

July 8, 2013

BY ELECTRONIC FILING

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

Re: Procedures for Assessment and Collection of Regulatory Fees, MD Docket No. 12-201; Assessment and Collection of Regulatory Fees for Fiscal Year 2013, MD Docket No. 13-140; Assessment and Collection of Regulatory Fees for Fiscal Year 2008, MD Docket No. 08-65

Dear Ms. Dortch:

The American Cable Association (“ACA”) recently filed reply comments in this proceeding. In that submission, ACA argued that regulation of Direct Broadcast Satellite (“DBS”) operators has changed substantially since the Commission first placed DBS in the geostationary satellite regulatory fee category in 1996. Specifically, ACA suggests that, while early DBS regulation related principally to DBS *satellites* (and thus consisted mostly of International Bureau staff-hours), regulation today relates principally to DBS’s *consumer business* (and thus consists mostly of Media Bureau staff-hours).

As DIRECTV has pointed out, however, Media Bureau regulation of DBS is not new. Nor, for that matter, has it grown meaningfully. In order to quantify this, undersigned counsel attempted to identify every DBS order involving significant media-related staff-hours issued since 1996.¹ He then compared the number of such orders for the first five years of DBS’s placement in the geostationary satellite fee category (1996-2000) with those for the last five years (2008-2012). ***The number of such orders was almost exactly the same for the two time***

¹ Counsel ran a Westlaw search of the relevant FCC database with the terms “DIRECTV,” “EchoStar,” and “DISH Network,” and then sorted through the results manually to find orders (or similar non-procedural, substantive documents) issued in proceedings in which one or both of the parties had participated (by filing comments or *ex parte* notices). He determined that orders “involved significant media-related staff-hours” if they either were issued by the Media Bureau or if they were issued by a different bureau but appear to have concerned at least some issues typically in the Media Bureau’s purview. An example of the latter is the Commission’s consideration of the EchoStar-MCI transaction in 1999, which involved the acquisition of International Bureau licenses but also raised broader video competition issues of the sort generally addressed by the Media Bureau.

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periods. Appendix A attached hereto contains a list of 54 such orders issued between the years 1996 and 2000. Appendix B contains a list of 53 such orders issued between the years 2008-2012.

This, DIRECTV believes, lays to rest ACA's argument entirely. Section 9 of the Communications Act permits the Commission to change regulatory fees only in response to changes in laws and regulation. ACA argues that an alleged increase in Media Bureau regulation of DBS over the years constitutes such a change. But there has been no such increase. Accordingly, there has been no such change that could justify disturbing DBS regulatory fees.

Respectfully submitted,



Michael Nilsson
Counsel for DIRECTV

APPENDIX A
DBS Media Orders 1996-2000

1996

Application of MCI Telecommunications Corporation For Authority To Construct, Launch and Operate a Direct Broadcast Satellite System at 110° W.L., 11 FCC Rcd. 16275 (1996)

Preemption of Local Zoning Regulation of Satellite Earth Stations, 11 FCC Rcd. 19276 (1996)

Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996 Video Programming Accessibility, 11 FCC Rcd. 19214 (1996)

Preemption of Local Zoning Regulation of Satellite Earth Stations, 11 FCC Rcd. 5809 (1996)

1997

Implementation of the Cable Television Consumer Protection and Competition Act of 1992, 12 FCC Rcd. 22840 (1997)

Telecommunications Services Inside Wiring, 13 FCC Rcd. 3659 (1997)

Closed Captioning and Video Description of Video Programming, 13 FCC Rcd. 3272 (1997)

Star Lambert and Satellite Broadcasting and Communications Association of America: Petition for Declaratory Ruling Under 47 C.F.R. § 1.4000, 12 FCC Rcd. 10455 (1997)

Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, 12 FCC Rcd. 4358 (1997)

1998

Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, 13 FCC Rcd. 24284 (1998)

Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992, 13 FCC Rcd. 23254 (1998)

Implementation of Section 207 of the Telecommunications Act of 1996, 13 FCC Rcd. 23874 (1998)

EchoStar Communications Corporation v. Fox/Liberty Networks LLC, Fox Sports Net LLC, Fox Sports Direct, 13 FCC Rcd. 21841 (1998)

DIRECTV, Inc., Complainant v. Comcast Corporation, Comcast-Spectacor, LP, Comcast Sportsnet, Defendants, 13 FCC Rcd. 21822 (1998)

Implementation of Section 207 of the Telecommunications Act of 1996, 13 FCC Rcd. 18962 (1998)

EchoStar Communications Corporation, 13 FCC Rcd. 16350 (1998)

Applications of TCI Satellite Entertainment, Inc. and Primestar, Inc., 14 FCC Rcd. 2715 (1998)

Implementation of the Cable Television Consumer Protection and Competition Act of 1992, 13 FCC Rcd. 15822 (1998)

Implementation of Section 304 of the Telecommunications Act of 1996, 13 FCC Rcd. 14775 (1998)

Echostar Communications Corporation v. Fox/Liberty Networks, LLC FX Networks, LLC, 13 FCC Rcd. 7394 (1998)

Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, 13 FCC Rcd. 1034 (1998)

1999

EchoStar Communications Corporation v. Fox/Liberty Networks, LLC, Fox Sports Net, LLC, Fox Sports Direct, 14 FCC Rcd. 21470 (1999)

EchoStar Satellite Corporation v. Fox Liberty Networks, LLC, Fox Sports Net, LLC, Fox Sports Direct, 14 FCC Rcd. 21468 (1999)

Petition for Waiver of Direct Broadcast Satellite Public Interest Obligation Implementation Date EchoStar Satellite Corporation, 15 FCC Rcd. 1814 (1999)

American Distance Education Consortium Request for an Expedited Declaratory Ruling and Informal Complaint, 14 FCC Rcd. 19976 (1999)

Implementation of the Cable Television Consumer Protection and Competition Act of 1992, 14 FCC Rcd. 19014 (1999)

Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act: Part 73 Definition and Measurement of Signals of Grade B Intensity, 14 FCC Rcd. 17373 (1999)

1998 Biennial Regulatory Review—Part 76 – Cable Television Service Pleading and Complaint Rules, 1999 WL 766253 (1999)

EchoStar Communications Corporation v. Fox/Liberty Networks, LLC, Fox Sports Net, LLC, Fox Sports Direct, 14 FCC Rcd. 10480 (1999)

EchoStar Communications Corporation v. Speedvision Network, LLC, Outdoor Life Network, LLC, 14 FCC Rcd. 9327 (1999)

Application of MCI Telecommunications Corporation, Assignor and EchoStar 110 Corporation, Assignee, 16 FCC Rcd. 21608 (1999)

Application of MCI Telecommunication Corporation for Authority to Construct, Launch and Operate a Direct Broadcasting Satellite System at 110° W.L., 14 FCC Rcd. 11077 (1999)

Implementation of Section 304 of the Telecommunications Act of 1996, 14 FCC Rcd. 7596 (1999)

United States Satellite Broadcasting Co., Inc. Transferor and DIRECTV Enterprises, Inc. Transferee, 14 FCC Rcd. 4585 (1999)

EchoStar Communications Corporation v. Speedvision Network, LCC, Outdoor Life Network, LLC, 14 FCC Rcd. 3979 (1999)

Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Telecommunications, Inc., Transferor to AT&T Corp., Transferee, 14 FCC Rcd. 3160 (1999)

Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act, 14 FCC Rcd. 2654 (1999)

EchoStar Communications Corporation v. Speedvision Network, LCC, Outdoor Life Network, LCC, 14 FCC Rcd. 2178 (1999)

EchoStar Communications Corporation Complainant, v. Comcast Corporation, Comcast-Spectacor, LP, Philadelphia Sports Media, LP, Defendants, 14 FCC Rcd. 2089 (1999)

1998 Biennial Regulatory Review – Part 76 – Cable Television Service Pleading and Complaint Rules, 14 FCC Rcd. 418 (1999)

2000

Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage Issues, 16 FCC Rcd. 1918 (2000)

Technical Standards for Determining Eligibility for Satellite-Delivered Network Signals Pursuant to the Satellite Home Viewer Improvement Act, 15 FCC Rcd. 24321 (2000)

DIRECTV, Inc., Complainant, v. Comcast Corporation, Comcast-Spectacor, LP, Comcast Sportsnet, Defendants, 15 FCC Rcd. 22802 (2000)

Implementation of the Satellite Home Viewer Improvement Act of 1999: Application of Network Non-Duplication, Syndicated Exclusivity, and Sports Blackout Rules to Satellite Retransmissions of Broadcast Signals, 15 FCC Rcd. 21688 (2000)

Compatibility between Cable Systems and Consumer Electronics Equipment, 15 FCC Rcd. 17568 (2000)

American Distance Education Consortium Request for an Expedited Declaratory Ruling and Informal Complaint, 15 FCC Rcd. 15448 (2000)

Implementation of Video Description of Video Programming, 15 FCC Rcd. 15230 (2000)

Establishment of an Improved Model for Predicting the Broadcast Television Field Strength Received at Individual Locations, 15 FCC Rcd. 12118 (2000)

American Distance Education Consortium Request for an Expedited Declaratory Ruling and Informal Complaint, 15 FCC Rcd. 13638 (2000)

Bell Atlantic Video Services Company. Petition for Declaratory Ruling Pursuant to 47 C.F.R. § 1.4000, 15 FCC Rcd. 7366 (2000)

Closed Captioning and Video Description of Video Programming: Implementation of Section 305 of the Telecommunications Act of 1996, Accessibility of Emergency Programming, 15 FCC Rcd. 6615 (2000)

Implementation of the Satellite Home Viewer Improvement Act of 1999, Retransmission Consent Issues: Good Faith Negotiation and Exclusivity, 15 FCC Rcd. 5445 (2000)

EchoStar Satellite Corporation, Complainant, v. Comedy Partners, Defendant, 15 FCC Rcd. 2798 (2000)

Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, 15 FCC Rcd. 978 (2000)

APPENDIX B
DBS Media Orders 2008-2012

2008

Christian Television Corporation Telemundo Group University Broadcasting Lesca Broadcasting; Association of Public Television Stations Univision Communications WLNY-TV and Golden Orange Broadcasting Co. Applications for Review, 23 FCC Rcd. 633 (2008)

The Commission's Cable Horizontal and Vertical Ownership Limits, 23 FCC Rcd. 2134 (2008)

General Motors Corporation and Hughes Electronics Corporation, Transferors and the News Corporation Limited, Transferee, For Authority to Transfer Control, 23 FCC Rcd. 3131 (2008)

News Corporation and the DIRECTV Group, Inc., Transferors, and Liberty Media Corporation, Transferee, For Authority to Transfer Control, 23 FCC Rcd. 3265 (2008)

Johnson Broadcasting of Dallas, Inc. Johnson Broadcasting, Inc. Requests for Mandatory Carriage of Television Stations KLDT-TV, Lake Dallas, TX and KNWS-TV, Katy, TX Applications for Review, 23 FCC Rcd. 3263 (2008)

Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules; Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues, 23 FCC Rcd. 5351 (2008)

Closed Captioning of Video Programming: Closed Captioning Requirements for Digital Television Receivers, 23 FCC Rcd. 16674, (Erratum), 24 FCC Rcd. 8262 (Erratum) (2008)

2009

Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, 24 FCC Rcd. 542 (2009)

Applications for Consent to the Assignment and/or Transfer of Control of Licenses Time Warner Inc., and its Subsidiaries, Assignor/Transferor to Time Warner Cable Inc., and its Subsidiaries, Assignee/Transferee, 24 FCC Rcd. 879 (2009)

Application for Authority to Transfer Control of Satellite Earth Station and Space Station Licenses from Liberty Media Corporation, Transferor to Liberty Entertainment Inc., Transferee, 24 FCC Rcd. 4110 (2009)

General Motors Corporation, Hughes Electronics Corp., Transferors and The News Corporation, Limited, Transferee, 24 FCC Rcd. 8674 (2009)

Channel 38 Christian Television KSCE (TV), El Paso, Texas v. DIRECTV, Inc. Signal Carriage Complaint, 24 FCC Rcd. 9419 (2009)

Richard Rhoad Petition for Declaratory Ruling under 47 C.F.R. § 1.4000, 24 FCC Rcd. 9527 (2009)

James S. Bannister Petition for Declaratory Ruling under 47 C.F.R. § 1.4000, 24 FCC Rcd. 9516 (2009)

Implementation of the Child Safe Viewing Act; Examination of Parental Control Technologies for Video or Audio Programming, 24 FCC Rcd. 11413 (2009)

Liberty Media Corporation, Transferor DIRECTV, Transferee, 24 FCC Rcd. 12221 (2009)

Constance M. Lane and Daniel F. Lane Petition for Declaratory Ruling under 47 C.F.R. § 1.4000, 24 FCC Rcd. 13219 (2009)

2010

Red Lion Broadcasting Company, Inc., Licensee of WGCB-TV, Red Lion, Pennsylvania v. DIRECTV, Inc., 25 FCC Rcd. 1272 (2010)

Closed Captioning of Video Programming, 25 FCC Rcd. 1370 (2010)

Review of the Commission's Program Access Rules and Examination of Programming Tying Arrangements, 25 FCC Rcd. 746, 25 FCC Rcd. 1738 (2010)

Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments, 25 FCC Rcd. 2460 (2010)

Connecting America: The National Broadband Plan, 2010 WL 972375 (2010)

Implementation of Section 304 of the Telecommunications Act of 1996, 25 FCC Rcd. 4303 (2010)

Video Device Competition: Implementation of Section 304 of the Telecommunications Act of 1996, 25 FCC Rcd. 4275 (2010)

Liberty Media Corporation, Transferor DIRECTV, Transferee, 25 FCC Rcd. 7502 (2010)

Application of DISH Network, LLC for Qualified Carrier Certification, 25 FCC Rcd. 12941 (2010)

Implementation of Section 304 of the Telecommunications Act of 1996, 25 FCC Rcd. 14657, 26 FCC Rcd. 9209 (2010)

Craig Wirth: Petition for Declaratory Ruling under 47 C.F.R. § 1.4000, 25 FCC Rcd. 15583 (2010)

Policarpio & Lourdes Medios: Petition for Waiver and Declaratory Ruling under 47 C.F.R. § 1.4000, 25 FCC Rcd. 15870 (2010)

Measurement Standards for Digital Television Signals Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004, 25 FCC Rcd. 16471 (2010)

Establishment of a Model for Predicting Digital Broadcast Television Field Strength Received at Individual Locations, 25 FCC Rcd. 16246 (2010)

Implementation of Section 203 of the Satellite Television Extension and Localism Act of 2010 (STELA), 25 FCC Rcd. 16383 (2010)

2011

Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc., 26 FCC Rcd. 4238 (2011)

Adelphia Communications Corporation, Comcast Corporation, Time Warner Inc., 26 FCC Rcd. 2150 (2011)

DISH Network LLC, Petitioner, v. Comcast Corporation Comcast Sportsnet California, Inc., Respondents, 26 FCC Rcd. 2149 (2011)

DISH Network LLC, Complainant, v. Madison Square Garden Inc., Madison Square Garden, LP, and Cablevision Systems Corp., Defendants, 26 FCC Rcd. 6729 (2011)

Corridor Television, LLP v. DISH Network, LLC: Request for Mandatory Carriage of Television Station KCWX-DT Fredericksburg, Texas, 26 FCC Rcd. 7705 (2011)

Corey & Juanita Walker: Petition for Declaratory Ruling under 47 C.F.R. § 1.4000, 26 FCC Rcd. 10531 (2011)

Revision of the Commission's Program Carriage Rules: Leased Commercial Access; Development of Competition and Diversity in Video Programming Distribution and Carriage, 26 FCC Rcd. 11494 (2011)

Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, 26 FCC Rcd. 11847, 26 FCC Rcd. 12662, 26 FCC Rcd. 14240 (2011)

In-State Broadcast Programming: Report to Congress Pursuant to Section 304 of the Satellite Television Extension and Localism Act of 2010, 26 FCC Rcd. 11919 (2011)

Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act, 26 FCC Rcd. 17222 (2011)

2012

Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc., 27 FCC Rcd. 15053 (2012)

TIVO Inc.'s Request for Clarification and Waiver of the Audiovisual Output Requirement of Section 76.640(B)(4)(III), 27 FCC Rcd. 14875 (2012)

Revision of the Commission's Program Access Rules, 27 FCC Rcd. 12605 (2012)

Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules, 27 FCC Rcd. 10217 (2012)

Applications of Cellco Partnership D/B/A Verizon Wireless and Spectrumco LLC and Cox TMI, LLC for Consent to Assign AWS-1 Licenses, 27 FCC Rcd. 10698 (2012)

Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, 27 FCC Rcd. 9630 (2012)

Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF, 27 FCC Rcd. 4616 (2012)

Dish Network LLC, Complainant, v. The Madison Square Garden Company and MSG Holdings, LP, Defendants, 27 FCC Rcd. 298 (2012)

Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, 27 FCC Rcd. 787 (2012)

Review of the Emergency Alert System, 27 FCC Rcd. 642 (2012)

The Regional Sports Network Marketplace, 27 FCC Rcd. 154 (2012)