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April 13, 2001

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Via Hand Delivery
Roberta D. Purcell
Assistant Administrator
Telecommunications Program, Rural Utilities Service
U.S. Department of Agriculture
1400 Independence Avenue, S.W., Stop 1590
Room 4056-S
Washington, DC 20250-1560

Re: Implementation of the Launching Our Communities' Access to Local Television Act of 2000

Dear Ms. Purcell:

Transmitted herewith, on behalf of Local TV on Satellite, LLC ("LTVS") are an original and three copies of its Comments on the above referenced subject.

Should there be any questions, please communicate with the undersigned.

Sincerely,

Marvin Rosenberg
Counsel for
Local TV on Satellite, LLC

mr:ik
Enclosure

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APR 13 4 36 PM '01
RDT ADMINISTRATOR
TELEPHONE

Before the
UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Utilities Service

In re:

	)
Implementation of the	)
Launching Our Communities'	)
Access to Local Television	)
Act of 2000	)

To: Roberta D. Purcell
Assistant Administrator
Telecommunications Program
Rural Utilities Service

COMMENTS OF
LOCAL TV ON SATELLITE, LLC ("LTVS")

Local TV on Satellite, LLC ("LTVS"), by its counsel, submits its Comments to the Rural Utilities Service ("RUS"), Department of Agriculture, pursuant to the request for comments as published in the Federal Register on March 14, 2001.

LTVS was founded in 1997 by Capitol Broadcasting Company, Inc. of Raleigh, North Carolina to engage in the satellite delivery of local broadcast signals. Capitol was founded in 1937 and has been a leader in broadcasting since that time. Presently, Capitol is the licensee of four full power television stations, one low power television station and an FM radio station. Additionally, Capitol founded Microspace Communications Corporation, which operates a commercial satellite teleport in Raleigh, North Carolina and provides point-to-multipoint delivery of digital video and high-speed data. The Microspace network is the largest of its type in the world with over 300,000 remote sites, internationally. Combining its experience in both broadcasting and satellite, Capitol founded LTVS.

LTVS has been involved since its founding in developing the satellite delivery of local broadcast signals to subscribers located within a station's Designated Market Area, as determined by Nielsen Media Research. Representatives of LTVS appeared at hearings held by various Congressional Committees during consideration of both the Satellite Home Viewer Improvement Act ("SHVIA") and the Launching Our Communities' Access to Local Television Act of 2000 (the "Act"). In addition, numerous meetings were held with members of the Senate and House and their respective staffs. As LTVS develops its commercial business it has also been in continued discussions with satellite program providers, satellite manufacturers, broadcast television station licensees and financial consultants to satellite and technology companies. It is with this extensive experience that LTVS submits its comments to the RUS.

The primary purpose of the Act is to bring the signals of local television stations to the greatest number of rural households in unserved and underserved areas. In introducing the Act, Senator Gramm stated that the Act is designed to protect the taxpayer from having to pay off the loan. To assure repayment of a loan that is guaranteed by the Federal government, the most commercially viable and efficient delivery system must be used. Thus, to serve the greatest number of persons in these rural areas in the most commercially viable and efficient manner, satellite is the answer. Satellites are an established technology for delivering television programming to households. Presently, local broadcast stations are being delivered by satellite to subscribers in approximately 40 of the largest television markets. A satellite footprint can cover all of the continental United States, while also providing service to Hawaii and Alaska; whereas, a terrestrial service, whether cable, multi-point distribution or

television translator stations, can serve only discrete, limited areas. Because of a satellite's ubiquitous service area, satellite is the most economical means of serving the greatest number of households. Thus, any consideration of providing local television stations to rural households in unserved and underserved areas must include satellites.

Several entities have proposed to provide a common satellite platform which means that both DBS program providers, DirecTv and EchoStar, would be able to utilize the same satellite service for the delivery of local television stations to their individual subscribers. The RUS inquires as to the spectrum needed by an entity to provide the delivery of local television stations signals and the cost of that spectrum. Technical studies have determined that Ka-band satellites using spot beam technology will be an economical and efficient means of providing local television signals to DBS subscribers. The Federal Communications Commission ("FCC") has granted a number of Ka band applications and there are a number of additional applications pending that request Ka band orbital locations and spectrum. Since the initial grants of the Ka band applications were made by the FCC pursuant to a settlement agreement among the applicants, an auction of the Ka band spectrum was not required. A determination on the necessity for an auction of the Ka band spectrum for the newer applicants has not yet been made by the FCC. LTVS has been in continued discussion with several entities which hold authorizations for the construction and launch of Ka band satellites, and many have stated that the delivery of local television signals is the best use of the Ka band spectrum. Therefore, one or more of these entities is likely to be an equity participant in a satellite delivery system.

The continuing economic studies in which LTVS engages with experienced satellite financial consultants show that the cost of serving the top 60 Nielsen markets in which 72% of the households are located equates approximately with the cost of serving the remainder of the markets through market number 212. The rate of internal return for serving the top 60 markets is significantly greater and profitability will be reached sooner. Therefore, equity investors can be attracted much more readily to a business plan that will only serve the top 60 markets. On the other hand, estimates are that it will take a greater number of years for there to be a positive return on a service that includes the small markets. Thus, to raise the necessary funding to build out a satellite system that will include service to smaller markets, the system must be comprehensive in the markets to be served, i.e. large markets must be included in a system designed to provide service to the rural markets. To complete and operate a satellite system successfully, it will require the revenues generated by serving the large markets, as well as the assistance of the loan guarantee program provided by the Act. Indeed, financial modeling demonstrates that a stand-alone service to only the smaller markets cannot generate sufficient revenues to be financially viable.

LTVS respectfully offers comments for implementation of the loan guarantee program as well as later pointing out amendments to the Act which LTVS believes are necessary to enable an entity to take advantage of the opportunities afforded by the Act. LTVS fully recognizes that the RUS is bound by the Act and lacks the authority to amend it. However, the RUS has asked for an analysis of provisions in the Act that present issues or practical problems in the implementation of the Act. Therefore, these provisions are addressed by LTVS.

Satellites provide the best signal quality to the home. Presently, the signals of both DirecTv and EchoStar are delivered digitally. The signal is then converted to analog in the set-top box for compatibility with the subscriber's existing analog set. Therefore, the signal is received directly at the subscriber's home without having been subjected to cable amplifiers or other signal processors, which can degrade the picture. DBS has also begun providing the audio in Dolby surround sound. Hence, the picture and sound quality of a satellite signal is overall the highest. While it is recognized that cable television is in the process of converting its systems to digital, digital cable remains limited to large television markets to date, and the discrete service areas of cable systems have previously been mentioned. Also, the economics of digital conversion of small market cable systems with fewer subscribers remains problematic.

All local television stations are to be broadcasting digitally by the end of 2006 when the present analog channels are scheduled to be returned. As previously pointed out, satellite already delivers its service digitally. Stations broadcasting in digital are also expected to provide high definition television. Satellites are already delivering HDTV since it is essentially a matter of allocating transponder capacity to pass through the higher resolution pictures. While there may be some initial satellite capacity limitations, as the number of satellites available for local television station signals increases, this limitation will be eliminated. Further, using spot beam technology in the Ka band results in signals with propagation characteristics that permit the frequencies to be used multiple times over the continental United States. Frequency re-use expands today's satellite capacity when applied to local TV markets.

Must carry should be required of any technology considered under the loan guarantee program. Satellite and cable television are required to carry the signals of all local stations in the markets served and a similar requirement should be imposed on any other technology. The purpose of the Act is to provide local television signals to unserved and underserved areas, and all local television stations should be carried. The addition of the Ka band spectrum to the present Ku band broadcast satellite service spectrum will provide sufficient capacity to carry all of the signals in served markets.

LTVS suggests several particular matters for the RUS to consider in determining its rules for implementation of the rural loan guarantee program. LTVS notes that the Act limits the total amount to be available for the rural loan guarantee program to $1.25 billion dollars and no loan guarantee will be permitted for more then 80% of the principal amount borrowed. It may be expected that an entity using satellite technology for the distribution of local television broadcast signals will be able to raise a significant amount of funds from equity investors and vendor financing. However, since the cost of such a system is several hundreds of millions of dollars, it will also have a need for considerable additional borrowed funds. The Act delegates to the RUS Administrator authority to approve loan guarantees up to $20 million. The RUS should limit the amount of such loans in order to preserve the availability of a sufficient amount under the loan guarantee program to provide for the guarantee of loans that exceed $20 million for ubiquitous delivery systems such as satellite systems. This would further assure that the loan guarantee program would be technologically neutral.

To assure that the rural loan guarantee program affords reasonable opportunity to all applications for the guarantee, the RUS should establish dates by which

applicants must file their applications, so that all applications are provided an equal opportunity for consideration. Again, this would avoid a number of smaller grants to entities, such as cable, multi-point distributors or translators, depleting the $1.25 billion so that a loan guarantee for a ubiquitous provider, such as a satellite system, would not be available. Further, in order to enable applicants to properly co-ordinate their loan activities with the lender on whom the RUS will rely for proper due diligence on whether a loan should be made, the RUS should establish a reasonable period for considering and granting or denying an application for a guarantee such as ninety (90) days. No charges should be imposed by the RUS for the processing of a loan application or, if a fee is necessary, the fee should not be expected to exceed reasonable commercial market costs. Any information submitted as part of an application and designated as confidential should be afforded complete confidentiality.

The RUS should also provide that eligibility for the loan guarantee program is not restricted to a single loan. It may well be that more than a single loan will be necessary or that a consortium of lenders will be involved in providing the necessary loan funds. As long as a loan or combination of loans meets both the 20% and 80% limits, the guarantee should be available.

The Act provides for an applicant to enter into a Performance Schedule with the RUS. The RUS should recognize that, in its consideration of the satellite technology, flexibility must be permitted. There are a number of steps in the construction and launch of any satellite. The construction period for a satellite is approximately two to three years and it is possible that a manufacturer may fall behind due to the fact that it must rely on others for the parts necessary to construct the satellite. Often launches

are delayed because of a prior launch failure, weather or other difficulties. These delays are temporary so as not to pose any significant problem. However, any Performance Schedule must be sufficiently flexible to permit reasonable delays without the imposition of a penalty. In any event, the imposition of a penalty that is "3 times the interest due on the guaranteed loan" would be unconscionable.

There are several statutory matters that LTVS submits must be addressed to effectively implement the program. The most significant is the Section of the Act entitled "Indemnification Relating to Affiliates," which significantly extends the potential liability for any default on the loan to any entity related to the entity obtaining the guarantee or any significant individual in the entity receiving the guarantee. Essentially, it cannot be reasonably expected that a company or individual would put at risk all of their present assets to obtain the guarantee. No one enters into a new business venture without full expectation of its risks and recognition of the possibility that it may result in the loss of their investment, plus guarantees that may include more then just the equity investment. However, no one expects to assume liabilities that may result in the complete loss of their present businesses and existing assets. Hence, this provision must be amended to provide some limit on the risk to which an investor or management participant may be subjected, particularly as to directors or senior management officials.

LTVS believes that there is also a need for clarification on provisions in the Act on collateral to secure the loan and the Credit Risk Premium. These may be clarified by interpretations issued by the RUS, e.g. collateral means that which the commercial lender finds to be acceptable and the Credit Risk Premiums are necessary only to the

extent the amount of the guarantee exceeds the amount appropriated by Congress. Applicants who seek to utilize the loan guarantee program must have a clear understanding of the Act's terms in order to furnish the RUS with the necessary information. To the extent that amendments to the Act are necessary, it would be highly beneficial to the implementation of the loan guaranty program for the RUS to independently, or together with applicants, seek such changes to the Act before the Congress.

Respectfully submitted,

LOCAL TV ON SATELLITE, LLC

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April 13, 2001

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