December 15, 2009

BY ELECTRONIC FILING

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

Re: Notice of *Ex Parte* Presentation: GN Docket Nos. 09-47, 09-51, 09-137; CS Docket No. 97-80

Dear Ms. Dortch:

This is to notify you that on December 14, 2009, Eric Shanks, Executive Vice President of Entertainment of DIRECTV, Inc. ("DIRECTV"), Susan Eid, Senior Vice President, Government Affairs of DIRECTV (a registered lobbyist), and the undersigned met with Commissioner Robert McDowell and legal advisors Christine Kurth and Rosemary Harold regarding National Broadband Plan ("NBP") Public Notice #27, *Comment Sought on Video Device Innovation*. The participants discussed the points on the attached document.

This letter is filed pursuant to Section 1.1206 of the rules of the Federal Communications Commission. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

/s/ Stacy Fuller
Stacy Fuller
Vice President, Regulatory Affairs

cc: Christine Kurth
Rosemary Harold

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DIRECTV - Video Device Innovation
NPB Public Notice #27

Industry efforts to increase access to Internet content on television sets are already underway. For example:

- The Digital Living Network Alliance ("DLNA") is an industry alliance, including major consumer electronic manufacturers and multi-channel video programming provider distributors ("MVPDs"). DLNA technology allows customers to move content between different devices, such as computers, televisions, Blue-ray players, PDAs, etc., creating a consumer-friendly ecosystem among interoperable consumer devices, and to download content to such devices from the Internet.
    - Because all devices designed around DLNA are able to communicate, manufacturers and content providers have the opportunity to innovate and differentiate their products.
    - DIRECTV HD set-top boxes are DLNA compliant with advanced features being added continuously. Other DLNA compatible devices, such as televisions, Blu-Ray players and game consoles, are available in stores today.
- RVU technology will enable a high quality digital entertainment experience throughout the home, and also will make it easier for consumers to connect their television to the Internet.
    - The RVU Alliance (www.rvualliance.org) would further the existing DLNA capabilities by developing a specification for a new technology that distributes content via IP links from a single server to networked devices throughout the home.
    - A consumer using RVU technology can connect to the Internet via the television if the television set or the RVU server has open access web browsing capability.
    - Thus, RVU allows compatible devices in the home to share content once they are connected by a local area network (LAN); if that LAN includes a path to the Internet, then devices with web browsing capability can access the Internet.
    - Although current service provider plans anticipate initial deployment of RVU servers and client devices with a closed broadband connection, this technology ultimately will allow for access to the Internet via any networked set-top box in an RVU home.
- Other industry efforts include:
    - Boxee, a start-up company recently featured in the *New York Times*, is developing a set-top box that allows access to certain Internet content and social networking sites. Boxee also reportedly is developing an open source box that would allow a user to visit any Internet site.
    - Network-enabled televisions connect directly to the Internet and consumers can easily access content through their television.
    - TIVO, XBOX 360, Apple TV and Playstation have Internet functionality that allows streaming of video content to one's television.

An "All-MVPD" solution would impose unnecessary costs and would impede, rather than advance, technical innovation.

- As a preliminary matter, it is not clear that increasing access to Internet content through MVPDs' set-top boxes will spur broadband adoption.
    - The broadband team has identified a "gap" between PC households (76 percent) and TV households (99 percent) – however, the 99 percent of households with TVs do not all subscribe to subscription video services, and not all subscribers have set-top boxes.
- If there is a "gap" and if addressing it could increase broadband adoption, there is no evidence that equipment provided by MVPDs currently is precluding consumers from accessing Internet video.
- A rule requiring development of network-agnostic devices that will allow for both MVPD video and Internet access, regardless of the provider and technological platform for each service component, would be cost-prohibitive, time-consuming, and quickly surpassed by newer technology.
    - Requiring all navigation devices to allow for two-way service fundamentally disadvantages a consumer-friendly, stand-alone video service (DBS) that is inherently one-way.

DIRECTV-compatible navigation devices are available for purchase, but most customers find leasing to be a better alternative.

- Consumers can choose to purchase or lease DIRECTV receivers.
- DIRECTV has found, in offering both alternatives, that customers overwhelmingly prefer to lease their set-top box.
    - The low, monthly lease charge avoids large, out-of-pocket expenses for a new DIRECTV customer, which had proved to be an impediment to video competition.
    - DIRECTV can provide better customer service for equipment-related issues.
    - Customers can easily take advantage of new services and upgrades without the sunk cost of purchasing a device.
- The set-top box model varies greatly from the mobile wireless devices, cited as a comparison by the broadband team in its November presentation, due to factors such as cost and desire for product differentiation.

DIRECTV, as a DBS provider with nationally available service and set-top boxes commercially available, has been exempt from the conditional access/compatibility provisions of the navigation device rules.

- The FCC found in 1998 that three key aspects of the DBS business model supported exclusion from the "integration ban" – these differences remain today.
    - Competition in the market for DBS equipment
        - DIRECTV uses multiple manufacturers to develop a number of set top box models that include advanced digital compression and enhanced features and services, such as an Ethernet port on all HD boxes
    - The incentive to innovate in order to pursue additional market share as it competes against providers that offer bundled, two-way services
    - Geographic portability of DBS equipment across the United States