

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

In the Matter of	)	
	)	
<b>Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules</b>	)	
	)	
<b>Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues</b>	)	CS Docket No. 00-96 CSR-5978-M

**REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF INDEPENDENT  
NETWORKS**

The National Association of Independent Networks (“NAIN”)<sup>1</sup> hereby submits this reply to the comments submitted in response to the Commission’s *Second Further Notice of Proposed Rulemaking* in this proceeding.<sup>2</sup> NAIN shares some of the concerns expressed by DIRECTV, INC. (“DIRECTV”) and DISH Network (“DISH”) in their Comments regarding the tremendous spectrum capacity that would be needed to fulfill the proposed requirement that satellite operators carry all local broadcast stations in *both* high-definition (“HD”) and standard-definition (“SD”), if any channel in a given local market is carried in both formats.

As an additional requirement that could require major swaths of bandwidth to satisfy, such a requirement could have far-reaching implications. It may result in an extremely inefficient and unnecessary use of limited spectrum resources that would limit programming

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<sup>1</sup> The National Association of Independent Networks, NAIN, is a trade organization dedicated to addressing the needs of independent programming networks in a positive and proactive way

<sup>2</sup> Carriage of Digital Television Broadcast signals; Implementation of the Satellite Home Viewer Improvement Act of 1999; Local Broadcast Signal Carriage Issues and Retransmission Consent Issues; *Second Further Notice of Proposed Rulemaking*, 73 FR 24515 (May 5, 2008).

choices available to consumers.<sup>3</sup> It might add to the pressure that independent programmers with attractive programming already face to obtain and retain appropriate carriage of their channels on satellite providers. This challenge already is compounded by a number of factors, including, for example, competing against large programmers—possibly affiliated with an MVPD—which bundle groups of channels, resulting in considerably less attractive channels gaining carriage because their purchase is "forced" when tied to one or two popular ones.<sup>4</sup> Further, satellite operators could be forced to design and plan future satellite capacity around this requirement, which will decrease the resources available to provide more diverse programming to consumers in the future.

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<sup>3</sup> DIRECTV points out in its comments that the distribution of new HD set top boxes with the ability to down-convert content would render a dual carriage requirement even more costly and wasteful because only a tiny minority of viewers who refuse upgrades would be affected. Likewise, two broadcasters request a "viewability" requirement that would apparently be satisfied, among other ways, by MPEG -4 set-top boxes capable of universally converting HD digital signals to non-HD digital and analog formats.

<sup>4</sup> *See* Jefferson Parish Hosp. Dist. v. Hyde, 466 U.S. 2 (1984).

Respectfully submitted,

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