APPENDIX A

Licenses and Authorizations

The consolidated application filed by News Corp., DIRECTV and Liberty Media includes Commission authorizations and licenses listed below. They are separated by the type of authorization or license, and, within each category, listed by licensee name, application or ULS file number, call sign or lead call sign (for ULS filings), and/or other service-specific information, as appropriate. Interested parties should refer to the applications for a more detailed listing of the authorizations or licenses. Each of the Applicants' subsidiaries or affiliates may hold multiple authorizations or licenses of a particular type.

Part 25 – Satellite Communications

File No.	Licensee/Registrant	Call Sign
Satellite Space Stations		
SAT-T/C-20070129-00021	DIRECTV Enterprises, LLC	S2369
		S2430
		S2455
		S2632
		S2669
		S2673
		S2693
SAT-T/C-20070129-00023	DIRECTV Enterprises, LLC	S2132
		S2133
		S2191
		S2640
		S2641
		S2689
Satellite Earth Stations		
SES-T/C-20070129-00151	DIRECTV Enterprises, LLC	E010129
		E010130
		E020172
		E030105
		E030117
		E050112
		E050113
		E050121
		E050122
		E050229
		E050230
		E050255
		E050286
		E060014
		E060187
		E060188
		E060236
		E060298
		E060299
		E930191

File No.	Licensee/Registrant	Call Sign
SES-T/C-20070129-00151 (cont'd.)		E930229 E930304 E930485 E950349 E980285 E980338 E980340 E980473 E990159
SES-T/C-20070129-00152	DIRECTV Enterprises, LLC	E050340
SES-T/C-20070129-00153	DIRECTV Enterprises, LLC	E040179 E040180 E980170 E980341
SES-T/C-20070129-00154	DIRECTV Enterprises, LLC	E040024
SES-T/C-20070129-00155	California Broadcast Center, LLC	E010237 E020091
SES-T/C-20070129-00156	DIRECTV Enterprises, LLC	E990545

Wireless Licenses

File No.	Licensee/Registrant	Call Sign
FCC File No. 0002876183	DIRECTV Enterprises, LLC	WPZC401
FCC File No. 0002876452	The DIRECTV Group, Inc.	WNEU909
FCC File No. 0002876636	DIRECTV, Inc.	WPTZ691

APPENDIX B

Conditions

I. CONDITION TO REMEDY OVERLAPPING MVPD SERVICE IN PUERTO RICO

1. Within one year of the date on which this Order is adopted, all of the attributable interests connecting DIRECTV-Puerto Rico and Liberty Cablevision Puerto Rico, Ltd. ("LCPR") must be severed, either by divestiture or by otherwise making the interests non-attributable. Specifically, within one year of the adoption date of this Order, the Applicants must certify either that they have complied with this condition or that they have filed all necessary applications for regulatory approval to do so. As part of the certification of compliance, the Applicants must explain with sufficient detail precisely how they came into compliance with this condition or how any filed applications would result in compliance and must identify all remaining direct or indirect relationships between DIRECTV-Puerto Rico and LCPR and their parent companies, including all indirect or direct subsidiaries, whether or not those relationships are attributable under our rules (e.g., equity or debt holdings or interests (including stock options), management roles of officers or directors, shared resources or personnel). Within nine months of the adoption of this Order, the Applicants shall submit to the Commission a description of their plan for complying with this condition to ensure that their proposal satisfies the public interest concerns underlying the condition.

2. If the Applicants choose to comply with the condition by making the connecting interests non-attributable, we will apply the Commission's cable attribution standards set forth in Section 76.1000(b) of the rules.[1] We note that determining whether a particular interest is attributable is a fact-intensive inquiry, and, even where an interest may appear non-attributable under the bright-line attribution rules, the Commission retains the discretion to review individual cases that present unusual issues. Such would be the case where there are combined interests that are so extensive that they raise an issue of significant influence notwithstanding the fact that the interests do not come within the parameters of a particular attribution rule.[2]

II. PROGRAM CARRIAGE CONDITION TO PREVENT DISCRIMINATION AGAINST ALL FORMS OF UNAFFILIATED VIDEO PROGRAMMING

1. Neither Liberty Media nor DIRECTV will discriminate against unaffiliated programming services in the selection, price, terms, or conditions of carriage.

III. PROGRAM ACCESS CONDITIONS TO ENSURE NON-DISCRIMINATORY ACCESS TO ALL SATELLITE CABLE PROGRAMMING

1. Liberty Media shall not offer any of its existing or future national and regional programming services on an exclusive basis to any MVPD.[3] Liberty Media shall continue to make such

[1] *See* 47 C.F.R. § 76.1000(b).

[2] *Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, 14 FCC Rcd. 12559, 12581 ¶ 44 (1999).

[3] The term "Liberty Media" as used in this Appendix includes any entity or program rights holder in which Liberty Media or John Malone holds an attributable interest. Thus, the term "Liberty Media" includes Discovery (continued....)

services available to all MVPDs on a non-exclusive basis and on nondiscriminatory terms and conditions.[4]

2. DIRECTV will not enter into an exclusive distribution arrangement with any Affiliated Program Rights Holder.[5]

3. As long as Liberty Media holds an attributable interest in DIRECTV, DIRECTV will deal with any Affiliated Program Rights Holder with respect to programming services the Affiliated Program Rights Holder controls as a vertically integrated programmer subject to the program access rules.[6]

4. Neither Liberty Media nor DIRECTV (including any entity over which either firm exercises control) shall unduly or improperly influence: (i) the decision of any Affiliated Program Rights Holder to sell programming to an unaffiliated MVPD; or (ii) the prices, terms, and conditions of sale of programming by any Affiliated Program Rights Holder to an unaffiliated MVPD.

5. DIRECTV may continue to compete for programming that is lawfully offered on an exclusive basis by an unaffiliated program rights holder (*e.g.*, NFL Sunday Ticket).[7]

6. These conditions will apply to Liberty Media, DIRECTV, and any Affiliated Program Rights Holder until the later of a determination by the Commission that Liberty Media no longer holds an attributable interest in DIRECTV or the Commission's program access rules no longer remain in effect (provided that if the program access rules are modified these commitments shall be modified, as the Commission deems appropriate, to conform to any revised rules adopted by the Commission).

7. Aggrieved MVPDs may bring program access complaints against the Applicants using the procedures found at Section 76.1003 of the Commission's rules.[8]

(Continued from previous page)
Communications. Liberty Media and DIRECTV are prohibited from acquiring an attributable interest in any non-broadcast national or regional programming service while these conditions are in effect if the programming service is not obligated to abide by such conditions.

[4] In committing not to offer its programming services on an exclusive basis, Liberty voluntarily forgoes the right enjoyed by all other vertically integrated programmers to seek approval of an exclusive programming contract under the public interest standard established in 47 U.S.C. § 548(c)(4).

[5] The term "Affiliated Program Rights Holder" includes (i) any program rights holder in which Liberty Media or DIRECTV holds a non-controlling "attributable interest" (as determined by the FCC's program access attribution rules) or in which any officer or director of Liberty Media, DIRECTV, or of any other entity controlled by John Malone holds an attributable interest; and (ii) any program rights holder in which an entity or person that holds an attributable interest also holds a non-controlling attributable interest in Liberty Media or DIRECTV, provided that Liberty Media or DIRECTV has actual knowledge of such entity's or person's attributable interest in such program rights holder. As the Commission noted in New Corp.-Hughes, this commitment extends beyond the program access rules because DBS operators are not included within the exclusivity prohibition. *See* 47 C.F.R. § 1002(c).

[6] This condition would only be of significance in the event an Affiliated Program Rights Holder is not otherwise subject to the Commission's program access rules.

[7] *See* Discussion *supra* at Section V.C.2 concerning exclusive arrangements with unaffiliated programmers.

[8] 47 C.F.R. § 76.1003.

IV. CONDITIONS CONCERNING ACCESS TO LOCAL BROADCAST TELEVISION STATION SIGNALS

1. When negotiations fail to produce a mutually acceptable set of price, terms and conditions for a retransmission consent agreement with a local broadcast television station that Liberty Media owns or on whose behalf it negotiates retransmission consent ("Liberty Media Broadcast Station"), an MVPD may choose to submit a dispute to commercial arbitration in accordance with the following procedures.[9]

A. *Commercial Arbitration Remedy*

1. The commercial arbitration condition commences following the expiration of any existing retransmission consent agreement.

2. Following such expiration, or 90 days after a first time request for retransmission consent, a MVPD may notify Liberty Media within five business days that it intends to request arbitration over the terms and conditions of retransmission consent.

3. Upon receiving timely notice of the MVPD's intent to arbitrate, Liberty Media must immediately allow continued retransmission of the broadcast signal under the same terms and conditions of the expired retransmission consent agreement as long as the MVPD continues to meet the obligations set forth in this condition.

4. Retransmission of the broadcast signal during the period of arbitration is not required in the case of first-time requests for carriage.[10]

5. "Cooling Off Period." Following the MVPD's notice of intent to submit the dispute to arbitration, but prior to filing for formal arbitration with the American Arbitration Association ("AAA"), the MVPD and Liberty Media will enter a "cooling-off" period during which negotiations will continue.

6. Formal Filing with the AAA. The MVPD's formal demand for arbitration, which shall include the MVPD's "final offer," may be filed with the AAA no earlier than the 15th business day after the expiration of the retransmission consent agreement and no later than the end of the 20th business day following such expiration. If the MVPD makes a timely demand, Liberty Media must participate in the arbitration proceeding.

7. The AAA will notify Liberty Media and the MVPD upon receiving the MVPD's formal filing.

8. Liberty Media will file a "final offer" with the AAA within two business days of being notified by the AAA that a formal demand for arbitration has been filed by the MVPD.

9. The MVPD's final offer may not be disclosed until the AAA has received the final offer from Liberty Media.

10. The final offers shall be in the form of a contract for the retransmission of the broadcast signal for a period of three years. The final offers may not include any provision to carry any video programming networks or any other service other than the broadcast signal.

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[9] For purposes of this Section IV, ownership shall be determined in accordance with the Commission's attribution rules applicable to the ownership of broadcast licensees, 47 C.F.R. § 73.3555 Notes 1-3. Liberty Media and DIRECTV are prohibited from acquiring an attributable interest in a television broadcast station during the period of the conditions set forth in this Appendix if the broadcast station is not obligated to abide by such conditions.

[10] A first-time request for carriage does not include a request for previously carried broadcast programming that has experienced a change in ownership.

B. *Rules of Arbitration*

1. *The arbitration will be decided by a single arbitrator under the expedited procedures of the* Rules, excluding the rules relating to large, complex cases, but including the modifications to the Rules set forth in Part F, below. The arbitrator shall issue his decision within 30 days from the date that the arbitrator is appointed.

2. The parties may agree to modify any of the time limits set forth above and any of the procedural rules of the arbitration; absent agreement, however, the rules specified herein apply. The parties may not modify the requirement that they engage in final-offer arbitration.

3. The arbitrator is directed to choose the "final offer" of the party which most closely approximates the fair market value of the programming carriage rights at issue.

4. To determine fair market value, the arbitrator may consider any relevant evidence (and may require the parties to submit such evidence to the extent it is in their possession), including, but not limited to:

a. current contracts between MVPDs and Liberty-affiliated stations on whose behalf Liberty Media does not negotiate;
b. current contracts between MVPDs and non-Liberty network stations;
c. offers made in the preceding negotiations (which may provide evidence of either a floor or a ceiling of fair market value);
d. evidence of the relative value of Liberty programming compared to other network programming (e.g., advertising rates, ratings);
e. contracts between MVPDs and stations on whose behalf Liberty Media has negotiated made before Liberty Media acquired control of DIRECTV, as well as offers made in such negotiations;
f. internal studies of the imputed value of retransmission consent agreements in bundled agreements;
g. changes in the value of non-Liberty retransmission consent agreements;
h. changes in the value or costs of Liberty programming or broadcast stations, or in other prices relevant to the relative value of Liberty broadcast programming (e.g., advertising rates).

5. The arbitrator may not consider offers prior to the arbitration made by the MVPD and Liberty Media for the programming at issue in determining the fair market value.

6. If the arbitrator finds that one party's conduct, during the course of the arbitration, has been unreasonable, the arbitrator may assess all or a portion of the other party's costs and expenses (including attorney fees) against the offending party.

7. Following the decision of the arbitrator, and to the extent practicable, the terms of the new retransmission consent agreement, including payment terms, if any, will become retroactive to the expiration date of the previous retransmission consent agreement. The MVPD will make an additional payment to Liberty Media in an amount representing the difference, if any, between the amount that is required to be paid under the arbitrator's award and the amount actually paid under the terms of the expired contract during the period of arbitration. If carriage of the Liberty Media Broadcast Station's programming has continued uninterrupted during the arbitration process, and if the arbitrator's award requires a smaller amount to be paid than was required under the terms of the expired contract, the Liberty Media Broadcast Stations will credit the MVPD with an amount representing the difference between the amount actually paid under the terms of the expired contract during the period of arbitration and the amount that is required to be paid under the arbitrator's award.

8. Judgment upon an award entered by the arbitrator may be entered by any court having competent jurisdiction over the matter, unless one party indicates that it wishes to seek review of the final award with the Commission and does so in a timely manner.

C. *Review of Final Award by the Commission*

1. A party aggrieved by the arbitrator's final award may file with the Commission a petition seeking *de novo* review of the award. The petition must be filed within 30 days of the date the award is published. The petition, together with an unredacted copy of the arbitrator's award, shall be filed with the Secretary's office and shall be concurrently served on the Chief, Media Bureau. The Commission shall issue its findings and conclusions not more than 60 days after receipt of the petition, which may be extended by the Commission for one period of 60 days.

2. The MVPD may elect to continue to retransmit the broadcast signal pending the FCC decision, subject to the terms and conditions of the arbitrator's award.

3. In reviewing the award, the Commission will examine the same evidence that was presented to the Arbitrator and will choose the final offer of the party that most closely approximates the fair market value of the programming carriage rights at issue.

4. The Commission may award the winning party costs and expenses (including reasonable attorney fees) to be paid by the losing party, if the Commission considers the appeal or conduct by the losing party to have been unreasonable. Such an award of costs and expenses may cover both the appeal and the costs and expenses (including reasonable attorney fees) of the arbitration.

5. Judgment upon an award entered by the arbitrator may be entered by any court having competent jurisdiction over the matter.

D. *Provisions Applicable to Small MVPDs*

1. An MVPD meeting the Commission's definition of "small cable company" may appoint a bargaining agent to bargain collectively on its behalf in negotiating with Liberty Media for carriage of the programming subject to this condition, and Liberty Media may not refuse to negotiate with such an entity.[11] The designated collective bargaining entity will have all the rights and responsibilities granted by these conditions. An MVPD that uses a bargaining agent may, notwithstanding any contractual term to the contrary, disclose to such bargaining agent the date upon which its then current retransmission consent agreement expires.

2. When dealing with MVPDs with fewer than 5,000 total subscribers, we require Liberty Media to either elect "must-carry" status or negotiate retransmission consent for its stations and any affiliated station on whose behalf it negotiates retransmission consent without any requirements for cash compensation or carriage of programming other than the broadcast signal.

E. *Additional Provisions Concerning Arbitration*

1. No later than 20 business days prior to the expiration of a must-carry election or retransmission consent agreement with an MVPD, Liberty Media must provide the MVPD with a copy of the conditions imposed in this Order. Liberty Media must provide a copy of the conditions imposed in

[11] The Commission has previously defined small cable companies as those with 400,000 or fewer subscribers. We adopt that definition for the purposes of this condition. *See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992*, 10 FCC Rcd 7393 (1995); *see also* 47 C.F.R. §76.901(e).

this Order within 10 business days of receiving a first time request for retransmission consent.

2. This condition will expire six years after consummation of the transaction, or on such date as the Commission deems to be necessary in the public interest pursuant to an early termination of the condition in accordance with the provisions below.

3. The Commission will consider a petition for modification of this condition if it can be demonstrated that there has been a material change in circumstance or the condition has proven unduly burdensome, rendering the condition no longer necessary in the public interest.

F. *Modifications To Rules For Arbitration Involving Retransmission Consent*

1. We modify the Rules in several respects as they apply to arbitration over retransmission consent.

2. Initiation of Arbitration. Arbitration shall be initiated as provided in Rule R-4 except that, under Rule R-4(a)(ii) the MVPD shall not be required to submit copies of the arbitration provisions of the contract, but shall instead refer to this Order in the demand for arbitration. Such reference shall be sufficient for the AAA to take jurisdiction.

3. Appointment of the Arbitrator. Appointment of an arbitrator shall be in accordance with rule E-4 of the Rules. Arbitrators included on the list referred to in rule E-4 (a) of the Rules shall be selected from a panel jointly developed by the American Arbitration Association and the Commission and will be based on the following criteria:

a) The arbitrator shall be a lawyer admitted to the bar of a state of the United States or the District of Columbia;
b) The arbitrator shall have been practicing law for at least 10 years;
c) The arbitrator shall have prior experience in mediating or arbitrating disputes concerning media programming contracts;
d) The arbitrator shall have negotiated or have knowledge of the terms of retransmission contracts.

4. Exchange of Information. At the request of any party, or at the discretion of the arbitrator, the arbitrator may direct the production of current and previous contracts between either of the parties and MVPDs and broadcast stations as well as any additional information that is considered relevant in determining the value of the programming to the parties. Parties may request that access to information of a commercially sensitive nature be restricted to the arbitrator and outside counsel and experts of the opposing party pursuant to a protective order.

5. Administrative Fees and Expenses. If the arbitrator finds that one party's conduct, during the course of the arbitration, has been unreasonable, the arbitrator may assess all or a portion of the other parties costs and expenses (including reasonable attorneys' fees) against the offending party.

6. Locale. In the absence of agreement between the parties, the arbitration shall be held in the city that contains the headquarters of the MVPD.

7. Form of Award. The arbitrator shall render a written award containing the arbitrator's findings of fact and reasons supporting the award. If the award contains confidential information, the arbitrator shall compile two versions of the award, one containing the confidential information and one with such information redacted. The version of the award containing the confidential information shall only be disclosed to persons bound by the Protective Order issued in connection with the arbitration. The

parties shall include such confidential version in the record of any review of the arbitrator's decision by the Commission.

G. *Non-discriminatory Access to Local Broadcast Television Station Signals*

1. The non-discrimination commitments that Liberty Media has proposed and we have crafted as conditions regarding access to non-discriminatory access to satellite cable programming networks are extended to any broadcast station that Liberty Media owns or on whose behalf it negotiates retransmission consent.

H. *Good Faith and Exclusivity Requirements of SHVERA*

1. The good faith and exclusivity requirements of SHVERA, in effect by their terms until December 31, 2009, are extended to apply to retransmission consent negotiations undertaken by Liberty Media for carriage of its local broadcast station signals so long as the program access rules are in effect.[12]

IV. ADDITIONAL CONDITIONS CONCERNING ACCESS TO REGIONAL SPORTS NETWORKS

1. When negotiations fail to produce a mutually acceptable set of price, terms and conditions for carriage of a non-broadcast regional sports network owned, managed, or controlled by Liberty Media either now or in the future ("Liberty Media RSN"), an MVPD may choose to submit a dispute to commercial arbitration in accordance with the following procedures.[13]

A. *Commercial Arbitration Remedy*

1. An aggrieved MVPD may submit a dispute with the Liberty Media RSN over the terms and conditions of carriage of RSN programming in each region in which Liberty Media owns, manages or holds a controlling interest in a regional sports network.

2. Following the expiration of any existing contract, or 90 days after a first time request for carriage, an MVPD may notify the Liberty Media RSN within five business days that it intends to request commercial arbitration to determine the terms of the new affiliation agreement.

3. Upon receiving timely notice of the MVPD's intent to arbitrate, a Liberty Media RSN must immediately allow continued carriage of the network under the same terms and conditions of the expired affiliation agreement as long as the MVPD continues to meet the obligations set forth in this condition.

4. Carriage of the disputed programming during the period of arbitration is not required in the case of first time requests for carriage.[14]

5. *"Cooling Off Period."* The period following the Liberty Media RSN's receipt of timely notice of the MVPD's intent to arbitrate and before the MVPD's filing for formal arbitration with the AAA shall constitute a "cooling-off" period during which time negotiations are to continue.

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[12] *See* 47 C.F.R. § 76.1000, *et. seq.*

[13] Ownership will be determined in accordance with the attribution standards applicable to the Commission's program access rules. *See* 47 C.F.R. § 76.1000, *et seq.* Liberty Media and DIRECTV are prohibited from acquiring an attributable interest in an RSN during the period of the conditions set forth in this Appendix if the RSN is not obligated to abide by such conditions.

[14] A first-time request for carriage does not include a request for a previously carried RSN that has experienced a change in ownership.

6. *Formal Filing with the AAA*. The MVPD's formal demand for arbitration, which shall include the MVPD's "final offer," may be filed with the AAA no earlier than the 15th business day after the expiration of the RSN contract and no later than the end of the 20th business day following such expiration. If the MVPD makes a timely demand, the Liberty Media RSN must participate in the arbitration proceeding.

7. The AAA will notify the Liberty Media RSN and the MVPD upon receiving the MVPD's formal filing.

8. The Liberty Media RSN will file a "final offer" with the AAA within two business days of being notified by the AAA that a formal demand for arbitration has been filed by the MVPD.

9. The MVPD's final offer may not be disclosed until the AAA has received the final offer from the Liberty Media RSN.

10. The final offers shall be in the form of a contract for the carriage of the programming for a period of at least three years. The final offers may not include any provision to carry any video programming networks or any other service other than the RSN.

B. *Rules of Arbitration*

1. The arbitration will be decided by a single arbitrator under the expedited procedures of the commercial arbitration rules, then in effect, of the AAA (the "Rules"), excluding the rules relating to large, complex cases, but including the modifications to the Rules set forth in Part F below. The arbitrator shall issue his decision within 30 days from the date that the arbitrator is appointed.

2. The parties may agree to modify any of the time limits set forth above and any of the procedural rules of the arbitration; absent agreement, however, the rules specified herein apply. The parties may not modify the requirement that they engage in final-offer arbitration.

3. The arbitrator is directed to choose the final offer of the party that most closely approximates the fair market value of the programming carriage rights at issue.

4. Under no circumstances will the arbitrator choose a final offer that does not permit the Liberty Media RSN to recover a reasonable share of the costs of acquiring the programming at issue.

5. To determine fair market value, the arbitrator may consider any relevant evidence (and may require the parties to submit such evidence to the extent it is in their possession),[15] including, but not limited to:

a) current or previous contracts between MVPDs and RSNs in which Liberty Media does not have an interest as well as offers made in such negotiations (which may provide evidence of either a floor or a ceiling of fair market value);
b) evidence of the relative value of such programming compared to the RSN programming at issue (*e.g.*, advertising rates, ratings);
c) internal studies or discussions of the imputed value of RSN programming in bundled agreements;
d) other evidence (including internal discussions) of the value of RSN programming;
e) changes in the value of non-Liberty Media RSN programming agreements;
f) changes in the value or costs of Liberty Media RSN programming, or in other prices relevant to the relative value of Liberty Media RSN programming (*e.g.*, advertising rates).

[15] We clarify that, by "possession," we mean actual possession or control.

6. The arbitrator may not consider offers prior to the arbitration made by the MVPD and the Liberty Media RSN for the programming at issue in determining the fair market value.

7. If the arbitrator finds that one party's conduct, during the course of the arbitration, has been unreasonable, the arbitrator may assess all or a portion of the other party's costs and expenses (including attorney fees) against the offending party.

8. Following resolution of the dispute by the arbitrator, to the extent practicable, the terms of the new affiliation agreement will become retroactive to the expiration date of the previous affiliation agreement. If carriage of the RSN programming has continued uninterrupted during the arbitration process, and if the arbitrator's award requires a higher amount to be paid than was required under the terms of the expired contract, the MVPD will make an additional payment to the Liberty Media RSN in an amount representing the difference, if any, between the amount that is required to be paid under the arbitrator's award and the amount actually paid under the terms of the expired contract during the period of arbitration. If carriage of the Liberty Media RSN programming has continued uninterrupted during the arbitration process, and if the arbitrator's award requires a smaller amount to be paid than was required under the terms of the expired contract, the Liberty Media RSN will credit the MVPD with an amount representing the difference between the amount actually paid under the terms of the expired contract during the period of arbitration and the amount that is required to be paid under the arbitrator's award.

9. Judgment upon an award entered by the arbitrator may be entered by any court having competent jurisdiction over the matter, unless one party indicates that it wishes to seek review of the award with the Commission and does so in a timely manner.

C. *Review of Final Award by the Commission*

1. A party aggrieved by the arbitrator's final award may file with the Commission a petition seeking *de novo* review of the award. The petition must be filed within 30 days of the date the award is published. The petition, together with an unredacted copy of the arbitrator's award, shall be filed with the Secretary's office and shall be concurrently served upon the Chief, Media Bureau. The Commission shall issue its findings and conclusions not more than 60 days after receipt of the petition, which may be extended by the Commission for one period of 60 days.

2. The MVPD may elect to carry the programming at issue pending the FCC decision, subject to the terms and conditions of the arbitrator's award.

3. In reviewing the award, the Commission will examine the same evidence that was presented to the arbitrator and will choose the final offer of the party that most closely approximates the fair market value of the programming carriage rights at issue.

4. The Commission may award the winning party costs and expenses (including reasonable attorney fees) to be paid by the losing party, if it considers the appeal or conduct by the losing party to have been unreasonable. Such an award of costs and expenses may cover both the appeal and the costs and expenses (including reasonable attorneys' fees) of the arbitration.

5. Judgment upon an award entered by the arbitrator may be entered by any court having competent jurisdiction over the matter.

D. *Provisions Applicable to Small MVPDs*

1. An MVPD meeting the definition of a "small cable company" may appoint a bargaining agent to bargain collectively on its behalf in negotiating carriage of RSNs with the Liberty Media RSN and the Liberty Media RSN may not refuse to negotiate carriage of RSN programming with such an entity.[16] The designated collective bargaining entity will have all the rights and responsibilities granted

[16] *See supra* note 510.

by these conditions. An MVPD that uses a bargaining agent may, notwithstanding any contractual term to the contrary, disclose to such bargaining agent the date upon which its then current carriage contract with the RSN expires.

E. *Additional Provisions Concerning Arbitration*

1. No later than 20 business days prior to the expiration of an affiliation agreement with an MVPD for video programming subject to this condition, the Liberty Media RSN must provide the MVPD with a copy of the conditions imposed in this Order. No later than 10 business days after receiving a first time request for carriage, the Liberty Media RSN must provide the requesting MVPD with a copy of this Order's conditions.

2. This condition will expire six years after the consummation of the transaction, or on such date as the Commission deems to be necessary in the public interest pursuant to early termination in accordance with the provisions below. The Commission will consider a petition for modification of this condition if it can be demonstrated that there has been a material change in circumstance or the condition have proven unduly burdensome, rendering the condition no longer necessary in the public interest.

F. *Modifications To Rules For Arbitration Involving Regional Sports Networks*

1. We modify the Rules in several respects as they apply to arbitration involving regional sports networks.

2. Initiation of Arbitration. Arbitration shall be initiated as provided in Rule R-4 except that, under Rule R-4 (a) (ii) the MVPD shall not be required to submit copies of the arbitration provisions of the contract, but shall instead refer to this Order in the demand for arbitration. Such reference shall be sufficient for the AAA to take jurisdiction.

3. Appointment of the Arbitrator. Appointment of an arbitrator shall be in accordance with rule E-4 of the Rules. Arbitrators included on the list referred to in rule E-4 (a) of the Rules shall be selected from a panel jointly developed by the American Arbitration Association and the Commission and will be based on the following criteria:

a) The arbitrator shall be a lawyer admitted to the bar of a state of the United States or the District of Columbia;
b) The arbitrator shall have been practicing law for at least 10 years;
c) The arbitrator shall have prior experience in mediating or arbitrating disputes concerning media programming contracts; and
d) The arbitrator shall have negotiated or have knowledge of the terms of comparable cable programming network contracts.

4. Exchange of Information. At the request of any party, or at the discretion of the arbitrator, the arbitrator may direct the production of current and previous contracts between either of the parties and MVPDs, broadcast stations, video programming networks, and sports teams, leagues, and organizations, as well as any additional information that is considered relevant in determining the value of the programming to the parties. Parties may request that access to information of a commercially sensitive nature be restricted to the arbitrator and outside counsel and experts of the opposing party pursuant to a protective order.

5. Administrative Fees and Expenses. If the arbitrator finds that one party's conduct, during the course of the arbitration, has been unreasonable, the arbitrator may assess all or a portion of the other parties costs and expenses (including reasonable attorneys' fees) against the offending party.

6. Locale. In the absence of agreement between the parties, the arbitration shall be held in the city that contains the headquarters of the MVPD.

7. Form of Award. The arbitrator shall render a written award containing the arbitrator's findings of fact and reasons supporting the award. If the award contains confidential information, the arbitrator shall compile two versions of the award, one containing the confidential information and one with such information redacted. The version of the award containing the confidential information shall only be disclosed to persons bound by the Protective Order issued in connection with the arbitration. The parties shall include such confidential version in the record of any review of the arbitrator's decision by the Commission.

CONCURRING STATEMENT OF COMMISSIONER MICHAEL J. COPPS

Re: *News Corp. and the DirecTV Group, Inc., Transferors, and Liberty Media Corporation, Transferee, for Authority to Transfer Control, MB Docket No. 07-18*

Four years ago, I strenuously dissented to the Commission's decision to allow News Corp. to acquire DirectTV. At the time, I said that the consolidation of so many media properties under News Corp.'s control could not be good for localism, diversity and competition. Nothing in the past four years has alleviated my concerns. To the contrary, the intervening years only confirm the devastating effect of media consolidation on the health of our democracy and the public interest.

Nevertheless, while I have objected to many of the Commission's decisions that have brought us to this point, I must make decisions based on the facts as they exist today. The question here is whether we should approve the transfer of assets from one giant media conglomerate to a marginally-less-giant media conglomerate. Once consummated, the transaction will result in a measure of de-consolidation and somewhat less vertical integration. That is the distinction between this transaction and the Hughes-News Corp. deal four years ago, and that is why I am concurring rather than dissenting in today's decision.

I support the Order's imposition of the *News Corp–Hughes* conditions and the requirement that the Applicant to abide by these conditions for a fresh six year period. I also support the Order's requirement that DirecTV-Puerto Rico and Liberty Cablevision of Puerto Rico sever any attributable relationships within a one-year period. This should ensure that consumers in Puerto Rico will not be faced with fewer choices in video providers after the condition is met.

I am disappointed that the Commission failed to adopt a condition requiring DirectTV to provide local-into-local service via satellite to all of the nation's 210 television markets within a reasonable period of time. Such a condition would have served the public interest by ensuring that consumers in rural states from North Dakota to Michigan to Maine have access to the news and public safety information provided by local broadcast stations—without the upfront investment contemplated by the Applicant's over-the-air solution for these markets.

In the end, this transaction is hardly an occasion to jump for joy. The Commission should be waging a proactive battle against harmful media consolidation, not simply accepting small levels of de-consolidation when it comes. Over the past twenty-five years, the Commission has permitted the public interest largely to be defined by the demands of Wall Street and Madison Avenue. It's high time to restore a sense of balance to the system and give the American people the media environment they deserve.

STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN
APPROVING IN PART, DISSENTING IN PART

Re: News Corporation and The DirecTV Group, Inc., Transferors, and Liberty Media Corporation, Transferee, for Authority to Transfer Control., MB Docket No. 07-18.

I approve in part this transaction, because it is in the public interest to deconsolidate a major vertically-integrated media and entertainment company that has significant interests in broadcasting, satellite program delivery, cable programming, film and print. While News Corp is transferring DirecTV to Liberty Media -- another vertically-integrated media company which seems to have an appetite to become even more vertically-integrated[1] -- a little media deconsolidation is better than no deconsolidation at all.

Equally significant is the willingness of Liberty Media and DirecTV to abide by the Commission's program access and program carriage rules and to agree to special retransmission consent and regional sports network arbitration conditions. These conditions safeguard against potentially anticompetitive practices of a vertically-integrated media company.

I must, however, dissent in part to the approval of this transaction, because it substantially frustrates important objectives of the Communications Act and longstanding policy goals of the Commission.

As the Commission has stated repeatedly, video competition is a significant policy goal and the delivery of local broadcast stations to local markets is an important element of a compelling subscription service's program offering. In order to promote video competition, increase choices and lower prices, cable and satellite operators should provide comparable services and every community in the United States should be served. In 2003, News Corporation argued that "DirecTV will be the strongest possible competitor to incumbent cable operators only if it can provide consumers with their local broadcast channels...." As a regulatory agency, the Commission should ensure that DBS should be just as attractive as cable and no community is left behind. Scores of markets throughout the country have been ignored by DirecTV. The Commission should not neglect these markets, relegating them to second-class video citizenship.

Perhaps because I am from rural America, I can appreciate fully the discouraging impact that the lack of DBS local-into-local service has on the video choices of rural households. This disincentive to satellite television service is compounded by DirecTV's hybrid local-into-local solution, which amounts to a rural or undesired market tax -- approved by members of the Commission who have often complained about video distributors requiring consumers to purchase expensive set-top boxes when cheaper alternatives could be made available.

[1] During the pendency of this transaction, Liberty Media has proposed to purchase two broadcast stations, WFRV-TV in Green Bay, Wisconsin, and its satellite station WJMN-TV in Escanaba, Michigan.

I cannot support an unfair service tax on rural households, while DirecTV has made the business decision to provide local-into-local HD service over the next few years to local markets that are already served. A similar commitment should be made to provide local-into-local service to unserved markets in the coming years. Universal local-into-local service should be a localism goal of the Commission, and it should be an imperative for DirecTV. The benefits of video competition should be available for all Americans.