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BY ELECTRONIC FILING

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

Re: ***MB Docket No. 07-18***

Dear Ms. Dortch:

Although the transaction proposed in this proceeding was announced nearly a year ago, WealthTV only recently decided to participate in order to propose that approval be conditioned on a requirement that DIRECTV set aside five percent of its capacity for "independent programming that is not affiliated with any MVPD or broadcaster."[1] This proposal is not only transparently self-serving but also completely unrelated to the transaction under consideration – which will actually *decrease* the extent to which DIRECTV is vertically integrated with programming interests. The Commission should recognize WeatlhTV's proposal for what it is and summarily reject it.

The purported basis for the condition WealthTV proposes is that the "merger" of Liberty Media and DIRECTV "will make it even more difficult for WealthTV to gain carriage on the DIRECTV platform because of the incentive and power that the new, vertically integrated entity will have."[2] WealthTV fails to recognize that DIRECTV is *already* vertically integrated – with not only Liberty Media but also News Corporation, which has a much more extensive collection of programming assets. Because News Corporation will divest its interest in DIRECTV, the proposed transaction will

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1 Letter from Kathleen Wallman to Marlene H. Dortch (Dec. 13, 2007).

2 *Id.* It is worth noting that WealthTV claims to be concerned that Liberty will "produce and broadcast its own content and leave the nation's independent programmers out in the cold" (*id.* at 2), but then proposes a much broader condition applicable to programming affiliated with *any* MVPD or broadcaster – which would decrease competition for carriage and improperly favor WealthTV.

substantially decrease the amount of programming affiliated with DIRECTV. Accordingly, even if WealthTV had a legitimate concern, the proposed transaction will ameliorate the situation. The condition proposed by WealthTV therefore is not merger specific and must be rejected.[3]

It is also worth noting that WealthTV's concern is misplaced. Even though DIRECTV has been vertically integrated with both News Corporation and Liberty Media for nearly four years, programming unaffiliated with either of those two companies comprises about 74% of DIRECTV programming, while programming unaffiliated with any broadcaster or MVPD (*i.e.*, "independent programming" as defined by WealthTV) comprises about 42%. After consummation of the proposed transaction (and the sale of News Corporation's interest), the amount of affiliated programming carried by DIRECTV will decrease to just 14%.

Respectfully submitted,

/s/

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3 *See, e.g., Verizon Communications Inc. and MCI Inc.*, 20 FCC Rcd. 18433, 18445 (2005) (the Commission "will not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction"). To the extent WealthTV raises a more general concern as to vertical integration in the MVPD industry, that issue is better handled in a rulemaking such as the one currently under consideration in MB Docket No. 07-42. *See, e.g., Comcast Corporation and AT&T Corp.*, 17 FCC Rcd. 23246, 23287 (2002) (Commission will not impose conditions to address issues more appropriately handled in an industry-wide rulemaking).