



FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF GENERAL COUNSEL

# memorandum

TO: Chief, Reference Information Center  
Chief, Cable Services Bureau

FROM: Daniel M. Armstrong *DMA*  
Associate General Counsel

SUBJECT: *Satellite Broadcasting and Communications Association v. FCC & USA*, No. 01-1151, *EchoStar Satellite Corporation v. FCC & USA*, No. 01-1271, *National Association of Broadcasters v. FCC & USA*, No. 01-1272. Filing of three Petitions for Review in the United States Court of Appeals for the Fourth Circuit.

DATE: March 1, 2001

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This is to advise you that the Satellite Broadcasting and Communications Association ("SBCA"), EchoStar Communications Corp. ("EchoStar"), and the National Association of Broadcasters ("NAB") filed Petitions for Review, pursuant to 47 U.S.C. § 402(a), of the following order: *In the Matter of: Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage Issues, Retransmission Consent Issues*, CS Docket Nos. 00-96 and 99-363, FCC 00-417 (released November 30, 2000), 66 Fed. Reg. 7410 (January 23, 2001). SBCA filed in the United States Court of Appeals for the Fourth Circuit; EchoStar filed in the Tenth Circuit; and NAB filed in the District of Columbia Circuit. Pursuant to 28 U.S.C. § 2102, the multi-circuit petitions were submitted to the Judicial Panel on Multidistrict Litigation. On February 9, 2001, that panel randomly selected the Fourth Circuit to hear the petitions: and, on February 28, 2001, the Fourth Circuit consolidated the cases.

EchoStar and SBCA claim that the carry-oneicarry-all requirement, which the Satellite Home Viewer Improvement Act ("SHVIA") mandates and the Commission's order implements, is unconstitutional as it restricts speech in violation of the First Amendment and takes property without due process of law in violation of the Fifth Amendment. NAB does not challenge the constitutionality of the SHVIA statute or the Commission's order. Instead, NAB claims that a portion of the order is arbitrary and capricious. NAB's petition does not specify which specific portion of the order it is challenging.

The Court has docketed these cases as Nos. 01-1151, 01-1271 and 01-1272. The attorney assigned to represent the Commission is Louis Peraertz.