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February 19, 2008

**BY ELECTRONIC FILING**

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

RE: *Liberty Media's Acquisition of DIRECTV, MB Docket 07-18*

Dear Ms. Dortch:

WealthTV has made multiple attempts to induce DIRECTV to illuminate the methodology it used to support its assertion that 42% of DIRECTV's programming comes from independent programmers, which it says means programmers not affiliated with MVPDs or broadcasters. Without this valuable information in the public record, the policy community cannot fully understand the facts at issue in this transaction and the Commissioners of the Federal Communications Commission ("FCC" or "Commission") cannot make an informed vote for or against any order approving or rejecting the merger.

On January 29, 2008 WealthTV filed a letter in the above captioned docket in which it outlined its multiple efforts to recreate the calculations that led to the 42% figure. Utilizing assumptions that favor DIRECTV's case, the highest percentage of independent programming WealthTV could calculate was 16.2%.<sup>1</sup> This is obviously markedly less than the DIRECTV figure. DIRECTV responded in the record on February 6, 2008, but, again, did not illuminate the methodology used in their calculations. Thus, highly relevant facts regarding the impact of this merger remain elusive.

WealthTV believes strongly that the Commissioners should look very carefully at these filings as they consider any order approving the DIRECTV/Liberty merger. First, the FCC has a statutory mandate to encourage a diversity of programming from a wide array of sources. In recent months, all of the Commissioners and the Chairman have affirmed their commitments to

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<sup>1</sup> In its February 6, 2008 letter DIRECTV calls into question the methodology use to calculate the percentage of truly independent channels that DIRECTV currently carries. The Commission should note that in footnote 1 of the WealthTV letter dated January 29, 2008 WealthTV included all of the channels pointed out by DIRECTV in reaching the 16.2% calculation cited herein. See Ex Parte Comments of WealthTV, MB Docket 07-18, at 1 (sub. Jan. 29, 2007) and Ex Parte Comments of DIRECTV, MB Docket 07-18, at 3, (sub. Feb. 6, 2008)

media diversity.<sup>2</sup> Second, Liberty and DIRECTV are asking the FCC to allow them to consolidate the media and content industries even further and, in so doing, establish a direct path for Liberty-produced content to consumers. This could possibly do irreparable harm to the independent programming community. In a marketplace where the number of sources of information and programming are constricting, the ability of the Commission and the public to fully understand these conglomerates' commitment to media diversity is of paramount relevancy and importance.

Recent media reports indicating that there is currently an item approving the DIRECTV/Liberty merger on circulation by the Chairman to be voted in advance of the FCC's February Open Meeting adds urgency to this debate. In fact, Chase Carey, CEO of DIRECTV, is reported to have said on February 13, 2008 that the merger could be complete "in a couple weeks."<sup>3</sup> Thus, time is fleeting to ensure that the Liberty/DIRECTV merger will serve the public interest by furthering the Commission's commitment and obligation to promote media diversity. In order to guarantee such an outcome, the public record must be completed forthwith.

Very truly yours,

*Kathleen Wallman*

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cc: Bill Wiltshire

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<sup>2</sup> See "Chicago Media Ownership Hearing Recap," Benton Foundation, (Available at: <http://www.benton.org/node/7241>)

<sup>3</sup> Mark Seavy, "DirecTV Expects Sale to Liberty Media to Finish by Month's End," *Communications Daily*, Vol. 21 No. 31, (Washington, DC: Warren Communications News, Inc., 2008)