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

In the Matter of)
Revision of the Rules and Policies for the)
Direct Broadcast Satellite Services)

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Request for Declaratory Ruling on
DBS Service to Hawaii from 101 Degrees W.L.

MICROCOM
1143 East 70th Ave
Anchorage, AK 99518
907-349-0016

Jim McCaffrey
General Manager

March 19, 2003

Request for Declaratory Ruling on DBS Service to Hawaii from 101 Degree Slot

Microcom, a DBS distributor in Hawaii, hereby petitions the Commission to compel DirecTV to seek an exemption to Section 25.148c of the Commission's rules and explain why it is not providing comparable service to Hawaii. The purpose for this ruling is to provide clear information to video content providers about the extent to which DirecTV provides services to all of the United States.

Discussion

The Commission in its Report and Order on DBS (IB 98-21) directed DBS providers to provide reasonably comparable service to Alaska and Hawaii or "provide technical analyses to the Commission demonstrating that such service is not feasible as a technical matter, or that while technically feasible such services would require so many compromises in satellite design and operation as to make it economically unreasonable." DirecTV by its actions is not providing service to Hawaii comparable to the services it offers in the rest of the continental US.

Specifically, only 18 of 32 transponders are available for Hawaii subscribers from the 101 degree satellite position and major parts of DirecTV's programming packages are not available. In addition, this service would require the use of a 1.2 meter dish which is larger than the current dish covered under Section 25.104(f) preempting local zoning rules for direct to home television services. Today a consumer's only choice is to buy a package for which they will not receive all the programming, potentially apply for exemption to protective covenants or local zoning rules for permission to install a dish, or subscribe to an ethnic channel package they may not want. In addition, the latest generation of DirecTV receivers does not include Hawaii zip codes in its setup database for elevation and azimuth and many of DirecTV's published consumer toll free numbers are not accessible from area code 808. We believe these actions must be justified to the Commission.

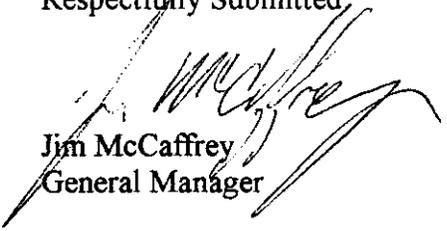
Specific Relief

Microcom requests the Commission compel DirecTV to apply for exemption to the geographic service requirements for serving Hawaii under the Commission rules (25.148c) and explain why it is not technically feasible or is economically unreasonable to serve Hawaii.

Impact

Failure of the Commission to grant this petition will result in program providers presuming that 101 degree orbital slot provides service to Hawaii when that is not the case. This is misleading and affects the negotiations for carriage of the service if the actual situation were known. The result is a denial of the services to Hawaiian subscribers when alternative capacity for carriage exists.

Respectfully Submitted:



Jim McCaffrey
General Manager

Microcom
1143 East 70th Ave.
Anchorage, Alaska 99518
Tel: 907.349.0004
fax: 907.344.8690