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Federal Communications Commission
Office of the Secretary

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February 5, 2008

BY HAND DELIVERY

ORIGINAL

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: ***Ex Parte Presentation***
File Nos. SAT-LOI-20050312-00062 and -00063

Dear Ms. Dortch:

Stacy Fuller and undersigned counsel on behalf of The DIRECTV Group, Inc. ("DIRECTV") spoke today with Bruce Gottlieb, Legal Advisor to Commissioner Copps, to discuss DIRECTV's pending Application for Review of the International Bureau's grant of authority to Spectrum Five, LLC ("Spectrum Five") to serve the U.S. market from foreign-licensed "tweener" satellites.

In this discussion, DIRECTV expressed its ongoing concern that Spectrum Five's proposed operations would disrupt DBS service received by millions of Americans. Although the International Bureau authorized Spectrum Five to operate on a non-interference basis in the absence of coordination with existing DBS operators, Spectrum Five has neither submitted the characteristics for a proposed non-interfering system nor *initiated* – much less completed – coordination with DIRECTV. Indeed, in the nearly three years since filing its applications, Spectrum Five has yet to even call DIRECTV to discuss coordination. Accordingly, neither DIRECTV nor the Commission has any basis upon which to determine whether Spectrum Five has devised an alternative method of operation that would not cause harmful interference to existing DBS services.

DIRECTV also argued that, if the Commission were to deny DIRECTV's Application for Review, it should at a minimum require Spectrum Five to demonstrate its ability to comply with the terms of its license. Under its existing authorization, Spectrum Five need only provide the Commission the final characteristics of its beams and the general characteristics of its satellites within thirty days after meeting its critical design

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review milestone.¹ There is no provision for interested parties to review and comment on this information, or for the Commission to rule on its sufficiency. Moreover, this information would appear to be far less complete than is required under the Commission's rules for a non-U.S. satellite operator seeking access to the U.S. market.²

Accordingly, DIRECTV argued that Spectrum Five should be required to submit a complete technical showing – consistent with the showing required of other non-U.S. licensed systems seeking to serve the U.S. market – of how its satellite(s) would operate on a non-interference basis or in accord with any coordination agreements reached. Preferably, this showing would be made in the context of an application to modify the existing authorization, and would be filed within thirty days after the critical design review milestone (*i.e.*, by December 28, 2008) so that the Commission and all interested parties have an opportunity to evaluate Spectrum Five's proposed operations well before construction of the satellite(s) has reached a point where any necessary design revisions could be claimed to impose an undue economic burden.

Sincerely yours,



William M. Wiltshire
Counsel for The DIRECTV Group, Inc.

cc: Bruce Gottlieb
Aaron Goldberger

¹ See *Spectrum Five, LLC*, 21 FCC Rcd. 14023, ¶ 43(b) and (c) (Int'l Bur. 2006).

² See *id.*, ¶ 8 (noting that “foreign-licensed DBS operators seeking U.S. market access . . . must file the same information requested under Section 25.114 of the Commission's rules that U.S. DBS applicants must file”).