

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

_____)
In re Application of)
)
NEWS CORPORATION and)
THE DIRECTV GROUP, INC.,) MB Docket No. 07-18
Transferors,)
)
and)
)
LIBERTY MEDIA CORPORATION,)
Transferee,)
)
For Authority to Transfer Control.)
_____)

To: The Commission

**THE NORTH DAKOTA BROADCASTERS' S
CONSOLIDATED COMMENTS ON RESPONSES**

The North Dakota Broadcasters (“NDB”), a party to this proceeding, by its attorneys, hereby comments on the responses of News Corporation (“NewsCorp”) and DirecTV Group, Inc. (“DirecTV”) to the Commission’s interrogatories, as well as on the response of Liberty Media Corporation (“Liberty”) to the Commission’s interrogatories propounded to Liberty.

As will be shown below, the combined responses of NewsCorp and Liberty are at best disingenuous in dealing with the questions regarding plans for satellite delivery of local-into-local broadcast service. This cavalier attitude illustrates the precise reason why it is necessary for the Commission to condition its approval of the proposed transaction, if it approves it at all, on DirecTV’s being required to offer full local-into local DBS

service in all 210 markets by December 2008, in order to protect the public's interest in preserving local broadcast television service. The Commission, in its June 15, 2007, information and document request directed to Liberty Media, at. request II.K, required Liberty to provide its plans, along with associated supporting data, for providing and expanding local-into-local and HDTV services. In its response, Liberty said it had no plans responsive to that request, either separate from or in addition to those disclosed by DirecTV.

As will be shown, prior to the announced merger, DirecTV planned to expand its local-into-local DBS service. After the announced merger, however, Dr. Malone, Chairman of Liberty, stressed a new plan for the company, touting to investors on Wall Street his plan to increase DirecTV's profits by using its satellite capacity to expand high definition television in the major cities. To the extent that the totality of Liberty's response suggests to the Commission that Liberty did not and does not intend to redirect DirecTV's focus from local-into-local DBS service in rural areas to expanded high definition service in major cities, it is clearly disingenuous.

Also on June 15, 2007, the Commission directed similar questions to NewsCorp and DirecTV. At. request II.J, DirecTV was asked to explain how its local-into-local service plans have changed since the announced acquisition. In response, DirecTV stated that

prior to the announcement of the proposed Transaction, DIRECTV did not have plans to launch SD local service in any additional markets beyond these 150 DMAs over the next three years. Although DIRECTV does not have plans for satellite delivery of the remaining local markets, DIRECTV has developed a mix of strategies to develop a seamless integrated service that incorporates local broadcast signals in markets not served by satellite.

This response, however, runs contrary to other verified information.

Attached hereto is the Certification, executed under penalty of perjury, of Richard Farley, chief engineer for Prime Cities Broadcasting, Inc., licensee of KNDX(TV), the Fox television affiliate in Bismarck, North Dakota. Mr. Farley states that in October of 2006, he was contacted by the senior project coordinator of National Telecommunications, Inc., a company under contract with DirecTV and charged with analyzing sites for future expansion of DirecTV's local-into-local satellite television service. During that month, the senior project coordinator said that DirecTV intended to serve Bismarck, North Dakota [the 158th market in the nation] and that National Telecommunications intended to send a review team to Bismarck, ND, for this purpose. On Monday, October 9, National Telecommunications confirmed that the review team would be in Bismarck on October 26. On October 26, 2006, Mr. Farley met with three site survey engineers who, pursuant to the contract with DirecTV, were there to analyze the satellite uplink local-into-local collection point at KNDX studios. At the time, it was DirecTV's policy to establish satellite uplink facilities for a given city with the local Fox television affiliate, and as previously noted, KNDX is the Fox affiliate in Bismarck. In October 2006, site survey team records show that DirecTV had scheduled a new local-into-local service for Bismarck, beginning in 2008.

Shortly after October 2006, NewsCorp and Liberty announced the transaction in which Liberty would obtain controlling interest in DirecTV from NewsCorp. Since that announcement, Mr. Farley indicates that nothing further has been heard from National Telecommunications, Inc., or DirecTV. From a business standpoint, it seems extremely strange that DirecTV would go to the effort of contracting a site survey team; having that team fly from California to Bismarck, ND; have the team precisely calculate both the

location of the satellite uplink and the availability of the space at KNDX studios; and set a date for local-into-local service to begin in Bismarck, if DirecTV had no intention of expanding local-into-local service, the position the company has stated in its response to the Commission.

During complex proceedings before the Commission, applicants are aware that the Commission has virtually no way to verify their responses. It is therefore the duty of the parties to answer the Commission's questions truthfully and fully. Unfortunately, companies may find it easier to suppress or shade the truth, if it runs counter to their interests.

It is clear from the above information that DirecTV's original plan was to use its satellite capacity to increase local-into-local service. It is also clear that Liberty redirected this plan and refocused DirecTV to concentrate on expanding high definition television service in major cities. Furthermore, it is clear that DirecTV will make more money from expanding high definition services in major cities than it will from expanding local-into-local service in rural areas. Both Liberty and DirecTV have been less than forthcoming in their response to the Commission's questions about these intentions. It is therefore the position of the NDB that if the Commission wants to preserve local television service in rural areas, it must condition its approval, if any, of the proposed transaction, on DirecTV's prompt deployment of satellite delivery of local-into-local broadcast television service nationwide.

CONCLUSION

The North Dakota Broadcasters urge the Commission to require that, by December 2008, DirecTV offer full local-into-local DBS television service in all Two

Hundred Ten markets. Furthermore, DirecTV should not be allowed to retaliate against the North Dakota Broadcasters by providing local-into-local service to markets smaller than Minot-Bismarck-Dickinson until that service is provided to the members of the North Dakota Broadcasters.

Respectfully submitted,

NORTH DAKOTA BROADCASTERS

By: /s/ George R. Borsari, Jr.
George R. Borsari, Jr.
Anne Thomas Paxson

Their Attorneys

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August 20, 2007

CERTIFICATION

I, Richard Farley BS. MACE, hereby certify as follows:

1. I am chief engineer for Prime Cities Broadcasting, Inc., licensee of full-service television station KNDX, Bismarck, North Dakota.

2. In October of 2006, I spoke to Yvonne DeSena, senior project coordinator of National Teleconsultants, Inc., of Glendale, California. She told me that they were under contract with DirectTV to analyze sites for future expansion of DirectTV's local-into local satellite television service. She also told me that DirectTV intended to serve Bismarck, North Dakota, very soon; that it was DirectTV's policy to always contract with a Fox television station affiliate if there were one in the area; and that she would like to send a review team to Bismarck.

3. I advised station management and ownership of the conversation, and both were willing to discuss the use of KNDX facilities in Bismarck as a collection point for DirectTV's local-into-local and subsequent uplink to the satellite.

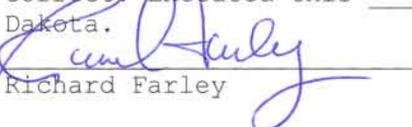
4. On Monday, October 9, 2006, I received the attached e-mail from Yvonne DeSena confirming that a site survey team would arrive on Thursday, October 26, at 9 A.M.

5. On October 26, 2006, I met with Tony Knox, Michael Baker, and Doug Hirai concerning the contract work they were doing for DirectTV to establish a local-into local collection point at KNDX studios and to place a satellite uplink dish on KNDX property at the studio site. The location selected by the contractors for the local antennas for the local into local was blocked by a tree. I spoke to station ownership, who agreed the tree could be cut down.

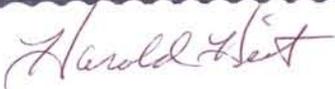
6. When I asked the contractors about a projected timeframe for DirectTV's introduction of local-into-local service into the Bismarck market, they indicated they saw records that showed that local-into-local service would commence there in 2008.

7. Although the contractors seemed satisfied with the site and the site survey, I heard nothing more from DirectTV concerning the local survey.

I certify, under penalty of perjury, that the foregoing is true and correct. Executed this 9th day of August 2007 at Bismarck, North Dakota.


Richard Farley





Subject:
FW: DIRECTV Survey - Bismarck, ND - 10/26/06
From:
"Richard Farley" <eng@fox26.tv>
Date:
Mon, 20 Aug 2007 15:59:49 -0500
To:
"Anne Thomas Paxson" <atp@baplav.com>

Richard Farley
Prime Cities Broadcasting
Engineering

-----Original Message-----

From: Yvonne DeSena [mailto:Yvonne.DeSena@ntc.com]
Sent: Monday, October 09, 2006 1:44 PM
To: eng@fox26.tv
Cc: Greg Jones; Tony Knox
Subject: DIRECTV Survey - Bismarck, ND - 10/26/06

Hello Richard:

Thanks for taking the time to speak with me, it was a pleasure to speak with you. As we discussed, we are under contract with DIRECTV and have been asked to perform a survey for the HD local channels in your area. Part of the survey will require us to be on your roof. Should your facility require us to provide a certificate of insurance, please let me know.

We will arrive on site Thursday, 10/26, at 9:00 AM.

Attached is a questionnaire that our team uses to gather data, any assistance with filling this out would be appreciated, but not required. Additionally, it will help cut down the interview time and offer your facility the opportunity to share specific information regarding your facility.

Our team members are:
Tony Knox, 661-373-8691
Michael Baker, 320-980-0179
Doug Hirai

Should you have any questions, please let me know. Thanks for your help.

Regards,
Yvonne

Yvonne DeSena
Senior Project Coordinator
National TeleConsultants, Inc.
700 N. Brand Blvd., 10th Floor
Glendale, CA 91203
818-265-4400 - voice
818-265-4455 - fax

E-mail: Yvonne.DeSena@ntc.com

Survey Questionnaire ver 061206.doc

Content-Type:

application/msword

Content-Encoding:

base64

CERTIFICATE OF SERVICE

I, Anne Thomas Paxson, a principal in the law firm Borsari & Paxson, do hereby certify that on this 20th day of August 2007, a true copy of the foregoing “The North Dakota Broadcasters’s Consolidated Comments on Response” was sent to the following, in the manner noted below:

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