

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:

Carriage of Digital Television Broadcast
Signals: Amendment to Part 76 of the
Commission's Rules

CS Docket No. 98-120

**REPLY COMMENTS OF DIRECTV, INC. IN RESPONSE TO
THIRD FURTHER NOTICE OF PROPOSED RULEMAKING**

DIRECTV, Inc. ("DIRECTV") respectfully submits brief reply comments in response both to the Commission's *Third Further Notice of Proposed Rulemaking* and to several of the initial comments filed by broadcasters in this proceeding.¹ In particular, DIRECTV wishes to apprise the Commission: (1) that it is working with its equipment vendors to include Active Format Description ("AFD") technology in local collection facilities ("LCFs"); (2) that its proprietary satellite technology more efficiently delivers data that broadcasters deliver over the air via the Program System Information Protocol ("PSIP"); and (3) that application of the Commission's "material degradation" rules to retransmission consent stations is both legally invalid and commercially unnecessary. DIRECTV believes that rule changes are neither necessary nor appropriate with respect to any of these issues.

AFD. A number of commenters have expressed concern regarding MVPDs' downconversion of high definition ("HD") programming (presented in a 16:9 aspect

¹ *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, 22 FCC Rcd. 21064 (2007).

ratio) to standard definition (“SD”) for display on analog television sets (presented in a 4:3 aspect ratio).² NBCU argues that improper downconversion by an MVPD can leave a “truncated video screen in lieu of the full-screen picture intended by the creator of the programming.”³

AFD, recently adopted as part of the ATSC standard, provides real-time instruction for the reformatting of downconverted HD programming so that it can be displayed on television equipment with a 4:3 aspect ratio. Not all broadcasters employ AFD. Several commenters nonetheless argue that cable operators should be required to either implement AFD (for downconversion at the headend) or pass through AFD (for downconversion by a set-top box).⁴

As the Commission is aware, DIRECTV today has separate ground and space facilities for the retransmission of analog and HD digital broadcast signals – separate LCFs, separate backhaul, separate uplink antennas, and separate satellites. After the digital transition, the facilities now used for analog retransmission will be used to provide SD feeds of broadcasters’ digital signals. DIRECTV is working with its vendors to equip its SD LCFs with equipment that will respond to any AFD information that broadcasters choose to insert, and has notified broadcasters regarding these steps.⁵ DIRECTV has also encouraged broadcasters to provide a separate, pre-formatted SD feed of their HD signals as an alternative. In either case, DIRECTV’s intention remains to provide the signal in

² See, e.g., NBC Universal Comments at 2; NAB/MSTV Comments at 4.

³ NBC Universal Comments at 2.

⁴ NBC Universal Comments at 5-6; NAB/MSTV Comments at 4.

⁵ NBC Universal also expresses concern regarding audio formatting for downconverted programming. See NBC Universal Comments at 10. DIRECTV already downmixes from Dolby Digital to stereo following the metadata provided by the broadcaster.

the format that the broadcaster intends, and there is no need for the Commission to mandate the use of any particular equipment or protocols at this time.

DIRECTV may, in some markets, eventually move to “all-HD” local carriage. In such markets, DIRECTV would transmit each broadcast feed using only its HD, Ka-band facilities. All viewers receiving local channels in those markets would employ HD-capable set-top boxes, which can be connected to both HD and analog television sets. This equipment does not recognize AFD data. It does, however, allow the viewer, at his or her option, to easily transition between letter cut and center box formatting when viewing HD content on analog sets with 4:3 aspect ratio.

PSIP. NBC Universal asks the Commission to require “MVPDs to preserve all data traditionally carried in the data portion of the analog signal in the vertical blanking interval . . . such as V-chip, Nielsen or closed captioning data . . . or in the ATSC Program System and Information Protocol (‘PSIP’) for inclusion in a downconverted signal.”⁶ DIRECTV provides such vital material, including ratings and program guide information, but uses its own technology, optimized for satellite delivery, to do so. The DIRECTV program guide conveys information about all of DIRECTV’s services including national channels, on demand programming, and interactive features, in addition to local broadcast channels. DIRECTV uses this proprietary technology to deliver hundreds of digital broadcast channels to its customers in 76 local markets – and will soon deliver many more digital stations in many more markets.

DIRECTV’s program guide, moreover, achieves system efficiency by sending consolidated information regarding the hundreds of programs that are repeated on local

⁶ NBC Universal Comments at 11-12.

channels across the country at any one time. PSIP would entail carriage of such information separately for each local channel retransmitted – resulting in a significant loss of efficiency. In addition, in order to “recreate” PSIP for satellite carriage, DIRECTV would have to redesign its HD LCFs, its uplink centers, and its set-top boxes. This would require dedication of considerable time and would cost millions of dollars that could otherwise be used for real improvements to DIRECTV’s system. Because DIRECTV’s efforts are focused on ensuring continuity of service after the digital transition, however, the necessary resources simply are not available.

Retransmission Consent and Material Degradation. NCTA argues persuasively that material degradation provisions cannot apply to retransmission consent stations.⁷ This is, if possible, even more explicit with respect to satellite carriage. Section 325 of the Act provides: “If an originating television station elects under paragraph (3)(C) to exercise its right to grant retransmission consent under this subsection with respect to a satellite carrier, section 338 *shall not apply* to the carriage of the signal of such station by such satellite carrier.”⁸ Because the material degradation rule is derived from Section 338,⁹ it “shall not apply” to retransmission consent stations.

DIRECTV would add here only that there is no conceivable reason for the Commission to set degradation standards for retransmission consent broadcasters. A

⁷ NCTA Comments at 9-10. As NCTA points out, the retransmission consent provision set forth in Section 325 of the Communications Act expressly states that “if an originating television station elects ... to exercise its right to grant retransmission consent under this subsection with respect to a cable system, *the provisions of section 614 [on material degradation] shall not apply to the carriage of the signal of such station by such cable system.*” *Id.* at 9 (citing 47 U.S.C. § 325(b)(4)) (emphasis in original).

⁸ 47 U.S.C. § 325(b)(4) (emphasis added).

⁹ The Commission’s satellite carriage regulations “shall include requirements on satellite carriers that are comparable to the requirements on cable operators” under section 614(b)(3) and (4) of the Cable Television Consumer Protection and Competition Act. 47 U.S.C. § 338(j).

broadcaster only elects retransmission consent if it concludes that it has leverage to negotiate better carriage terms with a distributor than it would get from electing mandatory carriage. That is, after all, the very point of retransmission consent, and it is typically the largest and most powerful broadcasters in each market that choose this option. In such circumstances, broadcasters plainly have the wherewithal to negotiate signal quality terms. And they do so. DIRECTV can think of no reason why the Commission ought to place its thumb on the *broadcaster's* side of the scale in such negotiations rather than allow an existing and functioning market to continue to operate.

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DIRECTV is pleased to provide this update regarding certain issues related to the digital transition. With respect to the issues raised in this proceeding – AFD, PSIP, and material degradation/retransmission consent – no changes to the rules are required.

Respectfully Submitted,

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March 17, 2008