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

In the Matter of	)	
	)	
Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF	)	ET Docket No. 10-235

COMMENTS OF DISH NETWORK L.L.C.

DISH Network L.L.C. ("DISH") respectfully submits these Reply Comments in support of the clarifications made by DIRECTV to the Commission's proposed rules for channel sharing in the broadcast television bands.[1] Like DIRECTV, DISH believes that the Commission's efforts to improve the utilization of the broadcast television bands should not disrupt the clear scope of the statutory carry one, carry all requirements, nor undermine the careful investments satellite television providers have made in their distribution networks.

First, the Commission should clarify that channel sharing does not (and could not under current law) lead to the artificial creation of new "stations" that can demand carriage by multichannel video programming distributors ("MVPDs"). DISH today is the only MVPD to provide local-into-local television broadcast service in all 210 Designated

[1] *See* DIRECTV Comments, ET Docket No. 10-235 (filed Mar. 18, 2011) ("*DIRECTV Comments*"); *see also* Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF, Notice of Proposed Rulemaking, ET Docket No. 10-235 (rel. Nov. 30, 2010) ("*Channel Sharing NPRM*").

Market Areas ("DMAs").[2] DISH has achieved this remarkable goal only through careful, long-term investment in its satellite infrastructure. For television broadcast licensees that may enter into channel sharing arrangements, satellite mandatory carriage rights can nonetheless only attach to one "station."[3] Any alternative would contravene existing law, which was crafted with an understanding of what a "station" is under existing Commission regulations and the capacity constraints on certain MVPD systems.[4] Of course, any sudden explosion of carriage rights for broadcasters as the result of the proposals put forth in this proceeding would be contrary to the Commission's express desire to "neither increase nor decrease the carriage rights of any broadcaster on any type of system"[5] not to mention stress existing distribution systems to the breaking point.

Second, channel sharing arrangements should not deprive satellite television subscribers of distant network programming. Some satellite TV customers may be eligible to receive distant network signals because they are "unserved" (as defined by statute)[6] by local broadcast network stations. Channel sharing could result in an additional network being broadcast by another provider on part of the broadcaster's spectrum. Yet as desirable as such a result could be for over-the-air television viewers, it

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[2] Generally speaking, under the "carry one, carry all" rule, a Direct Broadcast Satellite ("DBS") provider is required to carry the primary standard definition ("SD") signals of all full-power, local television broadcast stations that make proper mandatory elections in all local markets where that DBS provider carries any SD local television broadcast stations. 47 U.S.C. § 338(a). Under Commission rules, this obligation will extend to primary high definition ("HD") signals on a phased-in basis through 2013. *See* 47 C.F.R. § 76.66(k)(2); *see also* Carriage of Digital Television Broadcast Signals, 23 FCC Rcd. 5351 (2008).

[3] *See* DIRECTV Comments at 3.

[4] *See* 47 U.S.C. § 338(a)(1) (setting forth "carry one, carry all" rules).

[5] *See Channel Sharing NPRM* ¶ 31.

[6] *See* 17 U.S.C. § 119(a)(2)(B); *see also* 47 U.S.C. § 119(d)(10) (defining "unserved households," in part, as those households that cannot receive "an over-the-air signal containing the primary stream, or . . . the multicast stream").

should not disqualify eligible satellite TV subscribers from receiving distant network programming. Current law would not, in fact, recognize a channel sharing arrangement as creating either a "primary stream" or a "multicast stream" that would serve to disqualify duly qualified unserved households in a given local market from receiving a distant signal for a particular network, because neither stream would originate with the original licensee for the relevant spectrum.

DIRECTV's proposal – grandfathering existing distant signal subscribers even if a new, shared signal reaches them, and evaluating potential distant signal subscribers on the basis of the new, over-the-air signal that results from the channel sharing arrangement, is a partial solution.[7] Established consumer expectations should not be disrupted, but nor should any changes negatively impact the satellite carriers' careful investment in distribution and business models premised in the existing broadcast licensing system. The only result fully consistent with the established statutory structure – a structure carefully crafted to maintain a balance between the local broadcast television system and consumers' access to television through their MVPDs – is to keep channel sharing arrangements from disqualifying unserved households from receiving distant network programming.

Finally, DISH agrees with DIRECTV that broadcasters launching channel sharing arrangements should be required to keep MVPDs apprised of any potential disruption to current operations, allowing MVPDs to properly alert their subscribers.

[7] *See* DIRECTV Comments at 4.

Respectfully submitted,

/s/

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