www.steptoel.com

Steven G.T. Reed
202.429.6232
sreed@steptoel.com

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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EX PARTE OR LAIE 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:

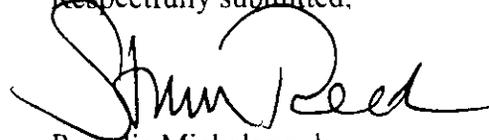
1. APTS asserts not only that subscribers are required to have a second dish (provided free of charge) to receive some local channels in certain markets, but also that those stations are "viewable only with . . . in some instances a second receiver." APTS *Ex Parte* Filing, ¶ I. To the extent the assertion 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.

William F. Caton
April 3, 2002
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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 APTS *Ex Parte* Filing, ¶ V. EchoStar states unequivocally that its offer has not been rescinded and, unless the Commission rules to the contrary, will remain in effect as long as the second-dish compliance plan remains in place.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
Ben Bartolome
Rosalie Chiara
John Wong
Ronald Parver
William Johnson
Eloise Gore

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, WHYI, 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:

William F. Caton*
Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TWB - 204C
Washington, D.C. 20554

W. Kenneth Ferree*
Federal Communications Commission
Cable Services Bureau
445 12th Street, S.W.
Room 36-740
Washington, D.C. 20554

Rockie Patterson*
Federal Communications Commission
International Bureau
445 12th Street, S.W.
Room 6-B524
Washington, D.C. 20554

Michael Lance*
Federal Communications Commission
Cable Services Bureau
445 12th Street, S.W.
Room 4-C818
Washington, D.C. 20554

Deborah E. Klein*
Federal Communications Commission
Cable Services Bureau
445 12th Street, S.W.
Room 4-A820
Washington, D.C. 20554

Ben Bartolome*
Federal Communications Commission
Cable Services Bureau
445 12th Street, S.W.
Room 4-A820
Washington, D.C. 20554

Rosalie Chiara*
Federal Communications Commission
445 12th Street, S.W.
International Bureau
Room 6-A521
Washington, D.C. 20554

John P. Wong*
Federal Communications Commission
Cable Services Bureau
445 12th Street, S.W.
Room 4-C838
Washington, D.C. 20554

Ronald Parver*
Federal Communications Commission
Cable Services Bureau
445 12th Street, S.W.
Room 4-A822
Washington, D.C. 20554

William H. Johnson*
Federal Communications Commission
Cable Services Bureau
445 12th Street, S.W.
Room 3-C742
Washington, D.C. 20554

Eloise Gore*
Cable Services Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 4-A726
Washington, D.C. 20554

Jonathan D. Blake
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Counsel for Joint Broadcasters

Harry F. Cole
Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th Street
11th Floor
Arlington, Virginia 22209
*Counsel for African-American Broadcasting
Company of Bellevue, Inc.*

Lawrence M. Miller
Schwartz, Woods & Miller
1350 Connecticut Avenue, N.W., Suite 300
Washington, D.C. 20036-1717
*Counsel for The Long Island Educational
Television Council*

Barry D. Wood
Paul H. Brown
Woods, Maines & Brown, Chartered
1827 Jefferson Place, N.W.
Washington, D.C. 20036
Counsel for Eagle III Broadcasting, LLC

Marilyn Mohrman-Gillis
Vice President, Policy and Legal Affairs
Association of Public Television Stations
666 Eleventh Street, N.W., Suite 1100
Washington, D.C. 20001

J. Brian DeBoice
Ronald A. Siegel
Cohn and Marks LLP
1920 N Street, N.W., Suite 300
Washington, D.C. 20036
*Counsel for WLNY-TV INC. and GOLDEN
ORANGE BROADCASTING CO.*

Richard Millet
Senior Vice President
Assistant General Manager
KSCI-TV
1990 South Bundy Drive, Suite 850
Los Angeles, CA 90025

John R. Feore, Jr.
Kevin P. Latek
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036
*Counsel for Roberts Broadcasting Company of
Denver*

Barry D. Wood
Paul H. Brown
Woods, Maines & Brown, Chartered
1827 Jefferson Place, N.W.
Washington, D.C. 20036
Counsel for Brunson Communications Corporation

Richard R. Zaragoza
Tony Lin
Shaw Pittman LLC
2300 N Street, N.W.
Washington, D.C. 20037
Counsel for State Broadcasters Associations

John R. Feore, Jr.
Kevin P. Latek
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036
Counsel for Jovon Broadcasting Corporation

Henry L. Baumann
Benjamin F.P. Ivins
National Association of Broadcasters
1771 N Street, N.W.
Washington, D.C. 20036

Peter C. Pappas
Executive Vice President
Government & Regulatory Affairs
1299 Pennsylvania Avenue, N.W.
Tenth Floor
Washington, D.C. 20004

Peter Tannenwald
Kevin M. Walsh
Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Ave., N.W., Suite 200
Washington, D.C. 20036
*Counsel for North Pacific International
TV, Inc.*

Barry A. Friedman
Barry D. Umansky
Carolina Coll
Thompson Hine LLP
1920 N Street, N.W., Suite 800
Washington, D.C. 20036
*Counsel for Rancho Palos Verdes
Broadcasters, Inc.; Costa de Oro Television,
Inc.; KVMD Acquisition Corporation;
Entravision Holdings, LLC*

Mark Holtz
7943 Sungarden Drive
Citrus Heights, CA 95610-3133

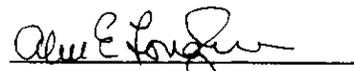
Joseph C. Chautin, III
Hardy, Carey & Chautin, L.L.P.
110 Veterans Blvd., Suite 300
Metairie, La 70005
Counsel for HCC Commenters

Scott R. Flick
Brendon Holland
Paul A. Cicelski
Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037
Counsel for Univision Communications Inc.

Robert E. Branson
Association of Local Television Stations
1320 19th Street, N.W., Suite 300
Washington, D.C. 20036

William L. Watson
Secretary
Paxson Communications Corporation
601 Clearwater Park Road
West Palm Beach, FL 33401

Kevin F. Reed
Kevin P. Latek
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036-6802
Counsel for Telemundo Group, Inc.


Alice E. Loughran