Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

News Corporation and The DIRECTV Group, Inc., Transferors, and Liberty Media Corporation Transferee, For Authority to Transfer Control	)	MB Docket No. 07-18

COMMENTS OF RCN TELECOM SERVICES, INC.

RCN Telecom Services, Inc. ("RCN") hereby urges the Commission to condition its grant of the above-captioned Application[1] to protect the public interest. RCN does not object to the proposed transaction *per se*, but respectfully submits that conditions are necessary in order to safeguard competitive access to critical "must have" programming on a nondiscriminatory basis.

RCN is pleased to note that Applicants have implicitly conceded that the transaction does not in any way lessen the need for imposition of the same program access conditions and remedies that the Commission imposed in the context of the *Hughes/News* transfer proceeding,[2] insofar as they "agree to abide by all of the applicable prophylactic conditions previously

[1] Consolidated Application for Authority to Transfer Control, MB Docket No. 07-18 (Jan. 29, 2007) ("Application"), filed by News Corporation ("News Corp.), The DIRECTV Group, Inc. ("DirecTV") and Liberty Media Corporation ("Liberty").

[2] *General Motors Corporation and Hughes Electronics Corporation, Transferors and The News Corporation Limited, Transferee for Authority to Transfer Control*, Memorandum Opinion and Order,19 FCC Rcd 473 (2004) ("*Hughes/News*").

imposed upon News Corp."[3] Clearly, these conditions are the minimum necessary to protect competition from the ability of a vertically integrated DirecTV-Liberty to use the extensive programming interests of Liberty to harm the competitive efforts of other multichannel video programming providers ("MVPDs") who compete with DirecTV.

However, RCN submits that while these conditions have generally been effective with respect to assuring reasonable and nondiscriminatory access to vertically integrated programming, it is also important to preclude the combined entity from entering exclusive carriage arrangements with other programming networks for "must have" programming that is essential for competition but is not duplicable by competitors. The denial such unaffiliated must have programming is clearly just as detrimental to competition s affiliated programming – consumers, after all, do not care whether their favorite sports team is carried over a channel that is affiliated or unaffiliated with an MVPD, they just want to watch their team's games. As recently expressed by Senator Kerry, in commenting on the stories of a new exclusive baseball agreement between Major League Baseball and DirecTV similar to the "NFL Ticket" exclusive with the National Football League that has already resulted in significant competitive harm,

> "[t]his deal, by definition, reduces consumer choice and competition in the media market. Fans who want to purchase Extra Innings will be forced to pay whatever DirecTV charges, and those who cannot subscribe to DirecTV, like some apartment building residents, will have no option at all. *In short, MLB and DirecTV will pocket millions of dollars at the expense of millions of American consumers and real competition in the marketplace.*"[4]

Apparently emboldened by the Commission's rejection of urgings by a number of commenters to preclude such exclusives in connection with the *Hughes/News* merger, DirecTV

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[3] Application at pg. i.

[4] Letter from Senator John Kerry to Chairman Kevin Martin, Feb. 1, 2007 (Attachment A) (emphasis added). In response, the Chairman indicated that he shares Senator Kerry's concerns about the exclusive arrangement and that the Commission has "contacted the parties and requested additional information about the proposed arrangement." Letter from Chairman Kevin J. Martin to The Honorable John Kerry, Feb. 22, 2007 (Attachment B).

has since that time announced a number of additional exclusives. Moreover, it can only be expected that the aggressive history of Liberty in using programming as a competitive tool will only exacerbate this trend. Accordingly, Commission should scrutinize this question carefully and impose the condition that it believed was unnecessary in 2004.

DISCUSSION

As an MVPD that competes with DirecTV and relies on News Corp.'s and Liberty's programming services, RCN has a significant interest in the program access concerns raised in this proceeding. RCN is the nation's first and largest facilities-based competitive provider of bundled phone, cable television, and high-speed Internet services. RCN operates in 6 of the 10 largest markets in the United States, including in the Boston, New York, Philadelphia, Washington, D.C., and Chicago areas and competes head-to-head with the incumbent cable operators and DBS operators like DirecTV.

RCN's entry into the MVPD market has not been without its challenges, and RCN continues to face significant barriers to secure essential programming. As RCN has demonstrated before the Commission on multiple occasions, access to "must have" programming is essential for RCN to effectively compete in the MVPD market. Moreover, RCN and other competitive MVPDs have experienced difficulty obtaining from programming distributors access to "must have" programming including regional sports.

Given RCN's experiences with the anti-competitive behavior of certain programming distributors and the fact that RCN competes with the DirecTV distribution network, RCN has reason to be concerned with the program access issues and vertical integration implicated in this transaction. Conditioning the proposed transaction to ensure a fair, competitive market within which providers, like RCN, may operate without discrimination clearly is within the mandate that Congress has given the Commission and will serve the public interest.

I. The Transaction Raises Program Access Concerns

RCN has previously provided the Commission with information regarding the challenges faced by competitive MVPDs, including seeking access to "must have" programming on viable terms.[5] In addition, the Commission has acknowledged the potential harm to competition arising from these anti-competitive practices,[6] but to date has limited its efforts to prevent them to conditions related solely to vertically integrated programming.[7] Although this has helped mitigate some of the problem, it has ignored what is clearly a growing threat that incumbent operators like DirecTV will use their market power and the power of their affiliated programming interests to gain exclusive rights to programs that must be available to competitors, and particularly new entrants, if competition is to flourish. This proceeding affords the

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[5] *See, e.g.,* Comments of Residential Communications Network, Inc., dated July 19, 1996, CS Docket No. 96-133 (Third Annual Report); Reply Comments of RCN Telecom Services, Inc., dated Aug. 20, 1997 (Fourth Annual Report); Comments of RCN Telecom Services, Inc., dated July 13, 1998, and Reply Comments of RCN Telecom Services, Inc., dated Aug. 31, 1998, in CS Docket No. 98-102 (Fifth Annual Report); Comments of RCN Corporation, dated Aug. 6, 1999, and Reply Comments of RCN Corporation, dated Sept. 1, 1999, CS Docket No. 99-230 (Sixth Annual Report); Comments of RCN Corporation, dated Sept. 8, 2000, and Reply Comments of RCN Corporation, dated Sept. 28, 2000, CS Docket No. 00-132 (Seventh Annual Report); Initial Comments of RCN Telecom Services., Inc., dated Dec. 3, 2001, and Reply Comments of RCN Telecom Services, Inc., dated January 7, 2002, CS Docket 01-290 (Eighth Annual Report); *see also* Initial Comments of RCN Telecom Services., Inc., dated January 4, 2002, CS Docket 98-82 (Cable Attribution Proceeding); Petition of RCN Telecom Services, Inc. to Deny Applications or Condition Consent, dated April 29, 2002, MB Docket No. 02-70 (AT&T/Comcast Merger); Comments of RCN Telecom Services, Inc., dated June 16, 2003, MB Docket No. 03-124 (Hughes/News Corp. Merger); Comments of RCN Telecom Services, Inc., dated July 21, 2005, MB Docket No. 05-192 (Adelphia Merger).

[6] *Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation, Assignors, to Time Warner Cable Inc., Assignees; Adelphia Communications Corporation, Assignors and Transferors, to Comcast Corporation, Assignees and Transferees; Comcast Corporation, Transferor, to Time Warner Inc., Transferee; Time Warner Inc., Transferor, to Comcast Corporation, Transferee, Applications and Public Interest Statement*, Memorandum Opinion and Order , 21 FCC Rcd 8203, ¶ 42 (2005) ("*Adelphia*"); *Hughes/News* at ¶ 127.

[7] *See, e.g., Hughes/News* at ¶ 101, 124; *Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Sunset of Exclusive Contract Prohibition*, Report and Order, 17 FCC Rcd 12124, ¶ 34 (2002).

Commission an opportunity to mitigate these ongoing concerns through the imposition of appropriate conditions on the Applicants.

The transaction will transform Liberty from a supplier to a vertically integrated MVPD competitor. As a result, Liberty will likely be able to capitalize on its vertical integration that provides additional leverage to acquire or create new programming and increases its incentive to discriminate against competitors and raise costs to rivals. Liberty knows full well the power of sports programming. Indeed, in addition to exchanging its News Corp. shares for a 38.5 percent interest in DirecTV, Liberty's President has touted to investors that it was also obtain "three regional sports networks in Seattle, Rocky Mountain, and Pittsburgh."[8] Liberty also recognizes that DirecTV has been very successful in using sports programming to increase the value of DirecTV's distribution assets, and indicated that the assets that Liberty brings, such as its regional sports network, will "bring new energy" to those assets.[9]

Moreover, DirecTV has increased the amount of its exclusive programming since the Commission's *Hughes/News* decision refused to preclude DirecTV from entering exclusive programming agreements with unaffiliated "must have" program rights holder such as the NFL Sunday Ticket service.[10] The Commission should therefore conduct greater scrutiny regarding the adverse program access effects DirecTV's increased exclusive arrangements have on competitor MVPDs and consumers, especially sports programming. DirecTV has acknowledged that "sports is the strongest force in television" and that it is a sports content leader through its

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8 LINTA - Q4 2006 Liberty Media Corporation Earnings Conference Call, Final Transcript, pg. 14 (Feb. 28, 2007) (Attachment C).

9 *Id.*

10 *Hughes/News* at ¶ 127.

exclusive services like NFL Sunday Ticket and NASCAR.[11] Additionally, DirecTV's President has also stated that ""if you look at sort of the new things that are coming to television, they're all driven by sports. I mean it is the most powerful programming out there."[12] Given DirecTV's ability and incentive to obtain exclusives, particularly sports programming exclusives, the Commission must consider conditions that will limit DirecTV's ability to maintain and acquire exclusive access to "must have" programming.

II. Program Access Conditions are Required for this Transaction

There can be no disputing that access to programming is crucial to the success of MVPD competition.[13] Notwithstanding this, Section 628 of the 1992 Cable Act focused on the significant potential for vertically integrated programming and distribution companies to use access to programming to stymie competition, and the Commission's subsequent rules and decisions in merger proceedings have mirrored that focus. As a result, competitive MVPDs do not have the ability to seek relief through the Commission's current program access procedures to secure important programming where the producer or distributor is not affiliated with a cable operator.[14] The single most egregious example of the ability of incumbents to leverage their size to be able to enter into exclusive arrangements with unaffiliated programming vendors and thereby to have an anticompetitive impact on its competitors is DirecTV's exclusive arrangement with the National Football league. And, not content with that deal, DirecTV subsequently has

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[11] DTV - Q4 2006 The DirecTV Group, Inc. Earnings Conference Call, Final Transcript, pg. 9 (Feb. 7, 2007) (Attachment D).

[12] DTV - The DirecTV Group, Inc. at Bear, Stearns 20th Annual Media Conference, Final Transcript, pg. 7 (Mar. 6, 2007) (Attachment E).

[13] *See, e.g., Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, Report and Order, 17 FCC Rcd 12124, ¶59 (2002). "[T]he Order finds that access to vertically integrated programming continues to be necessary in order for competitive MVPDs to remain viable in the marketplace."

[14] *See, e.g., Dakota Telecom, Inc. v. CBS Broadcasting, Inc. d/b/a Midwest Sportchannel and Bresnan Communications*, CSR-5381-P, DA 99-1276 (1999) (complaint denied because programming non-vertically integrated).

sought out more and more exclusive rights to "must have" programming such as NASCAR,[15] college basketball,[16] and most recently the exclusive Major League Baseball "Extra Innings" deal that will reportedly "only be available to the 15 million people who subscribe to DirecTV, cutting out the 60 million fans across the country that currently enjoy access"[17] and is therefore very troubling to Senator Kerry:

> "I am opposed to anything that deprives people of reasonable choices. In this day and age, consumers should have more choices – not fewer. I'd like to know how this serves the public – a deal that will force fans to subscribe to DirecTV in order to tune in to their favorite players. A Red Sox fan ought to be able to watch their team without having to switch to DirecTV," said Kerry.[18]

There is no basis for thinking that News Corp. was solely responsible for this pattern of behavior or that it will not continue following the current transfer to Liberty. On the contrary, there is every reason to believe that the insertion of Liberty into the DirecTV ownership will exacerbate, not ameliorate, the effort to obtain more of the same types of exclusives given the track record of Liberty when it was previously vertically integrated with a large MVPD. When Liberty was formerly affiliated with one of the largest MVPDs, it used its dominance to obtain exclusive and preferential program access arrangements and fought attempts to make its programming available to competitors. For example, Liberty and TCI obtained an exclusive agreement with a company that carried certain Major League Baseball games.[19] In addition, Liberty and TCI withheld access to an affiliated company's programming, until the Commission intervened, based on the erroneous argument that exclusive contracts entered into prior to the

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[15] TV-Radio Fox doesn't see any way it can lose with NASCAR, *Los Angeles Times* (Feb. 23, 2007).

[16] *DIRECTV Unveils Exclusive NCAA Men's Basketball Tournament Package*, Mobile Satellite News (Mar. 14, 2005).

[17] Press Release, "Senate to Hold Hearing on MLB-DirecTV Squeeze Play, Feb. 16, 2007 (Attachment F).

[18] Press Release, "Kerry to Question FCC Chairman Over DirecTV-Major League Baseball Deal," Jan. 31, 2007 (Attachment G); *see also* n. 4 *supra*, and related text.

[19] *See* Comments of Ameritech, CC Docket No. 98-178, p. 35 (Oct. 29, 1998).

vertical integration could be maintained.[20] Through these prior actions, Liberty has demonstrated that when it is affiliated with a large MVPD it will take every opportunity to attain exclusives.

Given the Applicants' proven ability and increased incentives to enter into exclusive programming agreements, RCN proposes that the Applicants be bound by a condition which limits Applicants' ability to enter into exclusives for local, regional and national sports programming whether or not it is vertically integrated with the programming vendor. Moreover, given the detrimental impact that the existing sports exclusives already in place have and will continue to have on competition, RCN asks the Commission to require that DirecTV enter into reasonable and non-discriminatory sublicense agreements with other MVPDs to make the non-duplicable programming available.[21] Such a condition will go a long way to assure that the economic market power that Applicants will enjoy in the programming area will be wielded in a pro-competitive way.

Sports programming is indisputably "must have" programming and such designation should not be distorted depending on the corporate identity of the entity that produces it. As the Commission has explained, there are services for which there may be substitutes, services for which there are imperfect substitutes, and services for which there are <u>no close substitutes at</u>

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[20] *See e.g., In the Matter of Echostar Communications Corporation v. Fox/Liberty Networks, LLC, FX Networks, LLC, Program Access Complaint*, Memorandum Opinion and Order, 13 FCC Rcd 7394 (1998); *Corporate Media Partners, d/b/a Americast, Ameritech Media Ventures, Inc., BellSouth Interactive Media Services, Inc., GTE Media Ventures Incorporated, and SNET Personal Vision, Inc., v. FX Networks, LLC, Fox/Liberty Networks, LLC, and Tele-Communications, Inc., Program Access Complaint*, Memorandum Opinion and Order, 13 FCC Rcd 8573 (1998).

[21] Importantly, RCN understands that individual MVPDs should be allowed to differentiate themselves to consumers in how they package their "must have" content, and is not seeking to have DirecTV provide its formats and packages – it merely seeks to have the non-duplicable content made available to competitors so that they may also develop their own differentiated programming options.

all.[22] The Commission has clearly found that sports programming falls into the latter category as "must have" programming because there are no substitutes available to competitors and that an MVPD's ability to compete effectively will be significantly harmed if denied access to such programming.[23] The Commission is correct – to a fan, the Redskins are the Redskins, no matter whether distributed though an MVPD affiliate or through an exclusive agreement between an MVPD and the NFL. Accordingly, DirecTV should be precluded from entering into such exclusive contracts going forward and, with respect to the arrangements already in place, should be required to enter into reasonable and non-discriminatory sublicense agreements with other MVPDs to make such non-duplicable programming available so that consumers have a choice in providers of such programming and, as Senator Kerry put it, are not forced "to subscribe to DirecTV in order to tune into their favorite players."[24]

CONCLUSION

For the reasons explained above, RCN respectfully submits that the Commission might properly conclude that the proposed transfer will serve the public interest, convenience, and necessity, only if protections are put into place to ensure that the Applicants will not wield their market power in an anti-competitive manner. In addition to assuring that the existing program access conditions applied by the Commission in its approval of the *Hughes/News* transaction are applied as to programming of Liberty and its many affiliates, such approval should be conditioned upon prohibiting exclusive or unreasonably discriminatory arrangements between

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[22] *Adelphia at* ¶ 42; Hughes/News at ¶ 126.

[23] *Id. See also, Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, 17 FCC Rcd 12124, ¶ 69 (2002).

[24] Attachment G.

DirecTV or Liberty and third-party suppliers of "must have" sports programming as set forth herein.

Respectfully submitted,

Jean L. Kiddoo

Jean L. Kiddoo
Danielle Burt
Bingham McCutchen LLP
2020 K Street, N.W.
Washington, DC 20006
Tel: (202) 373-6034
Fax: (202) 373-6001
Email: jean.kiddoo@bingham.com
danielle.burt@bingham.com

Counsel for RCN Telecom Services, Inc.

Richard Ramlall
Senior Vice President Strategic
& External Affairs
RCN Corporation
196 Van Buren Street
Herndon, VA 20170

Dated: March 23, 2007

CERTIFICATE OF SREVICE

I, Danielle Burt, hereby certify that on March 23, 2007, a true and correct copy of the foregoing Comments of RCN Telecom Services, Inc. were sent by first class mail to the following:

Robert L. Hoegle
Timothy J. Fitzgibbon
Thomas F. Bardo
Nelson Mullins Riley & Scarborough LLP
101 Constitution Avenue, N.W., Suite 900
Washington, DC 20001

William M. Wiltshire
Michael Nilsson
S. Roberts Carter III
Harris, Wiltshire & Grannis LLP
1200 Eighteenth Street, N.W.
Washington, DC 20036

John C. Quale
Jared S. Sher
Skadden Aarps Slate Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 2005

Best Copy and Printing, Inc.*
Portals II
445 12th Street, S.W.
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Washington, DC 20555
www.bcpiweb.com

Sarah Whitesell, Media Bureau*
Federal Communications Commission
Room 3-C458
445 12th Street, S.W.
Washington, DC 20554
Sarah.Whitesell.fcc.gov

Tracy Waldon, Media Bureau*
Federal Communications Commission
Room 3-C488
445 12th Street, S.W.
Washington, DC 20554
Tracy.Waldon@fcc.gov

Royce Sherlock, Media Bureau*
Federal Communications Commission
Room 2-C360
445 12th Street, S.W.
Washington, DC 20554
Royce Sherlock@fcc.gov

Patrick Weber, Media Bureau*
Federal Communications Commission
Room 3-C738
445 12th Street, S.W.
Washington, DC 20554
Patrick.Webre@fcc.gov

Jim Bird, Office of General Counsel*
Federal Communications Commission
Room 8-C824
445 12th Street, S.W.
Washington, DC 20554
Jim.Bird@fcc.gov

JoAnn Lucanik, International Bureau*
Federal Communications Commission
Room 6-A660
445 12th Street, S.W.
Washington, DC 20554
JoAnn.Lucanik@fc.gov

Danielle Burt

* VIA ELECTRONIC MAIL
DCiManage/9332786.5

Attachment A

Senator Kerry Letter to Commissioner Martin

SENATOR
John Kerry
REPRESENTING THE BIRTHPLACE OF AMERICA

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20510
(202) 224-2742

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RESULTS

02/01/2007

Kerry Asks FCC to Probe DirectTV "Extra Innings" Deal

WASHINGTON, DC – Today, Sen. John Kerry sent the following letter to FCC Chairman Kevin Martin, asking him to review a pending business agreement between DirectTV and Major League Baseball, concerning its "Extra Innings" game package.

Below is the text of the letter:

The Honorable Kevin Martin Chairman Federal Communications Commission 445 12th Street SW Washington, DC 20554

Dear Chairman Martin:

I write regarding the pending agreement between Major League Baseball

Boston
One Bowdoin Square
Tenth Floor
Boston, MA 02114
(617) 565-8519

Springfield
Springfield Federal Building
1550 Main Street
Suite 304
Springfield, MA 01101
(413) 785-4610

Fall River
222 Milliken Place
Suite 312
Fall River, Ma 02721
(508) 677-0522

(MLB) and DirectTV to offer MLB's "Extra Innings" package of out-of-market baseball games exclusively to DirectTV subscribers. I have serious concerns regarding this deal that I ask you to address.

As you know, Extra Innings is currently available to 75 million subscribers through cable as well as DirectTV and the Dish Network. However, if this exclusive deal is approved, only 15 million DirectTV subscribers will be able to purchase Extra Innings, leaving 50 million Americans without access to out-of-market games that they currently enjoy and a viable alternative to view them.

This deal, by definition, reduces consumer choice and competition in the media market. Fans who want to purchase Extra Innings will be forced to pay whatever DirectTV charges, and those who cannot subscribe to DirectTV, like some apartment building residents, will have no option at all.

In short, MLB and DirectTV will pocket millions of dollars at the expense of millions of American consumers and real competition in the marketplace.

Many baseball teams have a dedicated national fan base. In the case of my hometown team, Red Sox Nation stretches all across our country from coast to coast. I am concerned that this deal, and others that may follow, will separate fans from their favorite teams and reduce competition in the sports market. I therefore request that you investigate this exclusive deal and report to Congress on its implications for consumers and recommend any changes to law or regulation that will ameliorate its negative effects.

Sincerely,

Senator John Kerry

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Attachment B

Commissioner Martin Letter to Senator Kerry

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

The Honorable John Kerry
United States Senate
304 Russell Senate Office Building
Washington, DC 20510

Dear Senator Kerry:

Thank you for your letter regarding the pending agreement between Major League Baseball (MLB) and DIRECTV to offer MLB's "Extra Innings" package of out-of-market baseball games exclusively to DIRECTV subscribers.

I share your concerns regarding this proposed deal. I understand that the Extra Innings package, which includes dozens of out-of-market MLB games each week, has been available to 75 million MVPD subscribers for the last several years and would no longer be available to all MVPD subscribers if DIRECTV obtained rights from MLB.

I am concerned whenever consumers cannot purchase the programming they want or are forced to purchase programming they don't want.

As you request, we have contacted the parties and requested additional information about their proposed arrangement. Once we have this information, we will report to you on the deal's implications for consumers and any recommended changes to the law to ameliorate any harms to consumers.

Thank you for your interest in this matter. If I can be of further assistance with this or any other matter, please do not hesitate to contact me.

Sincerely,

Kevin J. Martin
Chairman

Enclosures

<u>Attachment C</u>

Liberty Earnings Call Transcript

FINAL TRANSCRIPT

Thomson StreetEvents℠

LINTA - Q4 2006 Liberty Media Corporation Earnings Conference Call

Event Date/Time: Feb. 28. 2007 / 11:00AM ET

We believe we've achieved some of these goals and we're on the path to do more.

On the Liberty Capital side, we announced a number of strategic transactions. The most notable of these was our agreement to exchange our News Corp shares back to the company for a 38.5% interest in DirecTV, three regional sports networks in Seattle, Rocky Mountain, and Pittsburgh, and $550 million in cash.

Our News Corp position has provided a great return for our shareholders over the years, but as a noncontrolled interest with a low tax basis, was likely to continue to be heavily discounted in the marketplace as long as it was captured inside Liberty Capital. And we didn't believe it would be fully reflected the value of that News Corp shareholding in our own stock price. It is our belief that the exchanges we're undertaking and our resulting investment in DirecTV will create greater financial, operating and strategic flexibility for Liberty Capital and its shareholders, and we've already seen some of those results.

Adding DirecTV in the [inaudible] is a critical step in our efforts to transform Liberty, as I mentioned, into a focused, well-positioned operating company.

Other transactions are announced or completed at Liberty Capital during the past year include: the sale of our 50% stake in Court TV, the exchange of our stockholdings in IDT, and our various interest in IDT, for a 100% position in IDT Entertainment, the sale of our interest in OpenTV, the agreed-upon sale of On Command, and most recently the agreement to sell our CBS stake tax sufficiently back to CBS for its owned station in Green Bay and approximately $175 million in cash.

Turning briefly to Liberty Capital's operating businesses. Starz, it's major unit, continued to experience positive subscriber growth. And while these trends were good, they were somewhat offline by a decline in effective rates resulting in year over year revenue growth being moderated. Operating cash flow also increased in 2006, and the year ended on a positive note with programming costs continuing to climb in the fourth quarter.

We've mentioned this trend in the past as one of the positive long-term secular trends at Starz and we expect this trend to continue in 2007 and beyond.

Turning to LINTA for a moment, our businesses there, led by QVC, continue to produce positive financial results.

Chris will discuss these in more detail in a moment, but I want to note we once again achieved healthy revenue and positive operating cash flow growth at QVC, Provide Commerce and BuySeasons, the latter of two which were acquired during 2006 and will continue to seek -- we will continue to expect positive results from those businesses and continue to look at strategic acquisitions, which can enhance the Liberty Interactive positions going forward.

Finally, since we created the tracking stocks last May, we've repurchased about $1 billion -- just under $1 billion of Liberty Interactive stock and what we believe are attractive operating cash flow multiples. With that I'm going to turn the call over to our Controller, Chris Shean, to walk you through the operating performance and accomplishments across the company.

Chris Shean - *Liberty Media Corporation - Controller*

Thanks, Greg. There's a slide presentation online that I'll be speaking to with these comments.

Taking a look at Liberty Interactive, a quick snapshot for full-year revenue and operating cash flow performance of LINTA. As chart indicates, Liberty Interactive's attributed businesses turned in a solid financial performance in 2006, highlighted by another strong year at QVC.

Overall, those businesses experienced 13% revenue growth and a 19% increase in operating cash flow. These results were enhanced by acquisitions at Provide Commerce and BuySeasons during the year.

Greg Maffei - *Liberty Media Corporation - President, CEO*

Who knows, right? As far as the RSN and Sports, I can't comment or have no absolute vision. I don't think FOX is likely to be a seller on his businesses. He likes his sports businesses and I think we like the sports businesses. Differentiated programming is one of the key ways to help your distribution asset. We think that Chase and his team have done a great job with that to the degree that we collectively can bring new energy and now assets to that differentiated sports programming, incoming these RSNs and perhaps other sports programming. We're very open and very interested.

Robert Routh - *Jefferies & Co. - Analyst*

So it would be possible -- of course, nothing -- Liberty, you never know -- that something along the lines of what was initially created, which was a partnership between Liberty and FOX, or News Corp., could be created where you're kind of working together again?

Greg Maffei - *Liberty Media Corporation - President, CEO*

I just think, hard to speculate on that. But let me point out a few of the hurdles. We just mentioned already that if we were not the majority owners and I think News might have the exact same perspective, you have a difficult time getting full credit in the marketplace for them.

There would be tension around what we want to do with those using our distribution asset versus how they want to leverage it to help their other programming assets or internationally their distribution assets as well. So I think those are two hurdles that are not insurmountable, but not insignificant hurdles.

Robert Routh - *Jefferies & Co. - Analyst*

Sure.

Greg Maffei - *Liberty Media Corporation - President, CEO*

That argument said, we continue to have good relations with News and would love to think about ways to cooperate and create mutually-beneficial partnerships.

Robert Routh - *Jefferies & Co. - Analyst*

Got you.

Greg Maffei - *Liberty Media Corporation - President, CEO*

What would happen at IAC? We look at that and I've mentioned already our challenge for getting full value for partially -- or nonconsolidated positions. And we hold an economic interest of 21%, 23% depending on what they bought back at IAC. It's unlikely we're getting full credit for that inside the Liberty Interactive structure.

We are -- I think it's complicated by the fact that we do have high voting shares. Think about our ultimate control there. Weigh that against the low tax basis we have.

<u>Attachment D</u>

DirecTV Earnings Call Transcript

FINAL TRANSCRIPT

Thomson StreetEvents[SM]

DTV - Q4 2006 The DIRECTV Group, Inc. Earnings Conference Call

Event Date/Time: Feb. 07. 2007 / 11:00AM ET

James R. for Vijay Jayant - *Lehman Brothers - Analyst*

Good morning. It's James [Radcliffe] for Vijay. I have two questions. First of all, regarding the MLB Extra Innings package, there has been some press coverage that you folks may be getting that exclusively, could you give us color around the service, what sort of sub count you have for it today, what you're paying for it, and what sort of breakeven sub number you would need to cover the $100 million annual cost?

And also, are you concerned that if you got MLB exclusively, that that would draw any unwanted regulatory attention to NFL Ticket? And secondly, clearly you are going to have a very strong position in your HD by the end of the year. How do you plan to deal with cable launching HD VOD? Thank you.

Chase Carey - *The DIRECTV Group, Inc. - President, CEO*

On MLB, we have not announced a deal, so probably not going to get into too much of a discussion about an arrangement that we haven't announced. Obviously I have read stuff about it, but it's mostly speculation. There isn't a great deal of color that I could give at this point in time on the MLB deal, we think sports is a great area for us. Obviously not everybody is a sports fan, but certainly sports is the strongest force in television, particularly given the live nature of it, and the degree to which it is so conducive to these advanced projects, whether it's HD or interactivity, or an array of features, I think in many ways has been a part of what is established.

DIRECTV is not just a sports leader, but a broad content leader. You look at things like the SUNDAY TICKET, the Superfan package we have for the NFL, or things we are doing for NASCAR and HotPass, I think are all a part of really setting us apart from everybody else, a content leader and innovation leader. One that really brings content experience, a different content experience to our customers. It is certainly a package that we think has a lot of opportunities in it, but I am not going to get into numbers on something we haven't announced.

In terms of HD, really, look, VOD, we are moving forward with VOD ourselves in 2007. As we have said before, VOD is something that we will address through both downloading and broadband connection. I think VOD is still these days on a slower growth curve. HD is obviously front and center, I think DVRs are front and center.

You still have a ways to go before you get to the type of product, and the right product in the right windows available in the right way for customers. I think it will, I'm not saying VOD won't continue to grow, but I think it has got a ways to go before it starts to grow, but we will certainly be actively developing our VOD product, and we will start developing that, and adding it beyond what we have had more in a pay-per-view format in 2007.

James R. for Vijay Jayant - *Lehman Brothers - Analyst*

Great, thank you.

Operator

Thank you. Your next question is coming from Doug Mitchelson with Deutsche Bank Securities. Please go ahead. Doug Mitchelson, your line is live.

Doug Mitchelson - *Deutsche Bank Securities - Analyst*

Thanks. Two questions. Chase, when you look at various geographies, could you comment on whether you are seeing an impact on your sub growths in markets where cable Triple Play offer has launched, markets where FIOS launches, and then what

Attachment E

DirecTV Bear, Stearns 20th Annual Media Conference Transcript

FINAL TRANSCRIPT

Thomson StreetEvents℠

DTV - The DIRECTV Group, Inc. at Bear, Stearns 20th Annual Media Conference

Event Date/Time: Mar. 06. 2007 / 8:00PM ET

even just the hardcore sports fans. I mean sports, in many ways, is driving HD. Sports is driving interactivity. So if you look at sort of the new things that are coming to television, they're all driven by sports.

I mean it is the most powerful programming out there, and therefore, by having unique sports programming, whether it's Sunday Ticket -- last year, we had the U.S. Open Tennis, where we covered six courts at a time, the NASCAR Hot Pass, which for those of you who haven't seen it, we cover six channels essentially of the traditional channel and then five drivers we specifically cover.

March Madness, we just renewed for another few years. But it's more than sports. We've invested in the music area in original programming, some user-based content in original programming, faith-based programming, so I think all those things cume together. People will always say to me, "Well, none of those things are like Sunday Ticket. How many subscribers do you get?" I think they all do appeal in different ways to different customers out there. In many ways, they cume together to create a brand, and I do think we are unique in terms of, I think, having a brand that has power in the marketplace that enables us to distinguish ourselves from those we compete with. I think a big part of that brand is what people see on the screen and how they -- what is the experience we give them, and the ability to have original programs, unique programs.

Those of you in the New York area, we had interactive -- we were the only ones with interactive features in the Yankee games last year with [Yes]. Those sorts of things, I think, do set us apart as representing a standard of excellence in the video experience, and some of them have a direct return. You know, NFL, the Sunday Ticket does. We obviously charge for it. So I said the benefit clearly comes from driving subscribers to the base. I mean we look at the DIRECT revenue is really more covering the costs and the growth coming from adding subscribers, clearly a benefit. Some of them are clearly just enhancing. A lot of -- the U.S. Open, we didn't charge for putting on. That was part of just what you got as being a DIRECTV customer. A lot of the original programming we put on last year, again, you just got it being part of the DIRECTV experience.

So in some ways, those are an investment. They obviously don't have a cost that's anywhere close to things like Sunday Ticket, but they are an investment in the brands, in the franchise, and creating a [inaudible] experience that is differentiated, that clearly has to pay you back in terms of getting not just more customers but better customers. I mean we have made it very much our focus to get -- to focus on the higher quality customers as part of how we drive this business forward. And to the degree you've got the best content, it helps you attract the best customers. Those customers spend more on the business. They open up new avenues for us to develop things as we get into advertising and sponsorship and the value of new features we drive through it, so there are clearly -- we believe, it pays back. It doesn't pay back in a direct dollars-and-cents way in some of the original things we do, but we think it pays back in terms of adding subscribers, adding quality subscribers, and adding subscribers that will find more and more things that are interesting and they want to engage on.

Just as when we add a -- when we put a customer in HD, we charge $10 for the HD package. The reality is that customer ends up today -- [inaudible] this is the largest -- spending close to $30 more on us because we've gotten a customer that has clearly an interest and an appetite for television, so it's not just sort of coming in and saying, "I just want to buy it for HD," but once I'm here, "Actually, I like that, I like this, I like that. I'm going to buy a whole bunch of stuff because I really like this, you know, what you're providing and what I can engage in."

Some of it is a bet of faith. I mean some of these are difficult to connect to the sort of things that people will say that faith-based show [added] 10,000 subscribers, and you really can't -- I mean you can try and make some sort of analysis to try and get a handle on it, but at best, it's a very soft guess. I mean in some ways, it's a belief that content matters, and at the end of the day, that's what people watch on TV is content.

So I think we are making [inaudible] that content matters and that unique content does set us apart.

<u>Attachment F</u>

Senator Kerry Feb. 16, 2007 Press Release

SENATOR John Kerry

REPRESENTING THE BIRTHPLACE OF AMERICA

Press Office

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02/16/2007

Senate to Hold Hearing on MLB-DirectTV Squeeze Play

Kerry says proposed "Extra Innings" deal would cheat millions of baseball fans

WASHINGTON, DC - Sen. John Kerry announced today that the Senate's Commerce Committee will hold a hearing on a proposal deal that will make it hard - if not impossible - for many die-hard baseball fans to follow their favorite teams this season. Kerry said he wanted to review federal guidelines in this area and explore whether it was appropriate for Congress to take action. Kerry is a senior member of the Senate's Commerce Committee, which has oversight over sports carriage issues.

"By definition, this deal with reduce choices for fans," said Kerry. "I have serious problems with any mega-deal that makes it harder for people across the country to follow their favorite baseball team. I'm especially troubled by this agreement, which I believe is not in the best long-term interests of the sport. Major League Baseball is making a short-term

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(508) 677-0522

profit, but they are shutting out fans that can't or won't be able to keep up with their teams if this deal goes through. I appreciate the willingness of Chairman Inouye to organize a full and through airing of this issue."

According to numerous published reports, Major League Baseball has arranged a $700 million exclusive deal with DirecTV for carriage of the popular "Extra Innings" baseball package which allows out-of-market fans to follow their teams. This package will strip access from current cable and satellite subscribers.

Under the new deal, "Extra Innings" would only be available to the 15 million people who subscribe to DirecTV, cutting out 60 million fans across the country that currently enjoy access. Since many cable subscribers are not able to subscribe to satellite service even if they want to, some fans will completely lose access to the games. Two weeks ago, Sen. Kerry asked the Federal Communications Commission to examine the proposed deal; he is still awaiting a response from that agency.

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Attachment G

Senator Kerry Jan. 31, 2007 Press Release

SENATOR John Kerry

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01/31/2007

Kerry to Question FCC Chairman Over Direct TV-Major League Baseball Deal

WASHINGTON, DC – Senator John Kerry said today that he intends to seek answers from the FCC about a pending DirectTV deal that could make it harder for baseball fans to watch their favorite teams. The issue centers on a plan to shift the "Extra Innings" baseball package to DirectTV as part of a $700 million exclusive deal. According to recent press reports, during the last five years, the Extra Innings package has been available to 75 million people. If the deal goes through, the baseball package will be available to the 15 million people who have DirectTV.

"I am opposed to anything that deprives people of reasonable choices. In this day and age, consumers should have more choices – not fewer. I'd like to know how this serves the public - a deal that will force fans to

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subscribe to DirectTV in order to tune in to their favorite players. A Red Sox fan ought to be able to watch their team without having to switch to DirectTV," said Kerry.

The chairman of the Federal Communications Commission, Kevin Martin, is a witness at a hearing tomorrow of the Commerce, Science and Transportation Committee. Kerry is a member of the committee.

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