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FILED ELECTRONICALLY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20554

Re: Ex Parte Letter, Establishment of a Model for Predicting Digital Broadcast Television, ET Docket No. 10-152; Field Strength Received at Individual Locations Measurement Standards for Digital Television Signals Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004, ET Docket No. 06-94

Dear Ms. Dortch:

DIRECTV, Inc. (“DIRECTV”) and DISH Network L.L.C. (“DISH”) hereby supplement the record of the above captioned proceeding to draw the Commission’s attention to certain key changes to the predictive model and measurement method that are warranted at a bare minimum. With respect to the predictive model, these changes are in the following four areas: antenna height; wall penetration loss; antenna type; and interference.¹ The case for action in all of these areas is compelling. Nothing less is enough to take into account Congress’s removal of the words “conventional, stationary, outdoor, rooftop receiving” before the word “antenna”² in the relevant definition of “unserved household,” which

¹ DIRECTV-DISH, Notice of Ex Parte (filed Nov. 16, 2010), *in* Establishment of a Model for Predicting Broadcast Television Field Strength Received at Individual Locations, ET Docket Nos. 10-152, 06-94.

² 17 U.S.C. § 119(d)(10)(A).

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is in turn incorporated by reference in the Communications Act.³ Moreover, the Commission itself has previously suggested action in several of these areas.

- With respect to antenna type, the Commission has stated: “[We] conclude that a tuned half-wave dipole is the best choice. It is widely available, inexpensive, and simple to use.”⁴ Similarly, the Commission acknowledged: “In some instances, particularly in MDUs taller than three stories, the signal strength may be adequate inside the unit, as with ‘rabbit ears’ on the television itself. If the signal intensity is stronger inside the unit, in these cases, the measurement should be taken inside, near the television and using the prescribed testing antenna.”⁵
- With respect to interference from adjacent television stations, the Commission has said: “We believe that the model we endorse, ILLR, should include signal interference so that it will more accurately predict quality picture.”⁶

The satellite carriers have also identified an additional method whereby the Commission can take into account the mix of outdoor and indoor antenna users, instead of changing the predictive model across the board. That method is simply to apply these adjustments only to those consumers who do not in fact have an outdoor antenna. This is no different than the distinction drawn under the current model between single-story and multi-story houses. Specifically, the current model assumes a different antenna height (20 or 30 feet) depending on whether the house in question has one or many floors.⁷ Similarly here, the Commission can apply variables depending on whether consumers actually have an outdoor antenna. This method is an alternative to the “weighted averaging” method, which the carriers have also proposed.⁸ In general, the Commission has a number of options available to it for moving in the direction intended by Congress.

³ 47 U.S.C. § 339(a)(2)(D)(i)(III); 47 U.S.C. § 339(c)(3)(A).

⁴ Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act, *Report and Order*, 14 FCC Rcd. 2654 ¶ 51 (1999) (“*SHVA Rulemaking*”).

⁵ *Id.* ¶ 58.

⁶ *Id.* ¶ 84.

⁷ FCC, *The ILLR Computer Program*, OET Bulletin Number 72 (rel. July 2, 2002).

⁸ DIRECTV-DISH, Notice of Ex Parte at 2 (filed Nov. 4, 2010), *in* Establishment of a Model for Predicting Broadcast Television Field Strength Received at Individual Locations, ET Docket Nos. 10-152, 06-94.

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With respect to measurement, the new proposal made by the satellite carriers dispels thoroughly the main concern raised about indoor testing. In the words of the NPRM, this concern has to do with “[t]he wide variation in indoor viewing situations,” which “makes it difficult to specify a standard model that meaningfully relates to any typical indoor viewing location.”⁹ Under the satellite carriers’ new proposal, these variations would be irrelevant. Testing would occur outdoors using a rabbit-ear antenna, and the same conservative wall penetration loss proposed for the predictive model would be applied to the result. Finally, the test would only apply to those areas without an outdoor antenna. For households with an outdoor antenna, the independent tester would simply measure signal strength using that antenna.

The satellite carriers respectfully believe that, in light of Congress’s changes to the statute, doing nothing is not an option. Nor would the congressional directive be fulfilled if the only action in furtherance of that directive were to occur in a further rulemaking beyond the statutory deadline. The satellite carriers respect the need for scientific rigor, and believe that their proposals satisfy the demands of both Congress and good science at the same time. Furthermore, some key questions presented in this proceeding are not technical ones in the first place, but rather questions of policy. For instance, the satellite carriers believe that a household’s treatment should depend on whether a household actually has an outdoor antenna, not on whether it is “able” to use one.¹⁰ This is not a technical question, but one of policy and one that should be answered in conformity with Congress’s wishes.

Sincerely,

_____/s/_____

Pantelis Michalopoulos
Counsel for DISH Network L.L.C.

⁹ Establishment of a Model for Predicting Digital Broadcast Television Field Strength Received at Individual Locations, ET Docket Nos. 10-152, 06-94, *Notice of Proposed Rulemaking and Notice of Further Rulemaking*, FCC 10-133 (rel. July 28, 2010).

¹⁰ *Id.* ¶ 23.