

December 22, 2003

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Notice Presentations; MB Docket No. 03-124

Dear Secretary Dortch:

Pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, and on behalf of the Broadband Service Providers Association ("BSPA"), this letter provides notice that on December 18, 2003, the BSPA provided Johanna Shelton of Commissioner Adelstein's Office with the attached written *ex parte* communication. The attached was also distributed today via electronic mail to Jonathan Cody of Chairman Powell's Office, Jordan Goldstein of Commissioner Copps' Office, Jennifer Manner of Commissioner Abernathy's Office, and Catherine Crutcher Bohigian of Commissioner Martin's Officer.

Respectfully submitted,

**BROADBAND SERVICE PROVIDERS
ASSOCIATION**

By: _____ |s|
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**POSITION OF THE BROADBAND SERVICE PROVIDERS ASSOCIATION
REGARDING THE NEWS CORPORATION/DIRECTV MERGER**

The Broadband Service Providers Association (“BSPA”) writes in support of the recent position taken by RCN regarding access to content in the context of the News Corp./DirecTV merger. In particular, the BSPA supports RCN’s *ex parte* filing of December 17, 2003, which urges (1) the Commission to impose the “voluntary commitments” as conditions to the merger, and (2) to reject News Corp.’s position that it should not be required to provide regional sports network programming during the arbitration process. The BSPA strongly supports RCN’s position that, in the context of the News Corporation/DirecTV merger, these program access conditions apply to all programming, including terrestrial-delivered regional sports network programming.

BSPA members are facilities-based broadband providers that offer competitive cable, telephone, and Internet services. Access to regional sports content, such as the regional sports network, is critical to the ability of BSPA members to compete with other multichannel video programming distributors (“MVPDs”). Congress and the FCC have consistently recognized the critical role that fair access to content plays in the development and support of effective MVPD competition. The existing program access regime is concerned with the ability of cable-affiliated programmers to deny access to programming to their competitors. Through its proposed acquisition of DirecTV, News Corp. will have the same incentive and ability to deny access to its programming to competing MVPDs. Consequently, the News Corp./DirecTV merger represents a new vertical structure that needs to be fully addressed to assure fair access to content.