

9 Satellite

WHEN DIRECT BROADCAST SATELLITE (DBS) transmission became commercially available in the early 1990s, policy-makers wrestled with what role noncommercial programming might play. Satellite providers were using scarce spectrum, so policymakers decided that, like broadcast and cable providers, they should be required to make some airtime available for “noncommercial programming of an educational or informational nature.”¹ (Full regulatory history in Chapter 28, Satellite Television and Radio.)

Congress gave the FCC the power to set aside from 4 to 7 percent of capacity for public interest programming, and in 1998 the FCC opted to set aside just 4 percent.²

To qualify for carriage on this reserved capacity, programmers must be a noncommercial entity offering noncommercial programming of an educational or informational nature. And most must be willing and able to pick up half the costs incurred by the DBS operator in making the programming available.³ The two major DBS providers in the U.S., DirecTV and DISH Network list the noncommercial programming offered over the DBS set-aside channels in their public files. DirecTV has reserved 23 channels based on its 2009 capacity calculations, and DISH Network has reserved 40 channels for noncommercial programming offered over the DBS set-aside channels.⁴ The difference in channel numbers is due to the architecture of the networks.

Congress designed the noncommercial satellite set-aside requirement to mimic the obligation of cable to provide PEG channels. But because of technological and market differences between satellite and cable, the PEG and the satellite set-aside requirements were destined to function very differently. First, satellite technology—beaming to the entire country—meant that these set-aside channels would be national, not local.

Second, there was no provision for the satellite operators to subsidize the programmers. Indeed, the financial exchange goes the other way. The channels pay the satellite operator (albeit at reduced rates) for carriage. Of the public interest programmers awarded capacity on DISH Network, for example, only two have zero charges per month, while the remaining 19 each pay \$10,371 per month. Similarly, for DirecTV, five public interest programmers have zero charges, the three newest programmers pay \$6,756 per month, and the remaining 15 each pay \$6,350 per month.⁵

DirecTV and DISH Network have a two-tier rate system for the set-aside channels. Most channels pay 50 percent of costs. In a limited number of cases (e.g., C-SPAN, NASA), the satellite providers carry channels at no charge, based on a determination that there is some “business value” in doing so.⁶

Many set-aside channels are religion-based. Of DirecTV’s 23 set-aside channels, 11 are Christian and one is Jewish. Of DISH Network’s 40 set-aside channels, six are Christian. The Christian channels air talk shows, call-in shows, and youth-oriented programming from a biblical perspective.⁷

Very few religion-oriented DBS public interest channels produce their own local news, but many air newscasts produced by the Christian Broadcasting Network, such as *The 700 Club* and *CBN Newswatch*. BYUtv produces a weekly program focused on the activities and interests of Brigham Young University (*BYU Weekly*), and EWTN produces *The World Over*, a weekly digest of interviews, investigative reports, and live coverage of special events and cultural news.⁸

Some set-aside channels are educational. ONCE TV México, a university-owned channel in Mexico City that describes itself as the oldest public television network in Latin America,⁹ produces three daily news programs focused on Mexico, including *Everything*, a program for young people on politics, fashion, alternative arts and entertainment.¹⁰ Other education-oriented channels include NASA TV, The Pentagon Channel, and The Health and Human Services Television Network, which offers health and emergency preparedness information.¹¹ Through its Florida Education

Congress gave the FCC the power to set aside four to seven percent of capacity for public interest programming. The FCC chose to set aside four percent.

Channel, the Panhandle Education Consortium provides educational programming for K–12 students.¹² The Northern Arizona University House Channel does the same, and also offers accredited university courses.¹³

Other multicultural and Spanish-language channels include the Hispanic Information and Telecommunications Network (HITN) and V-me.¹⁴ Geared toward the American Latino community, V-me airs news and current affairs programming (*V-me Noticias*), along with educational, how-to, and lifestyle programs; telenovelas, such as *Hay Alguien Ahi*; and a nightly talk show, *Viva Voz*.¹⁵ CoLours TV is another multicultural channel, producing such news programs as *The Arabic Hour*, *Northwest Indian News*, and *The White House Report*.¹⁶

Finally, several channels are dedicated solely to news and information. C-SPAN is carried on both DirecTV and DISH Network. Free Speech TV airs documentaries and original productions, along with such popular news and current affairs programs as *Democracy Now*, *Al Jazeera English*, and *GRITtv with Laura Flanders*.¹⁷ Other news channels aggregate news and information programs from a variety of international broadcasters. For instance, Link TV airs news and current affairs programs such as *Mosaic*, *Global Pulse*, and *Pulso Latino*, along with *Al Jazeera English World News*.¹⁸ MHz Worldview on DirecTV similarly offers programming from such international broadcasters as Al Jazeera English, Beijing Television, Deutsche Welle, euronews, France 24, NHK World, and SABC News International.¹⁹

In general, both DISH Network and DirecTV group their public interest channels together in the channel lineup, and many programmers complain about their placement in the distant reaches of the program guide. For instance, on DISH Network, public interest channels can typically be found between channels 9400 (The Research Channel) and 9418 (Florida Educational Channel). There are notable exceptions, with C-SPAN occupying channel 210, NASA TV occupying channel 212, and Trinity Broadcasting Network occupying channel 260.²⁰ On DirecTV, most public interest programmers are similarly clustered between channels 348 (Free Speech TV) and 448 (Enlace Christian Television). As with DISH Network, there are exceptions, with NASA TV occupying channel 289 and MHz Worldview occupying channel 2183.²¹

The satellite providers decide which channels to carry and which to reject. In 2009, DISH Network rejected 10 out of 10 new applicants for set-aside channels on the grounds that it had insufficient capacity to carry them.²² Among the stations rejected for lack of capacity since 2007 are numerous religious stations (including CatholicTV, God TV, and Almavision Hispanic Network), CT-N, The Documentary Channel, Classic Arts Showcase, Free Speech TV, New Abilities Television (a station for people with disabilities), TV Japan, CoLours TV, American Public Television, and California State University.²³ Although satellite providers offer little local programming, they do include stations that promote education, programming for minorities and the disabled, and channels providing international information.

Noncommercial channels carried on DBS complain of a lack of security due to the short-term nature of their contracts, which are either month-to-month or annual.²⁴ One programmer remarked that the “terms of DBS public interest carriage are difficult and tenuous.”²⁵ Some in the nonprofit media world complain that the system is inhospitable to the provision of consistently good noncommercial programming. Pat Aufderheide and Jessica Clark of American University’s Center for Social Media criticize the failure to fund programming. By not providing support for nonprofit programmers, and indeed by charging programmers for carriage, the set-aside system all but guarantees that the programming on these channels will be weak. The programming entities “have no funding for staff or content, have marginal audiences, depending either on the organizations that back them or on the kindness of strangers who donate in response to on-air pleas, to let them limp from year to year.”²⁶

Nonetheless, those noncommercial programmers that have gained satellite carriage through the set-aside requirement say it has given them real opportunities. Jose Luis Rodriguez, founder and CEO of HITN, says that his network fills “a critical gap” in the video landscape by providing needed educational and instructional programming to the Latino community.²⁷ The satellite industry points to examples like HITN to argue that the system “effectively serves the public interest.”²⁸ Representatives of DISH Network and DirecTV say:

Satellite operators argue that the program has been a success: “For more than 10 years, the DBS Providers diligently have recruited, evaluated, and selected qualified, noncommercial programmers for carriage on their systems.”

“[F]or more than 10 years, the DBS Providers diligently have recruited, evaluated, and selected qualified, noncommercial programmers for carriage on their systems. In doing so, each DBS Provider annually evaluates applicants for its set-aside channels; assesses key measures such as program quality, signal quality, and genre; and strives to ensure a diverse, non-repetitive mix of educational and informational programming.”²⁹

There is very little data available regarding the audience size of the set-aside channels or their impact. Viewership is too low for Nielsen ratings, and DBS providers do not seem to collect audience information for these services.

Could satellite be playing a greater role in providing local programming, including news and information? Since the advent of local-into-local service (providing local TV station signals via satellite), DBS operators have offered packages of channels consisting of nationwide programming, as well as hundreds of local television broadcast channels. To the extent possible, the local channels are carried on “spot beams” that focus coverage on a particular region

Jose Luis Rodriguez says the Hispanic Information and Telecommunications Network fills “a critical gap” in programming to the Latino community.

of the country. The use of spot beams, along with channel compression, creates capacity for the carriage of local channels. Indeed, DBS operators must carry the signals of *all* local broadcasters in any market that they choose to serve with *any* local signals.³⁰ At last count, DISH Network offered local-into-local service in more than 210 markets, and DirecTV offered such service in 175 markets.³¹

The allocation of channel capacity and spot-beam configuration for local programming is not especially dynamic, because operators must make this allocation in the satellite design, before the satellite is launched into space. As a result, changes in the relative capacity devoted to national and local programming take years to implement. Moreover, these changes must be synchronized to the cycle of satellite launches, which is typically once every year or two.³²

Given the difficulties of planning for and then implementing satellite carriage of local signals, the FCC has in the past decided that requiring satellite providers to include more local or state programming would be too burdensome. (See Chapter 28, Satellite Television and Radio for full discussion.) This conclusion may well remain valid, though it is fair to periodically re-evaluate given that technology has changed and the industry matured.

As noted in Chapter 29, Satellite Television and Radio, a law was enacted in 2010 that allows satellite providers to reduce their public interest carriage obligations to 3.5 percent if they provide retransmission of SPANs in at least 15 states.³³ However, the organization representing these networks says the law will likely have no impact, because most satellite providers are already meeting their 4 percent set-aside requirement by carrying noncommercial educational stations—and they are unlikely to voluntarily substitute state SPANs for any of those because of the disruption it would cause.³⁴

