

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

In the Matter of General Motors            )  
Corporation, Hughes Electronics            )  
Corporation, and the News Corporation    )  
Limited Seek Approval to Transfer        )  
Control of FCC Authorizations and        )  
Licences Held by Hughes Electronics    )  
Corporation to the News Corporation    )  
Limited                                            )

Media Bureau Docket  
03-124

MICROCOM  
1143 East 70<sup>th</sup> Ave  
Anchorage, AK 99518  
907-349-0016

Jim McCaffrey  
General Manager

June 10, 2003

COMMENTS OF MICROCOM

We are concerned about the acquisition of Hughes and its subsidiaries by News Corporations because of a historical pattern of failing to provide service to Alaska by both Hughes and News Corp. Specifically the Hughes subsidiary, DirecTV has consistently failed to provide service to Alaska even though existing regulation requires them to do so. They have negotiated an exclusive contract with the NFL that has effectively denied Alaska consumers access to this sports package.<sup>1</sup> DirecTV consistently introduces promotions for new and existing customers but exempt Alaska and Hawaii. Most recently, they offered NFL Sunday Ticket subscribers a \$199

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<sup>1</sup>Customers must invest upwards of \$1500 to install a DirecTV system in Anchorage. Reliably they can receive 14 of 26 transponders from the 101° satellite. As a result a customer will not receive all NFL games and neither can they receive all of the typical DirecTV programming packages. Given the high cost of a system and the poor value it represents, most customers will not purchase any DirecTV products.

purchase/installation option for a personal video recorder but exempted Alaska and Hawaii<sup>2</sup>.

In addition, the News Corp subsidiary, Fox Networks, has consistently refused to allow DBS satellite reception of distant Fox affiliate stations by commercial establishments outside the grade B contour of the local FOX affiliates. FOX insists that these establishments install a C-band satellite system to receive FOX Net off of a satellite that many of them cannot see. This effectively denies these facilities access to Fox Network programming. FOX is the only major broadcaster to deny DBS reception of distant affiliate stations in commercial establishments<sup>3</sup>.

We have attempted on numerous occasions to get both companies to resolve these problems without success. When programmers such as the NFL have asked DirecTV about our complaints they have been given false and misleading information. In response to complaints to the NFL in 2001, the NFL expressed surprise when they learned DirecTV did not provide any meaningful service to Alaska and Hawaii<sup>4</sup>. If the truth had been known, the programmers may have changed their bargaining position. Recently Fox Sports provided one rural Alaska community a Hobson's choice, forgo a digital upgrade or pay twice for the same programming<sup>5</sup>. Both DirecTV and FOX Networks exhibit a total lack of understanding and disregard for the difficulty and challenges for consumers in Alaska. The combined companies will certainly be no better.

Because of this we object to the transfer of licenses to News Corporation unless they agree to take immediate action to remedy these situations. Specifically we ask that the following conditions be placed on the transfer:

- a. Within one year of completion of the transfer, DirecTV must start offering small dish service to Alaska and Hawaii that provides all programming from its core slot at 101 degrees. Small dish service is defined as anything under one meter in the Anchorage, Fairbanks, and Juneau DMA's and all the Honolulu DMA.

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<sup>2</sup> DirecTV subscribers to the NFL Sunday Ticket were recently sent an offer for a TiVO personal video recorder for \$199 including installation. The offer was void in Hawaii and Alaska. See [http://directv.com/Email2003/dvrmfl/DVR\\_NFL\\_lp.html](http://directv.com/Email2003/dvrmfl/DVR_NFL_lp.html). A review of other offers on the DirecTV website shows similar exceptions including one for a free system for those looking for Spanish language programming, the only meaningful programming package offered in Hawaii. See <http://www.directv.com/DTVAPP/buy/SpecialOffers.jsp>

<sup>3</sup> During August 2000, we exchanged numerous electronic mail messages with Molly Paulker of Fox Networks. She was unable to help and could only refer us to Bob Quicksilver, President of Fox Networks for help.

<sup>4</sup> In both October 2000 and 2001 we exchanged electronic mail messages with Tola Murphy-Baren of the NFL on this subject. They were unaware initially that DirecTV did not provide service to Alaska. When the NFL questioned DirecTV on this subject, DirecTV responded that the new DirecTV 1R satellite would correct the problem. The correspondence with the NFL in 2001 informed the NFL that the problem still existed after DirecTV 1R went into service.

<sup>5</sup> Nushagak Cooperative in Dillingham, Alaska, elected to go with digital cable upgrade, even though they are now paying twice for FOX Sports programming. Once under their original agreement and again through their new programming provider.

- b. PanAmSat will make a good faith effort to insure all future satellites provide coverage equal to the CONUS over all of Alaska where the elevation angle is 5 degrees or greater consistent with international agreements. This includes the Aleutian Islands.
- c. Failing a above, News Corp should be required to subsidize DirecTV equipment prices and installations to keep the overall consumer cost for services consistent with the CONUS pricing or their nearest competitor in Alaska. Alternatively, they should make available for sale on Dish Network's Alaska and Hawaii 110 degree spot beams their exclusive sports programming packages.
- d. Immediately make all DirecTV and Fox Networks promotions applicable to all fifty states without exception.
- e. Fox Networks immediately allow reception of distant FOX affiliates in commercial establishments outside the grade B contour of a local Fox affiliate. In addition, FOX Networks should immediately make available other FOX Sports and entertainment programming from DBS satellites to commercial operators when there is no other alternative to receive that programming.