



February 28, 2008

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington DC 20554

**Re: Notice of Ex Parte Communication  
CS Docket Nos. 98-120, 00-96**

Dear Ms. Dortch:

On Wednesday, February 27, Erin Dozier of the National Association of Broadcasters (NAB) and the undersigned met with Monica Desai, Eloise Gore, Mary Beth Murphy, Rosalee Chiara, and Lyle Elder of the Media Bureau.

At the meeting, we discussed the importance of ensuring that local HD broadcast signals are available to direct broadcast satellite service (DBS) subscribers within a station's local market on a carry-one-carry-all basis. We explained that allowing DBS to "cherry-pick" among local stations and foreclose viewer access to HD content on numerous stations, including independent stations and those that serve niche audiences, would be harmful to intramodal competition and contrary to the public interest.

We also noted that DBS operators have made a variety of statements that indicate that they will have sufficient capacity to carry HD broadcast signals in all 210 markets. For example, DIRECTV has asserted that, in 2008, it will be able to retransmit at least 1,500 local channels in HD format.<sup>1</sup> These 1,500 channels would cover virtually every local

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<sup>1</sup> See, e.g., DirecTV Investor Relations, News Release, *DIRECTV Offers to Install HD in the New International Space Station Module; Ready to Bring HD to the Final Frontier* (Nov. 16, 2007), available at <<http://phx.corporate-ir.net/phoenix.zhtml?c=127160&p=irol-newsArticle&ID=1080131&highlight=>> ("The DIRECTV 11 satellite will be launched early next year [2008] to support further HD expansion. Combining DIRECTV 11 with existing satellite capacity, DIRECTV will have the ability to deliver 150 national HD channels and 1,500 local HD and digital channels in addition to new advanced programming services for customers.")

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television station it could ever be obligated to retransmit in HD.<sup>2</sup> Similarly, DISH Network (“DISH”) has announced the launch of three new satellites and its ability to deliver HD local-into-local service in at least 100 markets in 2008.<sup>3</sup> Moreover, DISH leases “extra” satellite capacity to National Programming Service, LLC for the delivery of *distant* network stations.<sup>4</sup> Accordingly, HD carriage obligations should occur on a carry-one-carry-all basis consistent with the entire DBS local signal carriage scheme. And, the Commission should recognize that the public interest would be best served if both DBS operators provide satellite-delivered local-into-local service to their subscribers.

Finally, we provided the staff with copies of pleadings previously filed in MB Docket No. 05-181 and CS Docket Nos. 98-120 and 00-96 and that address DBS capacity issues.<sup>5</sup>

Sincerely,



Jane E. Mago  
Senior Vice President and General Counsel

cc: Rosalee Chiara  
Monica Desai  
Lyle Elder  
Eloise Gore  
Mary Beth Murphy

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<sup>2</sup> According to the Commission’s latest tally, there are 1722 full power digital television stations. See *DTV Stations Authorized to Be on the Air*, available at <<http://www.fcc.gov/mb/video/files/dtvonairsum.html>>. There are 143 satellite stations, see TELEVISION & CABLE FACTBOOK 2008 at C-2 to C-3, most of which are ineligible for mandatory carriage pursuant to 47 U.S.C. § 338(c)(1). That leaves approximately 1579 stations potentially eligible for mandatory carriage, although some unknown number of NCE television stations would also be ineligible for mandatory carriage pursuant to 47 U.S.C. § 338(c)(2).

<sup>3</sup> DISH Network, Press Release, *DISH Network to Expand HD Line-Up in 2008; 100 National HD Channels, 100 HD Local Markets* (Jan. 8, 2008), available at <<http://dish.client.shareholder.com/releasedetail.cfm?ReleaseID=284873>>.

<sup>4</sup> See DISH Network, Press Release, *EchoStar to Provide Ku Bandwidth to National Programming Service* (Nov. 29, 2006), available at <<http://dish.client.shareholder.com/releasedetail.cfm?ReleaseID=243323>>.

<sup>5</sup> See Reply of the ABC, CBS, and NBC Television Affiliate Associations in Support of the Opposition of the National Association of Broadcasters to Petitions for Partial Reconsideration, MB Docket No. 05-181 (Dec. 19, 2005); Comments of the Association of Public Television Stations, CS Docket Nos. 98-120 and 00-96 (Mar. 31, 2006).

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