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February 13, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20054

Re: Consolidated Application of News Corporation,
The DirecTV Group, Inc., and Liberty Media
Corporation for Authority to Transfer Control
(MB Docket No. 07-18)

Dear Ms. Dortch:

On behalf of the North Dakota Broadcasters (“NDB”), a party to this proceeding, this is briefly to comment on the last-minute proposal filed on behalf of DirecTV on January 30, 2008. That proposal stated that DirecTV is now prepared to offer a “seamless, integrated local channel package in all 210 Designated Market Areas (‘DMAs’) nationwide.”

In 2004, DirecTV made the identical proposal, the Commission bought it, and DirecTV then abandoned it. DirecTV under NewsCorp ownership knew that implementation of the proposal would not generate subscribers and so was moving ahead with satellite-delivered local-into-local service when Liberty proposed to acquire DirecTV. As NDB has demonstrated on the record in this proceeding, Liberty accurately concluded that it can make more money (it makes a huge profit either way) from HD service in the major cities than from local-into-local service in rural areas.

The proposed “seamless, integrated” service is neither seamless nor integrated, as will be shown, and it does not work to attract customers or provide meaningful service or price competition for consumers. Implementation of DirecTV’s proposal would require the customer to bear the burden—and the considerable expense—of retrieving the over-the air digital signal and

delivering that signal to his set-top converter box or digital television set. DirecTV glosses over the physical and technical complexity of that process, blandly stating that “[f]rom the consumer’s perspective, once the signal reaches the STB [set-top box], all other functions are the same.”

In many rural areas, the analog signal or the digital signal or both cannot be received over the air as a result of signal propagation characteristics, terrain obstructions, noise, or sundry other causes. For them, the proposal is meaningless. One characteristic of a digital television signal is that it does not penetrate the walls of buildings as well as an analog signal, so if a customer does not have an outside antenna or cannot put up an outside antenna, this proposal is meaningless. For the customer who lives in an apartment building and cannot receive a digital signal, the proposal is meaningless. If DirecTV’s latest iteration of its proposal is accepted, all of those members of the public for whom this proposal is meaningless will have been abandoned, tacitly or explicitly.

Cost is a serious consideration. The unlucky rural resident will have to pay to buy an antenna (\$100) and a directional rotor (\$50), depending on TV stations’ locations, and have them installed (\$100+), run wiring to as many receivers as have been installed, and—finally—buy add-on boxes at \$50 each, times the number of receivers (average of 2.5 sets per household). For this investment, a total of \$375, the customer gets a \$3 credit each month. With interest, the customer may break even in 14 years.

That is the rural proposal. The urban proposal is that the customer will pay \$3 per month to receive all local stations, without additional work or expense. This is not equitable, it is not in the public interest, and the Commission should not countenance it.

As evidenced in DirecTV’s January 30, 2008, letter to the Commission, “older models [of DirecTV set-top boxes] have built-in ATSC tuners,” and so there is nothing new about DirecTV’s latest proposal. DirecTV’s newest set-top boxes do not have built-in ATSC tuners, because DirecTV had abandoned its efforts to integrate terrestrial signals, and that is why now a side-car attachment is necessary to justify its argument. If offering terrestrial signals was its original plan in 2004, as DirecTV has claimed, why did it wait until 2008 to begin manufacturing side-car attachment to its converters? NDB encourages the Commission to ask DirecTV to share its volumes of information accumulated over the years as to why reception of terrestrial signals was not accepted by its customers.

North Dakota Broadcasters, in its Petition to Deny filed March 22, 2007, and for the reasons specified in that Petition, asked the Commission to condition the transaction on DirecTV’s offering satellite-delivered local-into-local service in all 210 DMA markets by a date

certain. This latest deflection attempt by DirecTV should be rejected, and NDB's requested condition should be included in any approval of the proposed transfer of control.

Respectfully submitted,

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/s/

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