



September 16, 2011

**BY ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: *MB Docket No. 11-93*

Dear Ms. Dortch:

This is to inform you that Stacy Fuller of DIRECTV and undersigned counsel met yesterday with Michelle Carey, Nancy Murphy, Alison Neplokh, Lyle Elder, Krista Witanowski, Shabnam Javid, and Evan Baranoff of the Media Bureau and Eloise Gore of the Enforcement Bureau to discuss implementation of the CALM Act in the above referenced proceeding. The discussion is reflected in the attached materials, which were provided to the staff at the meeting. In addition, DIRECTV confirmed that it monitors loudness levels on every channel it transmits to subscribers, and retains that data for ten days before it is overwritten. The equipment used for this purpose was designed and built in-house by DIRECTV, and has been deployed in each of its seven uplink facilities. Generally speaking, one piece of equipment is assigned to each satellite transponder used for direct-to-home satellite service.

Respectfully submitted,

/s/

William M. Wiltshire  
*Counsel for DIRECTV*

Attachments

cc: Michelle Carey  
Nancy Murphy  
Alison Neplokh  
Lyle Elder  
Krista Witanowski  
Shabnam Javid  
Evan Baranoff  
Eloise Gore

## IMPLEMENTING THE LIMITED MANDATE OF THE CALM ACT

### *The Statutory Mandate*

- The CALM Act directs the Commission to adopt a regulation that is “limited to incorporating by reference and making mandatory” Recommended Practice A/85, “only in so far as [it] concerns the transmission of commercial advertisements.”

### *Proper Application of the Mandate*

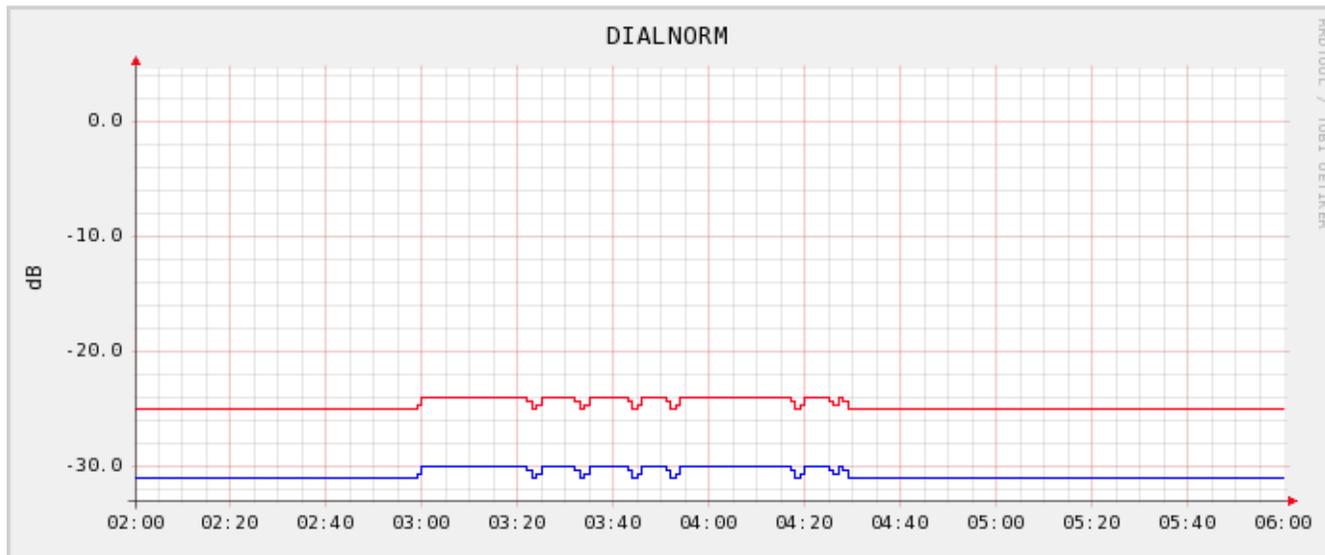
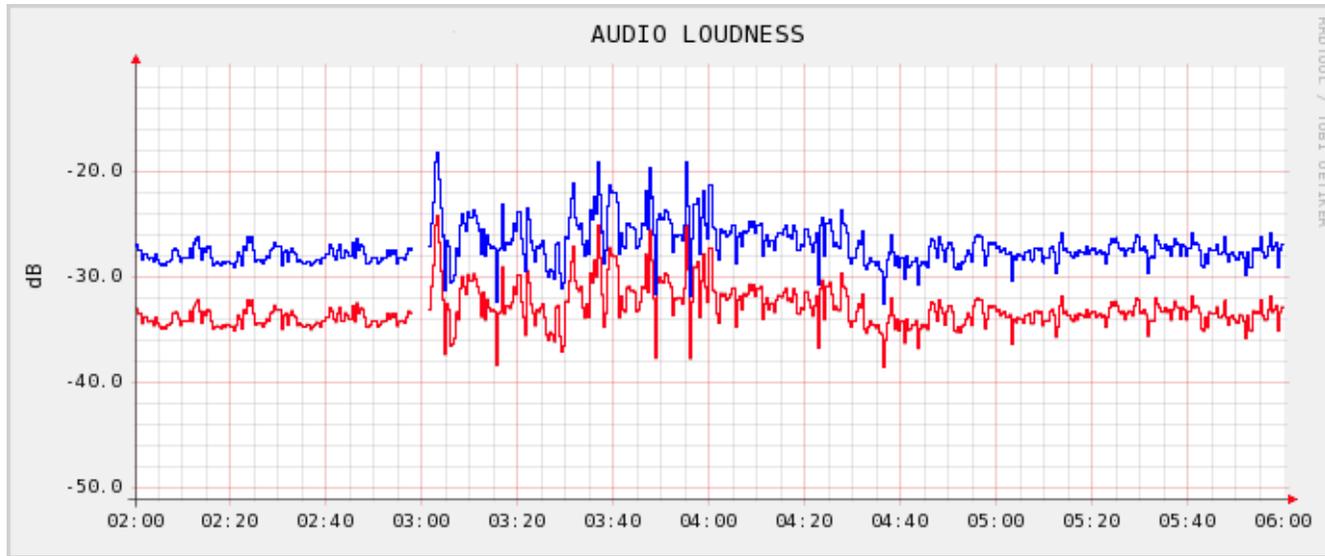
- Commenters overwhelmingly agree that this limited mandate allows imposition of responsibility for commercial loudness levels only on those who:
  - actually insert commercials into the programming stream; or
  - change those levels relative to long-form content in the programming stream.
- Even then, an MVPD would qualify for the safe harbor if it:
  - installs, utilizes, and maintains equipment necessary to make commercial insertions at loudness levels consistent with RP A/85; or
  - installs, utilizes, and maintains equipment necessary to transmit the programming stream using a commercially reasonable process that maintains commercial loudness levels relative to long-form content.
    - Process could include obtaining contractual commitments from programmers, ongoing monitoring for quality control, and promptly working with relevant parties to resolve issues as they arise.

### ***The Statutory Mandate Does Not Require Recalibration at Every Stage of the Distribution Chain***

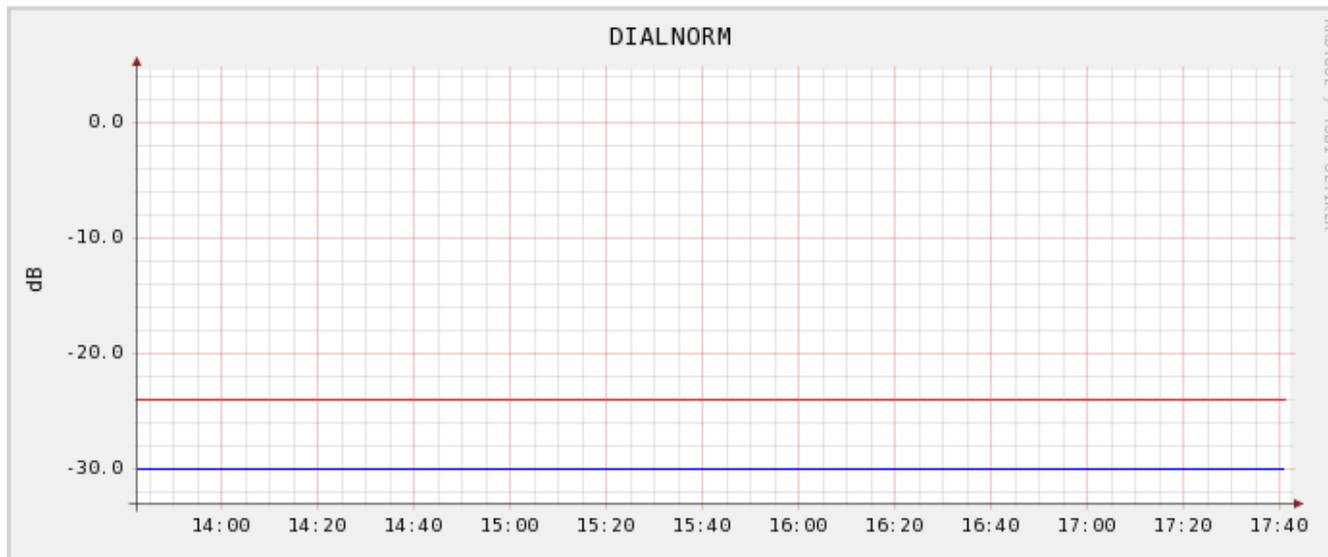
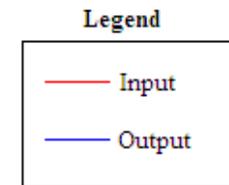
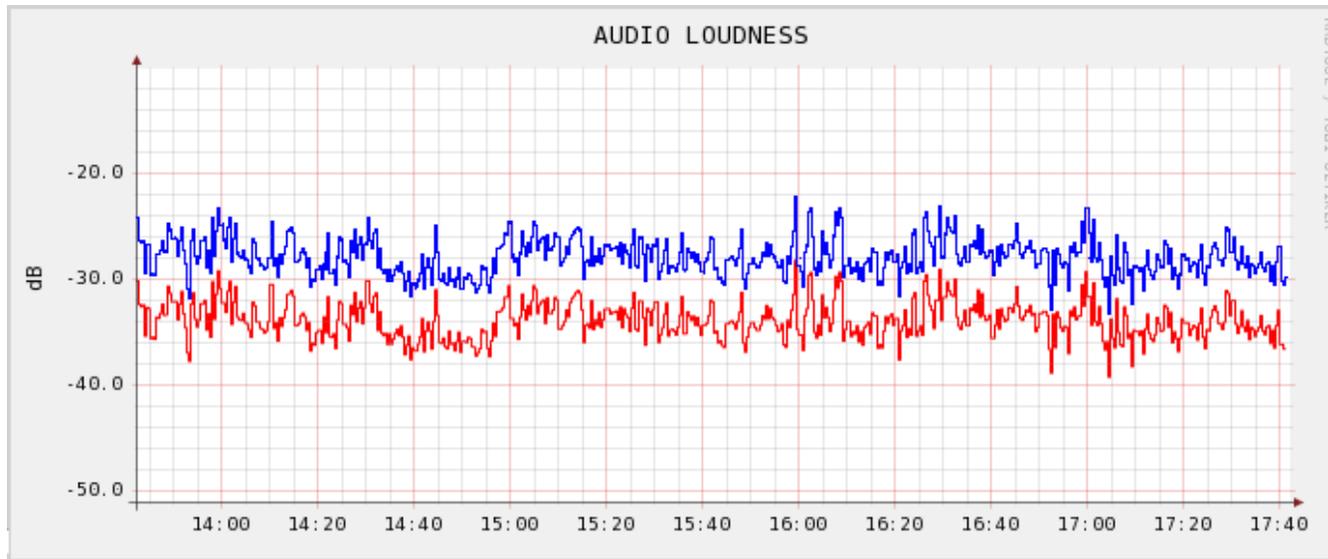
- Requiring an MVPD to measure and correct the loudness of commercials received in a programming stream in real time:
  - would exceed the Commission’s statutory authority, as nothing in RP A/85 calls for this; and
  - also would exceed the capabilities of current technology.
    - No way to distinguish commercials from long-form content.
    - No practical way to know whether loud passage is appropriate (*e.g.*, explosion) or an error without extensive intervention and evaluation

### ***DIRECTV’s Loudness Adjustment to Accommodate Consumer Equipment***

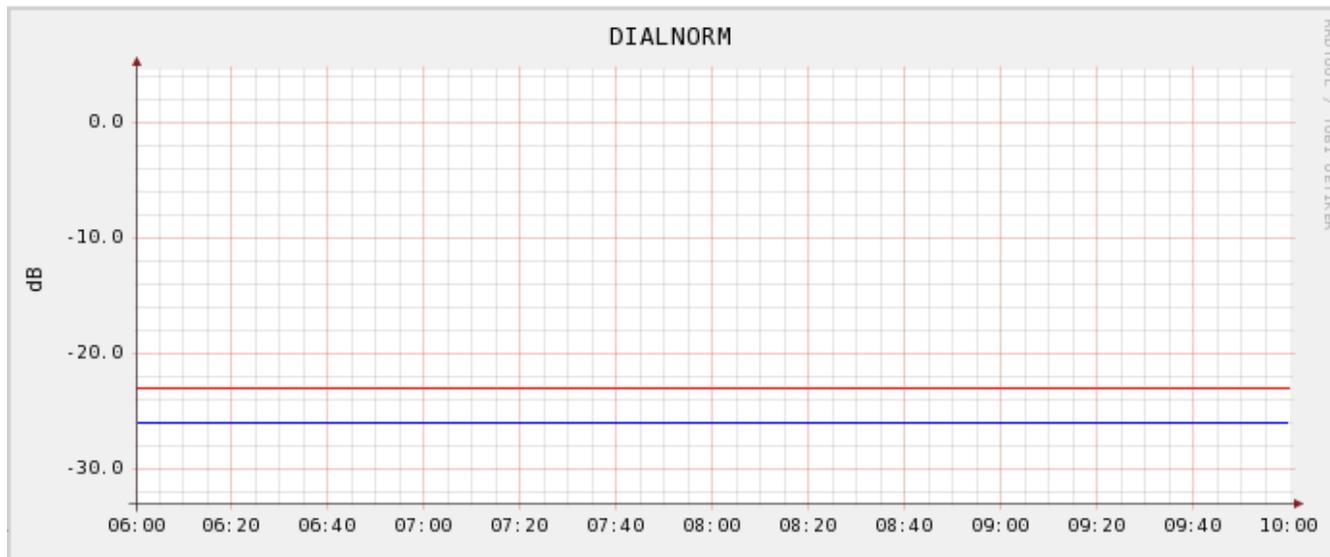
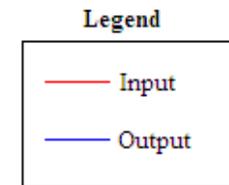
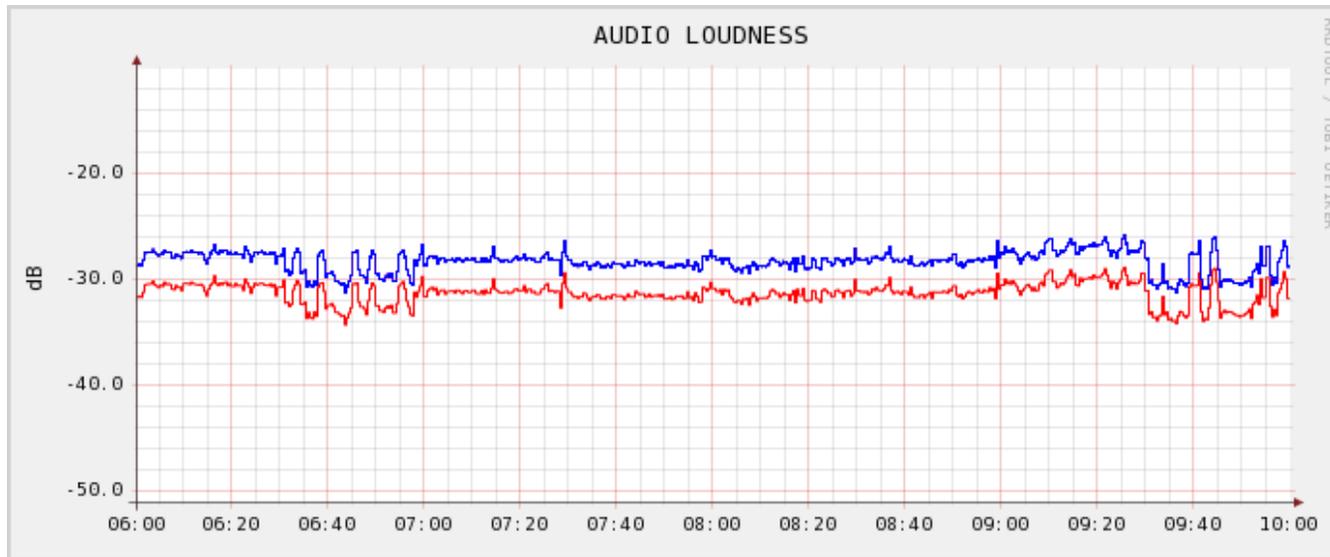
- As mentioned in its comments, DIRECTV has found that if it sets the “dialnorm” loudness to the level recommended by RP A/85, volume on the resulting transmission would be reduced to an inaudible level on certain older televisions that lack the range built into newer televisions, as well as certain newer HD sets.
- Consistent with the requirements of RP A/85, DIRECTV composes its digital bitstream at the “dialnorm” level prescribed by RP A/85, but then increases the gain by 3 dB in order to ensure that all television sets can perform with sufficient audio.
- This approach achieves the goals of the CALM Act because it: (1) ensures that commercials within the bitstream are at the same relative volume as the programming; and (2) ensures that the volume is consistent between channels provided over DIRECTV’s closed system as well.



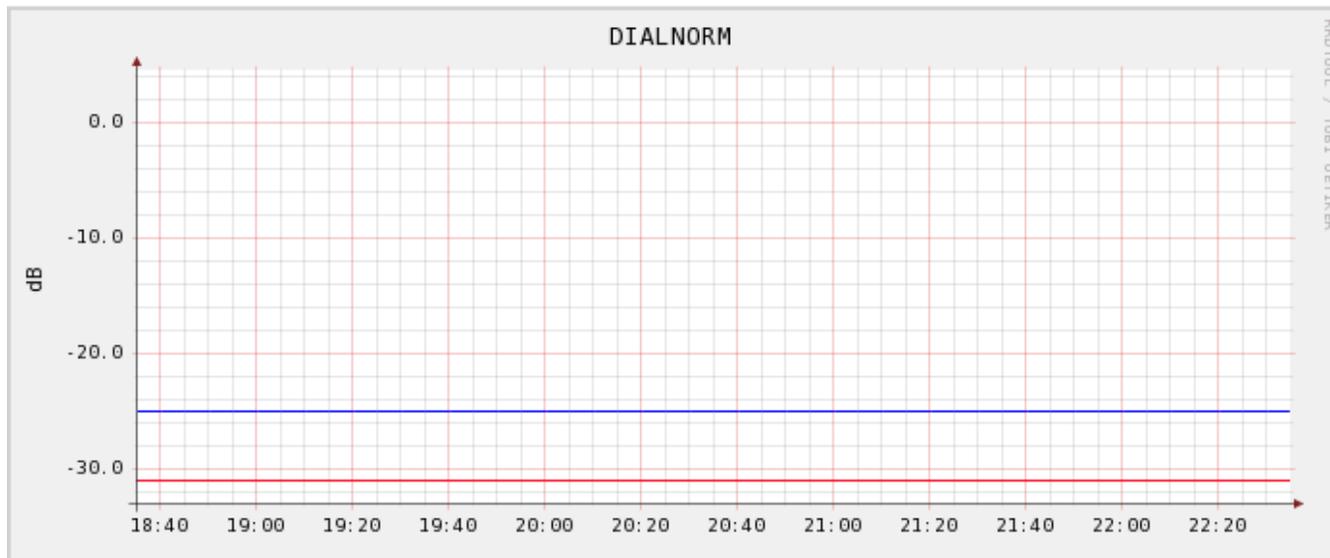
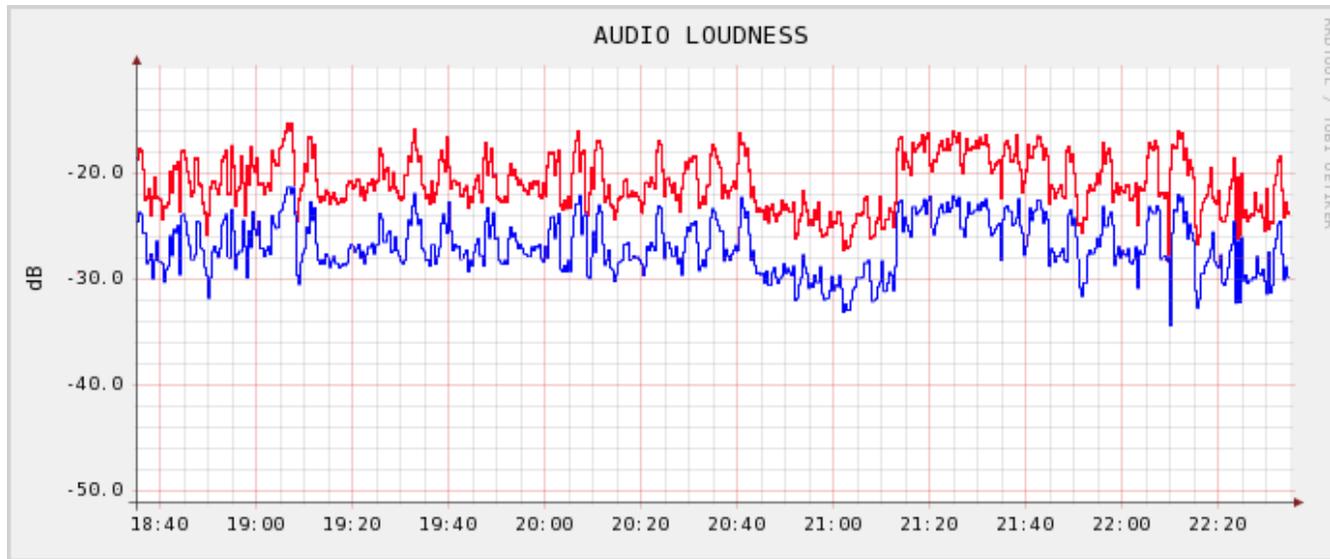
**CHANNEL 1**



**CHANNEL 2**



**CHANNEL 3**



**CHANNEL 4**