Before the
LIBRARY OF CONGRESS
COPYRIGHT OFFICE

In the Matter of	)	
	)	
SATELLITE HOME VIEWER EXTENSION AND REAUTHORIZATION ACT OF 2004	)	Docket No. RM 2005-7

REPLY COMMENTS OF ECHOSTAR SATELLITE L.L.C.

David K. Moskowitz
Executive Vice President and General Counsel
ECHOSTAR SATELLITE L.L.C.
9601 South Meridian Boulevard
Englewood, CO 80112
(303) 723-1000

Linda Kinney
ECHOSTAR SATELLITE L.L.C.
1233 20th Street, N.W.
Washington, D.C. 20036-2396

Pantelis Michalopoulos
Chung Hsiang Mah
Petra A. Vorwig
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 429-3000

Counsel for EchoStar Satellite L.L.C.

September 22, 2005

TABLE OF CONTENTS

Before the
LIBRARY OF CONGRESS
COPYRIGHT OFFICE

In the Matter of	)	
	)	
SATELLITE HOME VIEWER EXTENSION AND REAUTHORIZATION ACT OF 2004	)	Docket No. RM 2005-7

REPLY COMMENTS OF ECHOSTAR SATELLITE L.L.C.

EchoStar Satellite L.L.C. ("EchoStar") hereby responds to comments made by broadcasters and copyright holders in the above-referenced proceeding.

I. CALCULATING FAIR MARKET VALUE

Various broadcast and copyright interests claim that past and future copyright royalty fees under the Section 119 license are too low or that they would receive much higher rates for their programming if there was no statutory license.[1] Such claims simply do not withstand scrutiny.

Both Joint Sports Claimants ("JSC") and the National Association of Broadcasters and the Broadcaster Claimants Group ("NAB/BCG") present updated

[1] *See, e.g.*, Comments of Program Suppliers, *filed in* Docket No. RM 2005-7, at 7 (Sept. 5, 2005) ("Program Suppliers Comments") ("Regardless of the licensing mechanism employed, based on Program Suppliers' experiences, compensation for use of their copyrighted works would certainly be higher in the open market than under the satellite compulsory license."); Comments of National Association of Broadcasters and Broadcast Claimants Group, *filed in* Docket No. RM 2005-7, at 33 (Sept. 5, 2005) ("NAB/BCG Comments") ("The compulsory licensing of television broadcast programming at statutory rates harms all owners of those programs."); *see also* Comments of Joint Sports Claimants, *filed in* Docket No. RM 2005-7, at 7-12 (Sept. 5, 2005) ("JSC Comments").

information on the average license fees that multichannel video programming distributors ("MVPD"s) pay for the top-twelve cable networks in an effort to show that royalty rates under the Section 119 license are and have been too low using the methodology adopted by the Copyright Arbitration Royalty Panel ("CARP") in 1997. NAB/BCG estimates that, based on the fees paid for the 12 popular cable stations considered in the CARP Report, the appropriate copyright fee for carriage of a distant station for 2003 would have been 43 cents per subscriber per month.[2] JSC presents data that suggests the fair market value for copyrighted programming calculated under the same method would be 47 cents per subscriber per month in 2004 and 51 cents in 2005.[3]

However, as EchoStar has demonstrated, basing the royalty fees for the "secondary transmission" of broadcast signals on the fees paid by MVPDs for the "primary transmission" of popular cable networks is fundamentally flawed.[4] The business models of broadcast and cable networks are just too different. Broadcast networks rely heavily on the advertising dollars they are able to attract through the size of their audiences -- a business model that is only enhanced by wider carriage on MVPD platforms. Cable networks, in contrast, rely much more on the license fees paid by MVPDs. The CARP recognized this in 1997 but did not properly adjust the rate

---

[2] NAB/BCG Comments at 35.

[3] JSC Comments at 9.

[4] *See* Comments of EchoStar Satellite L.L.C., *filed in* Docket No. RM 2005-7, at 13-14 (Sept. 5, 2005) ("EchoStar Comments"); *see also In the Matter of Rate Adjustment for the Satellite Carrier Compulsory License*, Report of the Panel, Docket No. 96-3 CARP-SRA, at 29 (Aug. 28, 1997) ("CARP Report") ("In short, carriage of a cable network by a multichannel distributor . . . is not the equivalent of a 'secondary transmission' of a broadcast station.").

downwards based on this difference.[5] Indeed, Congress thought that the rate set by the CARP was too high when it statutorily reduced those rates in 1999. The bottom line is that the marginal cost of the copyright holders in allowing retransmission is close to zero. There is absolutely no evidence to indicate that copyright holders produce certain programming based on the expected value of satellite retransmission consent.

In addition, JSC presented updated information on the average license fees for TNT and USA, two cable networks that they previously claimed should serve as benchmarks for royalty fees under Section 119. This method was rejected by the CARP in 1997.[6] JSC also refer to a study performed by Economists Inc. on behalf of ABC, NBC and CBS and introduced in the CARP's 1997 satellite copyright rate adjustment proceeding.[7] That report suggested that the appropriate fair market value for broadcast programming in 1997 was $1.22 per subscriber per month.[8] The CARP also rejected this calculation.[9] The CARP found both the JSC and commercial networks' analyses to be flawed, and chose to adopt a lower (albeit equally flawed) rate proposed by the Public Broadcast System ("PBS").[10]

Similarly, JSC's reliance on a more recent Economists Inc. study that estimated "the fair market value of an ABC station in 2004 to be between $2.00 and $2.09 per month"[11] is totally misplaced. The values derived in that study were based on

---

[5] CARP Report at 29-30.

[6] *Id.* at 30.

[7] *See id.* at 22-23.

[8] *Id.* at 22-23.

[9] *Id.* at 31.

[10] *Id.* at 30.

[11] JSC Comments at 11.

the rates charged by *distributors* for local broadcast packages. These stations, however, are already available to most households in each relevant market. What these consumers are buying from EchoStar and DIRECTV is not the programming itself. It is an extra quality of digital satellite retransmission and the convenience of seamless transition between cable and broadcast programming. Moreover, the rates in the more recent Economists Inc. study were significantly higher than the zero rate adopted by the Librarian of Congress as the fair market value of local retransmissions in 1997 and enshrined by Congress in 1999. As the CARP found with respect to local-into-local superstation retransmissions: "We find the rate that *most* clearly represents the fair market value of local superstation secondary transmissions is zero."[12]

Finally, various parties' assertion that negotiated royalty rates would be higher absent the compulsory license do not correspond to reality. The agreement reached between EchoStar, DIRECTV, the MPAA and the Office of the Commissioner for Baseball (on behalf of the Joint Sports Claimants) sets the 2005 royalty rates for private home viewing at 17 cents per subscriber per month for distant network stations and 20 cents per subscriber per month for distant superstations. The JSC cannot credibly complain about the rates set through the voluntary negotiation mechanism in Section 119,[13] when they were among the parties that supported the revisions to the rate-setting mechanism under SHVERA.[14] Most important, the copyright holders do not explain why

---

[12] CARP Report at 53.

[13] *Id.* at 11-12.

[14] 150 Cong. Rec. H8210, at H8218 (Oct. 6, 2004) (statement of Rep. Sensenbrenner: "As a result, the section 119 rate provisions contained in the manager's amendment are now supported by the two largest DBS providers, DirecTV and EchoStar; their trade association, the Satellite Broadcasting and Communications Association, and major copyright owners including the Motion Picture Association and the Office of the

a negotiation process would yield the higher rates that they postulate since, as EchoStar has shown, the marginal cost of granting retransmission rights is close to zero.[15] In the absence of market power, Economics 101 teaches that the price would be expected to coincide with marginal cost. This deprives the copyright holders arguments that higher rates would prevail of any reasonable basis.

II. CONGRESS SHOULD NOT EXTEND THE NETWORK NONDUPLICATION AND SYNDICATED EXCLUSIVITY RULES

Both NAB/BCG and the Program Suppliers argue for expansion of the network nonduplication and syndicated exclusivity rules beyond nationally distributed superstations (such as WGN and TBS) to network and other stations.[16] Such proposals should be rejected.

At the outset, it is important to note that the Copyright Office has no authority to expand these rules, as the Program Suppliers themselves correctly acknowledge.[17] It would likewise have no authority to enforce any such rules, and it therefore would not be in its province to recommend such expansion. In addition, the arguments of NAB/BCG and the Program Suppliers are flawed because they ignore the

---

Commission of Baseball. Together those entities represent the copyright owners who receive the overwhelming majority of copyright royalties paid under the license and the satellite carriers who make the vast majority of such payments.").

[15] EchoStar Comments at Exhibit A, ¶ 23.

[16] Program Suppliers Comments at 9 ("[t]he existing satellite syndex rules should be expanded to apply to retransmission of network signals."). *See also* NAB/BCG Comments at 39-40 ("the case is plain for expanding the satellite syndicated exclusivity and network non-duplication rules to provide copyright owners and their licensees the same protection from the importation of duplicative broadcast programming by satellite as they have against cable").

[17] Program Suppliers Comments at 3 n.1.

"unserved household" restriction on satellite retransmission of distant network stations.[18] That restriction performs the equivalent function for satellite as the network nonduplication and syndicated exclusivity rules do for cable. This satellite-only restriction imposes an automatic and complete blackout on the retransmission of distant network stations via satellite to viewers that are able to receive the local network station over-the-air, regardless of whether there are exclusivity arrangements in place or the scope of such arrangements. This restriction provides program suppliers and broadcast networks with equal, if not superior, protection to the "zones of protection" provided for in the cable network nonduplication and syndicated exclusivity rules. Indeed, as the Media Bureau recently observed, "while cable operators generally are subject to the Commission's network non-duplication and syndicated exclusivity rules, it is unlikely that a broadcast signal delivered to an 'unserved' home would be in an area where blacking out must occur, and parity with DBS in this case would not have a significant impact."[19]

III. CONGRESS SHOULD NOT ELIMINATE THE RETRANSMISSION CONSENT EXCLUSION FOR RETRANSMISSION OF DISTANT NETWORK STATIONS.

The NAB/BCG and the Program Suppliers further urge that the retransmission consent rules be extended to network stations.[20] This suggestion should

---

[18] 17 U.S.C. §119(a)(2)(B).

[19] *Retransmission Consent and Exclusivity Rules: Report to Congress Pursuant to Section 208 of the Satellite Home Viewer Extension and Reauthorization Act of 2004*, MB Docket No. 05-28, at ¶ 72 (rel. Sept. 8, 2005) ("Section 208 Report").

[20] NAB/BCG Comments at 42-43 ("the Office should recommend that the retransmission consent rules be made applicable to distant satellite carriage of stations other than the nationally distributed superstations"); Program Suppliers Comments at 10 ("Should Congress fail to extend syndex to retransmission network stations, the retransmission consent exemption for network signals should be eliminated.").

also be rejected. As EchoStar explained in its Comments, changing the law to require retransmission consent would likely eviscerate the Section 119 license, at least for the carriage of distant network stations.[21] The agreements that networks have with their affiliate stations commonly include a clause prohibiting the grant of retransmission consent for the carriage of network stations programming beyond their local market.[22] Contractual restrictions of this kind benefit the local broadcast stations by ensuring that they retain a territorial monopoly over the display of the copyrighted programming in their market, but they do not necessarily benefit the copyright holders of that programming, who would lose the benefits of distributing their programming to households that would not otherwise be able to receive such programming over-the-air. If the retransmission consent exemption were to be lifted, EchoStar expects that such contractual restrictions would significantly restrict satellite carriers' ability to provide distant network stations.

The ones who would suffer the most from such retransmission consent restrictions would be those subscribers in non-local-into-local markets who cannot receive the local network station over the air. If such subscribers also were to be denied the ability to receive distant network stations because of retransmission consent restrictions, they would be denied the programming of that network altogether -- a result that would in turn harm copyright holders.

---

[21] *See* EchoStar Comments at 19.

[22] *See Monroe, Georgia Water Light and Gas Commission v. Morris Network, Inc.*, DA 04-2297, Memorandum Opinion and Order, 19 FCC Rcd 13977, at ¶ 4 n.4 (Media Bur. 2004); *In the Matter of Implementation of Section 207 of the Satellite Home Viewer Extension and Reauthorization Act of 2004, Reciprocal Bargaining Obligation*, MB 05-89, Report and Order, 20 FCC Rcd 10339, at ¶¶ 33-36 (rel. June 7, 2005).

IV. COPYRIGHT OWNERS ARE NOT HARMED BY THE SECTION 122 LICENSE

JSC[23] and the Program Suppliers[24] suggest that copyright owners are harmed by the Section 122 statutory license. JSC state that "Section 122 obviously has had the effect of reducing the harm caused by the retransmission of [retransmitted] distant signals," but they follow such praise with criticism, asserting that "Section 122 has required copyright owners to license their programming and other copyrighted works to satellite carriers without providing the copyright owners any compensation whatsoever."[25] The Copyright Office does not need to waste its time on this argument. This Office already has recognized that retransmission of a local station back into the local market has a value of zero.[26] Congress agreed with this determination when it set a zero royalty rate for local-into-local retransmissions under the Section 122 license.[27]

V. SATELLITE CARRIERS SHOULD NOT BE REQUIRED TO PROVIDE THE NEAREST NETWORK AFFILIATE TO AN UNSERVED HOUSEHOLD.

The Program Suppliers suggest that "Congress should require satellite carriers to deliver, as a substitute for the unavailable over-the-air network signals, the signals of the network affiliates closest to the unserved households."[28] Not only would this requirement hamper the efficient use of satellite spectrum, it also would not achieve the goals the Program Suppliers espouse.

---

[23] JSC Comments at 13.

[24] Program Suppliers Comments at 12.

[25] JSC Comments at 13.

[26] CARP Report at 53.

[27] 17 U.S.C. §122(c).

[28] Program Suppliers Comments at 5.

Under the Program Suppliers' plan, if an unserved household was located in one spot beam but the closest local network affiliate was being carried on an adjacent spot beam or on a different satellite, EchoStar would have to carry that signal on both beams in order to meet the "closest local affiliate" requirement. This situation could be replicated across the country, drastically reducing the amount of spectrum available for other programming, including high-definition programming, that subscribers demand without creating the purported benefits.

The Program Suppliers support their suggestion by arguing that "the cross-country importation of distant network signals carrying syndicated and other programs in many cases violates the exclusive rights negotiated by the local network affiliates and copyright owners."[29] However, this would be the case for any importation of a distant station, whether located in an adjacent market or far away. The Section 119 license, as amended by SHVERA, basically only allows satellite carriers to import a distant network station to subscribers that cannot otherwise obtain it over-the-air or as part of a local-into-local package. In such circumstances, the Copyright Office should not recommend the imposition of artificial restrictions that may not jibe with consumer preferences.

VI. THE CURRENT "IF LOCAL, NO DISTANT" RULE APPROPRIATELY PROTECTS COPYRIGHT HOLDERS.

The NAB/BCG argues that the "if local, no distant rule," established in the Satellite Home Viewer Extension and Reauthorization Act ("SHVERA") should be strengthened in two ways: (1) subscribers in analog local-into-local markets should not

[29] *Id.*

be eligible to receive a distant digital signal;[30] and (2) the right of existing subscribers to continue receiving the distant network stations that they were already receiving before SHVERA should be phased out.[31] Neither proposal is warranted.

With respect to subscribers in analog local-into-local markets, the NAB/BCG ignores the purpose behind this provision. Section 339(a)(2)(D)(iii) of SHVERA permits satellite carries to import a distant digital network station to households that cannot receive an adequate over-the-air signal of the local network station, even in analog local-into-local markets, subject to certain time zone limitations and a requirement that subscribers also subscribe to the analog signal of the local network station. The purpose of the provision is to facilitate the transition from analog to digital television ("DTV") by improving the incentives of consumers to purchase digital televisions and the incentives of broadcasters to convert to digital broadcasting. If a satellite subscriber cannot receive a local digital signal, either because he or she is "unserved" or because the local affiliate fails to provide one, the subscriber has no incentive to purchase a digital television, thereby slowing the digital transition. In addition, local network affiliates would have less of an incentive to convert to digital broadcasting if they did not face competition from distant digital network stations delivered via satellite. The current law neatly solves these incentive problems by permitting satellite carriers, in appropriate circumstances, to import a distant digital network signal.

---

[30] NAB/BCG Comments at 18 ("it makes little sense to treat subscribers in analog local-to-local areas as eligible to receive distant digital signals based on the (claimed) unavailability of a digital signal over the air at a household").

[31] *Id.* at 17-19.

Equally meritless is NAB/BCG's proposal to "phase out distant ABC, CBS, Fox, and NBC signals for *existing* subscribers who have the option of receiving local-to-local service."[32] Congress carefully considered what to do with subscribers already receiving distant signals on the introduction of the "if local, no distant" rule. Subscribers grandfathered in 1999 pursuant to SHVIA must elect between keeping their grandfathered distant signal or receiving the local network station. For all other existing distant signal subscribers, Congress decided to preserve their rights and expectations rather than render more perfect the already extensive protection local network stations were to receive under the new "if local, no distant" rule. There is no basis for recommending that Congress disturb that judgment just so local network stations can enjoy a more perfect monopoly.

VII. BROADCASTERS' COMPLAINTS ABOUT PAST IMPLEMENTATION ARE NOT WELL-FOUNDED

EchoStar anticipated the broadcasters' attempt to cast EchoStar, and satellite carriers in general, as egregious violators of the unserved household rule,[33] and has addressed this already in its Comments.[34] NAB/BCG rely predominantly on findings of the Federal District Court for the Southern District of Florida.[35] However, NAB/BCG fail to mention that the Court of Appeals for the Eleventh Circuit has stayed the

---

[32] *Id.* at 18.

[33] *Id.* at 11-13.

[34] EchoStar Comments at 15.

[35] *NAB/BCG Comments* at 13 (citing *CBS Broadcasting, Inc. v. EchoStar Communications Corp.*, 276 F. Supp. 2d 1237 (S.D. Fla. 2003), *appeal pending* (11th Cir.)).

injunction issued by the District Court pending appeal, implicitly recognizing that there is a likelihood of success on appeal.[36]

Furthermore, NAB/BCG's suggestion that EchoStar deliberately broke a pledge made to the District Court to disconnect ineligible subscribers is simply not well-founded. In an earlier decision vacating a preliminary injunction issued by that District Court, the Eleventh Circuit recognized that the passage of SHVIA may have mooted any "promise" EchoStar made to turn off pre-July 1998 subscribers: "With the passage of the [SHVIA], there is a likelihood that many of EchoStar's pre-July 1998 subscribers were grandfathered into the Act's statutory copyright license . . . ."[37] There was no "broken promise;" instead, the law changed to expand the categories of eligible subscribers.

VIII. THE TRANSACTION COSTS OF THE STATUTORY LICENSE ARE NOT HIGHER THAN THE TRANSACTION COSTS OF PRIVATE COPYRIGHT NEGOTIATIONS

JSC attempts to assert a highly speculative argument that Section 119 imposes "significant administrative expenses" on it and other copyright owners.[38] According to JSC, "[c]opyright owners incur expenses from having to negotiate or litigate annual royalty allocations, negotiate rates and legislative provisions with carriers, participate in rate adjustment proceedings, monitor compliance with and enforce the law, and participate in Copyright Office and legislative proceedings related to Section 119 and the compulsory licenses."

---

[36] *CBS Broad. Inc. v. EchoStar Communications Corp.*, No. 03-13671-D (11th Cir. Aug. 13, 2004) (granting stay pending appeal).

[37] *CBS Broad., Inc. v. EchoStar Communications Corp.*, 265 F.3d 1193, 1207 n.19 (11th Cir. 2001).

[38] JSC Comments at 6.

However, JSC readily admits that there is no evidence to show that these costs are greater than the costs that would attend private copyright negotiations.[39] Indeed, the administrative burdens cited by JSC are periodic with little opportunity for hold-ups. For example, the rate negotiations and, if necessary, rate adjustment proceedings occur every five years.[40] Similarly, the royalty allocation proceedings often occur every few years, and do not always involve a controversy among the copyright owners.[41] In contrast, under a private copyright licensing regime, agreements would have to be reached with every copyright holder of every program in each broadcast station's line-up. And, as the economic experts retained by EchoStar have explained, there is a significant potential for copyright holders to "hold-up" negotiations by demanding excessive fees.[42] These burdens are likely to cause satellite carriers not to offer distant signals at all. This suggests that the transaction costs of the statutory license are likely to be less than the transactions costs avoided under a private copyright licensing regime.

Indeed, Congress's judgment when it first established the statutory license was that the statutory license provides overall cost savings, and it has reaffirmed this determination in analogous contexts through the retention of the cable statutory license in Section 111 and three extensions of the satellite statutory license in Section 119 of the

---

[39] *Id.*

[40] 17 U.S.C. §119(c)(1)(E).

[41] *See, e.g., Distribution of the 2001, 2002, and 2003 Satellite Royalty Funds*, Request for Comments, Docket No. 2005-2 CRB SD 2001-2003, 70 Fed. Reg. 46193(Aug. 9, 2005); *Ascertainment of Controversy for the 1996-1998 Satellite Royalty Funds*, Notice with Request for Comments and Notices of Intention to Participate, Docket No. 2000-7 CARP DS 96-98, 65 Fed. Reg. 56941 (Sept. 20, 2000).

[42] *See* EchoStar Comments, Exhibit A at 7-9 ("The last copyright holder it must negotiate with can 'hold up' the DBS carrier by demanding excessive license fees for the right to retransmit its programming.").

Copyright Act.[43] In fact, there is no reason why these transaction cost savings should not be cemented for the future by making the Section 119 license permanent like the cable statutory license. This would serve to reduce the transaction costs of the Section 119 license even further by avoiding the legislative battles that would otherwise take place every five years as the license nears expiry.

IX. SATELLITE CARRIERS SHOULD NOT BE SUBJECT TO AUDIT BY COPYRIGHT HOLDERS.

JSC asserts that "one glaring omission" from the Section 119 license is the "lack of any right to audit the carriers to ensure that the data reported in their statements of account, and thus their royalty calculations, are accurate."[44] Such a right is not only unnecessary, but it would open satellite carriers to excessive, and potentially abusive, audit requests. It also would increase dramatically a satellite carrier's costs of complying with the statutory license. As EchoStar demonstrated in its Comments, one of the goals in establishing the statutory license was to reduce the administrative burden imposed by individual copyright agreements and their attendant obligations.[45] To allow any of potentially hundreds of copyright holders to demand an audit of a satellite carrier's records at any time would undermine Congress's goal in creating the statutory license. Tellingly, there are no statutory audit rights for *any* statutory license under the Copyright Act.

---

[43] *See* Satellite Home Viewer Act of 1994, Pub. L. 103-369, § 2, 108 Stat. 3477 (1994); Satellite Home Viewer Improvement Act of 1999, Pub. L. 106-113, § 1003, 113 Stat. 1501 (1999); Satellite Home Viewer Extension and Reauthorization Act of 2004, Pub. L. No. 108-447, § 103, 118 Stat. 3394, 3408 (2004) ("SHVERA").

[44] JSC Comments at 4.

[45] *See* EchoStar Comments at 10.

X. THE SPORTS BLACKOUT RULE SHOULD NOT BE EXTENDED

Finally, JSC's suggestion that the sports blackout rule be expanded should be rejected.[46] Currently, that rule applies equally to cable operators and satellite carriers, and permits the holder of the broadcast rights of a local sporting event (typically the sports team or league) to require MVPDs to "black out" retransmissions of such event showing on a distant network station, if no local station is carrying that event. This rule enables the sports team or league to protect the "gate" revenues of a sporting event by enforcing local blackouts of such events. The current zone of protection under the sports blackout rule is 35 miles, but JSC seeks to expand this blackout area so that it is comparable with what the sports leagues are able to negotiate privately.

The Media Bureau of the Federal Communications Commission, which promulgated the rule and has jurisdiction in this area, recently considered the same issue and concluded in its report to Congress that no change to the sports blackout rule was warranted.[47]

---

[46] JSC Comments at 14.

[47] Section 208 Report at ¶¶ 58-60.

XI. CONCLUSION

EchoStar urges the Copyright Office to take these reply comments, together with its initial comments, into consideration in its report to Congress under Section 110 of the SHVERA.

Respectfully submitted,

Pantelis Michalopoulos /Dcm

David K. Moskowitz
Executive Vice President and General Counsel
ECHOSTAR SATELLITE L.L.C.
9601 South Meridian Boulevard
Englewood, CO 80112
(303) 723-1000

Linda Kinney
ECHOSTAR SATELLITE L.L.C.
1233 20th Street, N.W.
Washington, D.C. 20036-2396

Pantelis Michalopoulos
Chung Hsiang Mah
Petra A. Vorwig
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 429-3000

Counsel for EchoStar Satellite L.L.C.

September 22, 2005