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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Annual Assessment of the Status of Competition in the Markets for the Delivery of Video Programming	)))	CS Docket No. 01-129

REPLY COMMENTS OF DIRECTV, INC.

DIRECTV, Inc. ("DIRECTV") hereby submits the following reply comments in response to selected issues raised by commenters in the above-captioned matter.

There are two fundamental marketplace facts established by the comments in this proceeding. First, it is clear that cable operators continue to dominate the multichannel video programming distribution ("MVPD") market. Measured in terms of market share, the cable industry's percentage of MVPD subscribers is still approximately 77%,[1] down only incrementally from approximately 80% last year. The cable industry remains characterized by increased consolidation and continued price increases.[2] In short, there has been no material change in the cable industry's MVPD market power since last year, when the Commission determined that the market for the delivery of video programming "continues to be highly concentrated and characterized by substantial barriers to entry," with findings in relatively few markets that cable MVPDs are subject to effective competition.[3]

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1 *See* Comments of the National Cable & Telecommunications Ass'n (Aug. 2, 2001) ("NCTA Comments"), at 7.

2 *See* Notice at ¶ 19. *See also* Comments of the National Ass'n of Broadcasters (Aug. 3, 2001), at 8; Comments of the Wireless Communications Ass'n International, Inc. (Aug. 3, 2001) ("WCA Comments"), at 2-4.

3 *See* 2000 MVPD Competition Report, CS Docket No. 99-230 (rel. Jan. 14, 2001), at ¶ 140.

Second, the overwhelming record evidence is that Direct Broadcast Satellite ("DBS") operators remain cable's largest and most significant emerging competitors -- a conclusion that is reinforced by the cable commenters' own statements in this proceeding.[4]

In light of these findings, the Commission should do all that it can to facilitate the continued growth of DBS as cable's principal MVPD competitor and thereby bring to consumers the benefits of increased MVPD competition.

The record in this proceeding to date is undisputed that, in order for DBS to remain and grow as a viable cable competitor, the Commission must preserve the very high reliability and availability of DBS service to U.S. consumers.[5] In this regard, a rush to judgment by the Commission in authorizing a proposed ubiquitously deployed terrestrial service to co-exist with both DBS systems and non-geostationary orbit fixed-satellite service systems in the 12.2-12.7 GHz band would be a monumental mistake. The record evidence provided by the proposed terrestrial system operators themselves, as well as by DBS operator studies and an independent study by the MITRE Corporation, strongly indicates that the introduction of ubiquitously-deployed terrestrial systems at 12 GHz will seriously degrade millions of DBS subscribers' service.[6] Such interference will seriously undercut the competitive advantages in reliability, sound and picture quality that DBS providers use affirmatively to differentiate themselves in the MVPD marketplace, and to offer meaningful cable-competitive choices to current and potential MVPD subscribers. If the Commission indeed is persuaded of the need for additional proposed

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4 *See* Comments of AT&T Corp. (Aug. 3, 2001), at 5-9 (singling out growth of DBS as a cable competitor); Comments of Comcast Corporation (Aug. 3, 2001), at 3 (same); Comments of the National Cable Television Ass'n (Aug. 3, 2001), at 6-20 (same).

5 *See* DIRECTV Comments at 5-6; EchoStar Comments at 14-15; SBCA Comments at 10-14.

6 *See, e.g.*, DIRECTV Comments at 5-6; SBCA Comments at 11-14.

terrestrial wireless MVPD services, DIRECTV agrees that such services should be located in frequency bands other than 12 GHz.[7]

DIRECTV also notes that the criticisms of the State of Hawaii regarding the pace of the introduction of DBS service to the islands[8] are unfounded, and have been thoroughly addressed by DIRECTV in other filings, which are incorporated herein by reference.[9] Hawaii today is served by two DBS providers that provide Hawaiian subscribers with access to a multiplicity of programming packages that, while not identical to packages offered to continental United States subscribers, contain more than a hundred programming channels. DBS service offerings in Hawaii are significant. Moreover, these offerings have been and will continue to be upgraded over time. The situation in Hawaii requires no additional regulatory intervention by the Commission.

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September 5, 2001

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7 *See* SBCA Comments at 14.

8 *See* Comments of the State of Hawaii, (Aug. 3, 2001).

9 *See* DIRECTV's filings in IB Docket No. 98-21. *See also* Opposition of DIRECTV Enterprises, Inc., File No. S2430-SAT-LOA-20010518-00045 (Aug. 10, 2001); *Ex Parte* Response of DIRECTV, Inc., File No. SAT-LOA-20000505-00086 (Aug. 3, 2000).