

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Unlicensed Operation in the TV Broadcast) ET Docket No. 04-186
Bands)
)
Additional Spectrum for Unlicensed Devices) ET Docket No. 02-380
Below 900 MHz and in the 3 GHz Band)

To: The Commission

PETITION FOR CLARIFICATION AND RECONSIDERATION

Pursuant to 47 C.F.R. § 1.429, DIRECTV, Inc. (“DIRECTV”) and DISH Network LLC (“DISH Network”) (collectively, “petitioners”) hereby submit this petition for clarification and reconsideration of the White Spaces *Second Report and Order* to ensure that all Multichannel Video Programming Distribution (“MVPD”) platforms are afforded interference protection for local headend facilities used to acquire over-the-air broadcast channels and distribute programming to subscribers.¹

The *Second Report and Order* found that unlicensed TV band devices could cause interference to headend facilities located outside a broadcast station’s Grade B contour, resulting in service disruption to certain pay-television viewers. Yet the protections adopted in the *Second Report and Order* expressly extend only to cable headends, not all MVPDs.² As DISH Network observed in the proceeding, direct broadcast satellite (“DBS”) providers also utilize headends to acquire local broadcast signals for distribution, thereby exposing DBS headends and DBS

¹ See *Unlicensed Operation in the TV Broadcast Bands*, Second Report and Order and Memorandum Opinion and Order, 23 FCC Rcd 16807 (2008) (“*Second Report and Order*”).

² See *id.* at 16871-72.

customers to the same interference risks as cable.³ Petitioners therefore ask the Commission to clarify or expand the definition of protected headends to make clear that the facilities of all MVPDs, not just cable systems, are covered under the new rules.⁴ Further, petitioners urge the Commission to extend protections to headend facilities located within TV stations' protected contours as well. Viewers must be adequately protected regardless of where their MVPD headend facility is located.

In the *Second Report and Order*, the Commission recognized the need to ensure that headend facilities are protected from the risk of interference by unlicensed TV band devices. The Commission referenced the comments of the National Cable & Telecommunications Association (“NCTA”), which sought protection in order to ensure that cable systems would continue to be able to deliver broadcast TV signals to their subscribers.

DISH Network also raised these concerns in its reply comments. First, it warned that “[a]s a Multichannel Video Programming Distributor, [we] have a vested interest in ensuring that MVPDs are able to operate existing equipment without harmful interference from new devices.”⁵ Second, specifically referencing the NCTA comments, DISH Network urged the Commission to “closely review the need for additional protection of headend equipment located outside the Grade B contour.”⁶

Yet the *Second Report and Order* only addressed the interference issue for TV Translator receive sites and cable systems, not for all MVPDs. The Commission recognized, “[i]f a TV

³ See Reply Comments of EchoStar Satellite L.L.C., ET Docket Nos. 04-186, 02-380, at 1 (Mar. 2, 2007) (now known as DISH Network) (“EchoStar Reply Comments”).

⁴ 47 C.F.R. §§ 15.712-713, 15.715.

⁵ EchoStar Reply Comments at 1.

⁶ *Id.* at 2 n.3.

band device were to be located between the TV translator/cable headend and station and then operate on one or more of the channels being received by those facilities in a manner that results in interference, TV reception to the households the cable system services could be disrupted.”⁷ The *Second Report and Order* then adopted interference restrictions and granted cable systems the right to qualify headend locations outside of a station’s Grade B contour for interference protection by registering the sites in the unlicensed TV band devices database.⁸

The Commission should clarify that *all* MVPD local receive facilities are eligible for such interference protection.⁹ The same circumstances and concerns that prompted the FCC to grant protection to cable headends exist for DBS local receive facilities as well. Indeed, absent protection, DBS subscribers may be subject to interference from TV band devices. There is no compelling reason to allow such interference to viewers, let alone to create the competitive disparity that would result from the differential treatment of cable headend facilities and other MVPD headend facilities. In light of the foregoing, petitioners intend to register relevant headend locations to ensure protections are in place.

Further, the FCC should also allow registration of headend facilities located within broadcast TV stations’ protected contours. There are two important reasons to allow such registration. First, registration would provide essential protection from portable TV band devices using adjacent channels. Without registration, TV band devices can potentially interfere with signal reception when they are located very near the local channel receive facility. Second, local

⁷ *Second Report and Order*, 23 FCC Rcd at 16872.

⁸ *See id.*

⁹ *See e.g., Facilitating Opportunities for Flexible, Efficient, and Reliable Spectrum Use Employing Cognitive Radio Technologies*, Memorandum Opinion and Order, 22 FCC Rcd 8053, 8056 (2007) (granting petition for clarification regarding the definition of software defined radio to account for the “incorrect impression” that certain devices would require certification under the rules.)

