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June 5, 2002

ELECTRONICALLY FILED

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW – Room TW-A325
Washington, D.C. 20554

Re: Ex Parte Notice, CS Docket No. 01-290

Dear Ms. Dortch:

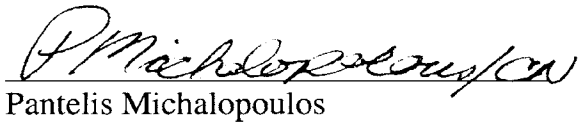
In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. §1.1206, EchoStar Communications Corporation ("EchoStar"), DIRECTV, Inc. ("DIRECTV") and the Satellite Broadcasting and Communications Association ("SBCA") (collectively, the "Parties"), submit this letter to report that their representatives met with members of the Commission staff to discuss issues associated with the above-reference docket on June 4, 2002. Specifically, David Goodfriend of EchoStar, Merrill Spiegel of DIRECTV, and David Murray of SBCA met with Stacy Robinson of Commissioner Abernathy's office, Susanna Zwerling of Commissioner Copps' office and Catherine Crutcher Bohigian of Commissioner Martin's office.

The representatives of the Parties underscored the general arguments made in their pleadings in this docket regarding the necessity of maintaining the current prohibition on exclusive programming contracts to preserve and protect competition and diversity in the MVPD market. They addressed the evidence that, when given a chance, cable operators will exercise their dominant market power to foreclose programming to DBS providers. This is most evident in the behavior of COMCAST-affiliated programming companies refusing to sell key sports programming to either DIRECTV or EchoStar in the Philadelphia market, where DBS penetration is the lowest of any major market. They also discussed evidence that programmers charge cable operators a lower fee than they charge DBS operators for the same national service, demonstrating the market power that cable operators can and do exert in the programming market because of their ability to aggregate a majority of the television households in a given market.

All of these factors highlight what would happen if the Commission were to allow the current exclusivity prohibition to sunset. The current level of competition and diversity in the MVPD marketplace would decline, further entrenching incumbent cable operators' dominant market power. Finally, in response to a question regarding why DIRECTV and EchoStar, each a top-10 MVPD provider, require continuation of the exclusivity ban, the representatives of the Parties responded that cable operators are able to exert market power over their programming affiliates and withhold programming from DBS providers because they stand to benefit more than they stand to lose and, moreover, that cable operators gladly sell their programming to other cable operators because they do not compete with each other.

If you have questions concerning this meeting or this notice, please do not hesitate to contact the undersigned.

Respectfully submitted,



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