

News Corp/Liberty/DIRECTV Proposed Conditions

NEWS/HUGHES CONDITION	PROPOSED CONDITION	THE NECESSARY FIX
News Corp. will not offer any of its existing or future national and regional programming services on an exclusive basis to any MVPD and will continue to make such services available to all MVPDs on a non-exclusive basis and nondiscriminatory terms and conditions.	Liberty will not offer any of its existing or future national and regional programming services on an exclusive basis to any MVPD in the United States and will continue to make such services available to all MVPDs on a non-exclusive basis and nondiscriminatory terms and conditions.	The program access protections should apply to both domestic and international programming and markets. The Applicants' domestic-only qualification is unsupported and contrary to the competitive implications of Liberty's diversified international holdings.
DirecTV may continue to compete for programming that is lawfully offered on an exclusive basis by an unaffiliated program rights holder (e.g. NFL Sunday Ticket).	SAME	The Applicants should not be permitted to enter into any additional exclusive programming contracts including MLB. Applicants ignore subsequent market developments.
These commitments will apply to News Corp. and DirecTV for as long as the FCC deems News Corp. to have an Attributable Interest in DirecTV and the FCC's program access rules applicable to satellite cable programming vendors affiliated with cable operators remain in effect (provided that if the program access rules are modified these commitments shall be modified to conform to any revised rules adopted by the FCC)	Silent on applicability to News Corp.	The Commission should continue to apply the <i>News/Hughes</i> conditions to News Corp until the Applicants can demonstrate conclusively this transaction severs News Corp's ties with DIRECTV and Liberty, and all current News Corp/DIRECTV programming contracts expire. The RSN and broadcast affiliate conditions should continue to apply to News Corp for their full six-year duration as established in <i>News/Hughes</i> .
For enforcement purposes, aggrieved MVPDs may bring program access complaints against Applicants using the procedures found at Section 76.1003, 47 U.S.C. § 76.1003, of the Commission's rules.	SAME	Program access protections should provide for third-party arbitration for all Liberty programming. The program access protections should apply to all DIRECTV-affiliated programming. Efforts to limit the reach of those protections to a subset of Liberty's holdings (Liberty Media) should be denied.

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<p>An aggrieved MVPD may submit a dispute with News Corp. over the terms and conditions of carriage of RSN programming in each region in which News Corp. owns or holds a controlling interest or manages any non-broadcast RSN.</p> <p>When negotiations fail to produce a mutually acceptable set of price, terms and conditions for a retransmission consent agreement with a local broadcast television station that News Corp. owns and operators or on whose behalf it negotiates retransmission consent, an MVPD may choose to submit a dispute to commercial arbitration in accordance with the following procedures.</p>	<p>Liberty Media agrees to abide by the conditions regarding access to RSN programming – including provisions for commercial arbitration in case of a negotiating impasse – in accordance with the procedures set forth in Appendix F. III to the News Corp.-Hughes Order with respect to the three RSNs that it would acquire as part of the transaction.</p> <p>The Applicants attempt to limit the application of this restriction, however, to “the two broadcast television stations it seeks to acquire.”</p>	<p>The Regional Sports Network (“RSN”) condition, including arbitration right, should apply to any Liberty-affiliated RSN, including after-acquired or new RSNs. The Applicants’ attempt to limit the condition to the three RSNs included in this transaction should be rejected.</p>
<p>The commercial arbitration condition will expire six years after the release of the Order.</p>	<p>Each of these conditions will apply to Liberty and/or DIRECTV for the period set forth in the analogous conditions from the News Corp-Hughes Order.</p>	<p>The RSN and retransmission consent conditions should apply to Liberty for at least six years from the close of this transaction. The Applicants offer no basis to reduce the duration of this protection.</p>
<p>News Corp held no cable assets.</p>	<p>Liberty is a cable provider in Puerto Rico.</p>	<p>Liberty should be required to divest its cable holdings in Puerto Rico.</p>
<p>News Corp held minimal online and interactive properties.</p>	<p>Liberty is a leader in both online and interactive properties.</p>	<p>All programming protections should apply to online and interactive features and platforms. Liberty should not be permitted to evade these conditions through the use of different technologies.</p>