

November 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:

As the Commission considers rules to implement the CALM Act, DIRECTV, Inc. and DISH Network L.L.C. urge it to consider the particularly heavy burdens that could be imposed on carriers that distribute large amounts of programming nationwide. The Commission must take care to ensure that the rules adopted in this proceeding do not place an undue burden on any competitor in the multichannel video programming distribution (“MVPD”) market.

The efficiency of delivering programming nationwide via satellite has enabled both DIRECTV and DISH Network to offer American consumers a huge number of video channels. DIRECTV offers over 400 video channels that include commercials or promotions inserted by programmers (including both HD and SD versions of channels), and, due to its expanded international and foreign language lineup, DISH Network offers over 600 such channels. Even eliminating those channels that are not ad-supported (though they may have promotions inserted by programmers for other movies or shows offered on that channel), the count remains high, at over 300 channels for DIRECTV and over 500 channels for DISH Network.

Various proposals have been made in this proceeding that would require MVPDs to monitor commercial loudness on some or all of the channels they transmit. Unfortunately, while there is equipment that can track channel loudness levels, it does not have the ability to automatically determine whether a spike in loudness reflects an improperly calibrated commercial rather than a particularly loud portion of the long-form content (*e.g.*, a series of explosions). Determining the source of such apparent anomalies requires further investigation by a person, and can be quite time-intensive. Were the Commission to require DIRECTV and DISH Network to undertake such detailed monitoring and investigation for each of the several hundred channels they transmit to ensure compliance with CALM Act requirements, it could impose a heavy burden that would necessitate a significant reallocation of resources and personnel.

Accordingly, DIRECTV and DISH Network request that the Commission bear these considerations in mind so that the regime it fashions to implement the CALM Act's mandate will be fair and workable for all MVPDs.

Respectfully submitted,

DISH NETWORK L.L.C.

DIRECTV, INC.

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