Before the
U.S. Copyright Office
Library of Congress
Washington, D.C.

In the Matter of	)	
Section 109 Report to Congress	)	Docket No. 2007-1

REPLY COMMENTS OF NATIONAL PROGRAMMING SERVICE, LLC

NATIONAL PROGRAMMING SERVICE, LLC

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REPLY COMMENTS OF NATIONAL PROGRAMMING SERVICE, LLC

National Programming Service, LLC ("NPS") hereby submits this reply to the comments filed in the above-captioned proceeding. NPS appreciates the opportunity to participate in this proceeding, and believes that it can bring a unique perspective as a provider of distant-into-local Direct Broadcast Satellite ("DBS") services (in addition to an array of other services). In this capacity, NPS relies on the statutory license provided by Section 119 of Title 17 of the U.S. Code (the "Section 119 License") to provide distant network programming to more than 100,000 customers that are currently "unserved" by the over-the-air signal of their local broadcast network affiliate.

A careful analysis of the record reveals several critical facts. First, a significant number of U.S. households are unable to receive the over-the-air signals of one or more television networks, and will remain unserved for the foreseeable future. Second, while no party can accurately gauge the extent to which U.S. households will be unable to receive the over-the-air digital signals of local network affiliates following the digital transition, it is clear that there will be at least some new households that will no longer receive a broadcast signal. Third, copyright holders have been compensated under the Section 119 License.

In light of these facts, NPS urges the Copyright Office to recommend that Congress retain the Section 119 License and make it permanent. The Section 119 License is critical to ensure that unserved American citizens have the ability to receive broadcast programming. Eliminating the Section 119 License would prevent a significant portion of the U.S. population from receiving network programming, whereas maintaining the Section 119 License would facilitate the ability of these viewers to receive such programming – an ability that the rest of the country takes for granted. Further, maintaining the Section 119 License would have a minimal impact on copyright holders given the increased implementation of local-into-local service and the compensation already paid to copyright holders under the Section 119 License.

Moreover, the Section 119 License should not be altered in any way that would impede unserved customers from obtaining access to broadcast signals via satellite. Thus, the License should not be modified to permit copyright owners to negotiate terms and conditions of the statutory license, or to impose new program exclusivity conditions. Additionally, copyright royalty payments under the Section 119 License should not be increased.

I. THE COPYRIGHT OFFICE SHOULD RECOMMEND THAT CONGRESS MAKE THE SECTION 119 LICENSE PERMANENT

The comments clearly establish that the Section 119 License continues to serve important policy objectives. First, as several parties note, the Section 119 License continues to facilitate the ability of "unserved" U.S. households to receive network programming. No party claims that such households do not exist, and thus, contrary to the comments of the National Association of Broadcasters ("NAB"), the legislative purpose of the Section 119 License has *not* been fulfilled, since a significant number of U.S. households would be left without service in the absence of the License.

Second, while the record reflects uncertainty as to the number of households that will be unable to access the digital signals of local network stations, it is clear that at least some households that currently receive a low-quality analog broadcast signal will not be able to access a digital signal either over-the-air or through local-into-local satellite carriage following the digital transition. The record therefore supports the ongoing role of the Section 119 License in providing a safety net to ensure that any such households are able to receive digital network programming.

Third, the record establishes that the Section 119 License eliminates the need for both satellite providers and program suppliers to negotiate thousands of individual license agreements per year. Relief from this burden thereby permits satellite providers to effectively compete with cable operators.

Fourth, the record indicates that the Section 119 License encourages localism by providing an incentive for broadcasters to serve all U.S. households. This incentive is critical because broadcasters have demonstrated a general unwillingness to make the investment necessary to serve all of the households located within their local DMAs.

In contrast to the benefits cited above, the comments establish no valid reason for eliminating the Section 119 License. Under the Section 119 License, copyright holders receive adequate compensation for the use of their works that they would not receive in the absence of the Section 119 License.

NPS plans to provide distant signals in high definition and in full digital format to unserved households; however, NPS requires the certainty of a permanent Section 119 License with reasonable eligibility criteria in order to justify the investment necessary to provide advanced digital services to subscribers. Other service providers have a similar need for

certainty. Therefore, the Copyright Office should recommend that Congress make the Section 119 License permanent in order to eliminate the uncertainty faced by satellite providers and subscribers who are otherwise unable to receive broadcast network programming.

A. There Are Strong Policy Justifications for Retaining the Section 119 License

As Congress has repeatedly explained with respect to copyrights, it is "[n]ot primarily for the benefit of the author, but for the benefit of the public, [that] such rights are given."[1] In assessing whether the Section 119 License should be retained, the Copyright Office should evaluate, first and foremost, whether the Section 119 License continues to serve the public – and not whether individual copyright holders would prefer to subject satellite providers to individual license negotiations. As discussed below, the record clearly indicates that the Section 119 License does continue to serve the public, and, as such, the License should be retained.

1. The Section 119 License Facilitates the Ability of "Unserved" U.S. Households to Receive Network Programming

Section 119 was originally enacted to facilitate distant-into-local service to "a small percentage of television households . . . not capable of receiving a particular network by conventional rooftop antennas . . . ."[2] The Section 119 License has played, and will continue to play, an important role in facilitating the ability of all U.S. households to receive network programming.[3] All parties agree that the Section 119 License facilitates service to at least some unserved households. As noted above, NPS alone serves over 100,000 such households, who would be left without access to this programming in the absence of the Section 119 License.

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[1] *See, e.g.,* H. Rep. No. 100-887 at 10 (1988).

[2] *See id.*.

[3] *See, e.g.,* Comments of DirecTV, Inc. at 6-12.

Notwithstanding such facts, however, NAB asserts anomalously that the legislative purpose of Section 119 has been fulfilled. The record – including NAB's own comments – belies this claim. NAB itself concedes that potentially hundreds of thousands of households still do not receive over-the-air network signals.[4] This, in and of itself, is sufficient evidence that the legislative purpose of Section 119 has not been fully realized.

Furthermore, NAB's data on unserved households does not accurately portray the continuing need for the Section 119 License. NAB's claim that only 4% of U.S. households do not receive broadcast network programming through local-into-local service from any satellite operator[5] ignores the fact that this percentage still represents over 4.5 million of the estimated 112.8 million U.S. television households (or more than 11.4 million individuals).[6] Further, while the 4% figure may represent the percentage of U.S. households that do not receive local-into-local network service of some kind, this number does not reflect the percentage of U.S. households that receive local-into-local service with respect to only certain networks.[7] As DirecTV points out, even where local-into-local service is fully implemented, there are likely to be unserved "out-of-beam" and "missing affiliate" households.[8]

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4 *See* Comments of the National Association of Broadcasters at 39-42.

5 *See id.* at 42.

6 *See* Nielsen Media Research, National Universe Estimates (Aug. 27, 2007) *available at* http://www.nielsenmedia.com/nc/nmr_static/docs/2008_FINAL_National_UEs_Mkt_Brks%20_Pers.xls.

7 NAB next argues that there are only 31 DMAs, covering just 2.2% of television households, that either do not have a full complement of the big four national broadcast networks or do not have local-into-local service. Comments of the National Association of Broadcasters at 41. As an initial matter, this analysis ignores other networks that viewers may wish to access. Further, as discussed above, the mere availability of local-into-local service in the DMA does not guarantee that every household in the DMA is able to receive service.

8 Comments of DirecTV, Inc. at 6-7.

NAB generalizes from the fact that there are now more television stations to conclude that there must be fewer unserved households.[9] However, the relationship between the number of television stations and the number of unserved households is not a simple inverse relationship, as NAB suggests. The mere fact that there are more stations does not necessarily mean that there are more affiliates of a given network, or that these affiliates are located in markets that were previously unserved. As noted in the comments in this proceeding, there are markets that have more than one in-market network affiliate while other markets are missing affiliates.[10] Therefore, an increase in the number of television stations does not necessarily equate to a greater percentage of households served by the local affiliates of all networks (whether or not such networks are all in the "Big Four").

The simple fact is that it is impossible to report data with respect to the actual number of presently unserved households because there has been no comprehensive effort to determine the actual number of unserved households. Fortunately, all parties agree that the Section 119 License facilitates service to at least some unserved households. This alone demonstrates that the Section 119 License continues to serve the public interest; NPS believes that every viewer is important, and deserving of the ability to receive broadcast programming. At a minimum, it is clear that Section 119 has not fulfilled its legislative purpose, and that the Section 119 License still makes a valuable contribution in facilitating the ability of all U.S. households to receive network signals.

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9 Comments of the National Association of Broadcasters at 40-1.

10 *See, e.g.,* Comments of DirecTV, Inc. at 10-12.

2. The Section 119 License Will Facilitate Access to Digital Network Programming by All U.S. Households

While hundreds of thousands of U.S. households are currently unserved by the analog signals of local network affiliates, the Copyright Office should recognize that the digital transition will leave additional households unserved by the digital signals of such affiliates – the only signals that will remain at the close of the transition. The Section 119 License will play a critical role in ensuring that these unserved households have access to digital network programming during and after the transition.

For instance, it is unclear how the different propagation characteristics of digital (as opposed to analog) signals will impact the percentage of unserved households. In some cases, the digital transition may deprive households of a viewable signal due to the well-known "cliff effect." In the analog world, viewers that have trouble receiving a station's signal because of signal loss will at least receive a snowy picture, but in the digital world, such viewers will receive no picture at all, leaving them unaware that the station even exists. This cliff effect will lead to new unserved households, as some households that were marginally served by the analog signal of the local network affiliate will receive no usable digital signal following the digital transition.

For these and other reasons, there is a great deal of uncertainty as to the impact of the digital transition. Regardless of outcome, the Section 119 License will help to ensure that households that do not receive an over-the-air digital signal and that reside in markets that do not receive local-into-local digital service still have access to digital network programming. Even though specific data on how the digital transition will impact the ability of consumers to receive television over the air is unavailable, the Section 119 License will provide a safety net for any households that may be unserved following the transition. It would be precipitous for the

Copyright Office to recommend and for Congress to enact legislation eliminating the Section 119 License before they have information upon which to base their decisions.

3. Negotiating Individual Licensing Agreements with Individual Copyright Holders Would Be Impractical and Infeasible

As several parties note, in the absence of the Section 119 License, satellite providers would be forced to negotiate thousands of individual licensing agreements per year in order to carry distant network programming.[11] NPS agrees that such negotiations would not be feasible. First, satellite providers would need to identify every individual and entity that holds the primary rights to the programming aired on the distant network affiliate. Critically, local network affiliates generally do not hold the primary rights to the programming that they air, and as such cannot themselves authorize third parties, such as satellite providers, to carry that programming in distant markets absent a statutory license. Network affiliates typically air thousands of programs per year, with each program potentially having many copyright holders. Absent the Section 119 License, satellite providers would need to identify each of these copyright holders in advance of the transmission of the signal – a practical impossibility.

Even if all relevant copyright holders could be identified, satellite providers would then need to engage in thousands of simultaneous contract negotiations to secure the rights to carry a distant network affiliate's programming. However, satellite providers lack the internal capacity to handle these negotiations, and the market has not developed any mechanism to facilitate such negotiations in a reasonable manner. Even if satellite providers could somehow handle this quantity of negotiations, the transaction costs incident to these negotiations would be prohibitively high. Moreover, satellite providers would face extensive coordination problems in

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[11] *See, e.g.,* Comments of EchoStar Satellite L.L.C. at 5-7; Comments of the Public Television Coalition at 3.

attempting to secure rights from multiple parties. Since satellite providers would likely end up with, at most, partial rights to the programming aired by the distant network affiliate, as a practical matter they would not pursue the rights to carry that programming in the first place. Consequently, hundreds of thousands of unserved households would be left without network service.

In contrast, the Section 119 License makes the carriage of distant network signals possible by significantly streamlining the process by which a satellite provider obtains licenses from the primary copyright holders associated with each program carried by a distant network affiliate. In doing so, the Section 119 License not only serves satellite providers and the public, but also copyright holders themselves – and particularly smaller program producers wishing to secure wide distribution of their programming with minimal transaction costs. As the Public Television Coalition notes, "the statutory licenses enable public television stations, PBS and outside producers to devote their already limited resources to their core mission rather than to the time-consuming negotiations that would be required to obtain necessary rights clearances in arms-length transactions."[12]

The Section 119 License remains a practical necessity for providing service to a significant segment of U.S. households. Those parties advocating the elimination of the Section 119 License provide no evidence that any viable alternative is in place. Eliminating the Section 119 License would severely undermine the ability of satellite providers to serve the public, and likely would preclude satellite providers from offering distant network signals to unserved households at all, leaving hundreds of thousands of U.S. households with no access to network programming that NAB and others claim is exceptional.

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12 Comments of the Public Television Coalition at 5.

4. The Section 119 License Incentivizes Broadcasters to Provide Local Service to Currently "Unserved" Households

As discussed above, the Section 119 License is only available with respect to "unserved" households. Thus, the structure of the Section 119 License provides broadcasters with the incentive to expand their affiliate relationships, and increase their use of translators and other technologies to decrease the percentage of unserved households in any given local market; in many instances, broadcasters can reduce the extent to which satellite providers can rely on the Section 119 License. Making the License permanent would promote localism by maintaining broadcasters' incentive to serve *all* local households, thereby serving the public interest.

B. The Section 119 License Adequately Compensates Copyright Holders and Has a Limited Impact on Such Rights Holders

The Section 119 License ensures that copyright holders are provided with adequate compensation under the terms of that license. While reasonable parties can disagree over the exact royalty rates that should be paid to copyright holders pursuant to Section 119, no party can dispute that copyright holders have been compensated for their programming over the past two decades; according to Copyright Office records, copyright holders have received approximately $887 million in compensation during this period.[13] This compensation provides a material benefit to the copyright holder with little to no cost, and therefore the Section 119 License presents a positive-sum proposition for copyright holders. As explained above, absent the License, satellite providers would not carry the programming of distant network stations at all, and copyright holders would not receive any compensation. Thus, the Section 119 License benefits copyright holders, broadcasters, and satellite operators. Further, the Section 119 License has a limited impact on copyright holders because satellite providers have an economic incentive

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[13] *See* U.S. Copyright Office, Licensing Division, *Report of Receipts* (Sep. 25, 2007), *available at* http://www.copyright.gov/licensing/lic-receipts.pdf.

to provide local-into-local service where feasible. Providing such service is often necessary to effectively compete with other MVPDs, such as incumbent cable operators, in local markets because consumers understandably demand access to local broadcast channels.

These considerations, among others, have transformed the satellite industry into one characterized primarily by local-into-local service, a trend noted by numerous parties.[14] Indeed, DirecTV confirms that the importance of the Section 119 License to the industry as a whole has diminished and will continue to diminish over time. As such, there is no urgency to substantially overhaul the License.[15] However, eliminating the License would have a substantial and detrimental impact on unserved households, which continue to exist, and additional households that will be unserved after the digital transition.

C. **A Permanent Section 119 License Would Provide Satellite Providers With Greater Certainty and Would Encourage Investment in New Service Offerings**

NPS believes the Section 119 License should be made permanent to give satellite carriers more certainty as they make business decisions and plan for a fully digital era. As noted above, NPS plans to provide distant signals in high definition and in full digital format to unserved households. However, NPS requires the certainty of a permanent Section 119 License with reasonable and realistic eligibility criteria for unserved households to support the investment necessary for advanced digital capabilities. Other service providers require similar certainty.

Although the Section 119 License is intended to serve the same function as the distant-into-local license provided to cable operators by Section 111, only Section 119 incorporates a sunset provision. While this sunset provision has prompted Congress and the industry with

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[14] *See, e.g.,* Comments of DirecTV, Inc. at 3-6; Comments of the National Association of Broadcasters at 41-2.

[15] Comments of DirecTV, Inc. at 12.

opportunities to update the satellite license to better reflect consumer demand and account for technological change, on balance this provision has been a tremendous burden to the satellite industry. The need to revisit the structure of Section 119 on an almost continuous basis has not only unnecessarily consumed the resources of satellite providers, copyright holders, broadcasters, regulators, and Congress, but has undermined the certainty necessary to attract investment. Accordingly, the Copyright Office should recommend that Congress make the License permanent.

II. THE COPYRIGHT OFFICE SHOULD REJECT OTHER SUGGESTED CHANGES TO THE SECTION 119 LICENSE

A. The Section 119 License Should Not Be Modified to Permit Copyright Owners to Negotiate Terms and Conditions of the Statutory License

The Joint Sports Claimants ask the Copyright Office to recommend that Congress amend Section 119 to require satellite operators to negotiate the "terms and conditions" of the statutory license with copyright holders.[16] The Copyright Office should reject this proposal, which would directly undermine one of the chief benefits of the statutory license – the avoidance of thousands of complex negotiations per year between satellite providers and individual copyright holders. As discussed above, satellite providers lack the capacity to manage these negotiations, and would be unable to provide distant-into-local service to unserved households if such negotiations were necessary. Further, such a requirement would create the potential for deadlocked negotiations, with no mechanism for settling disputes, preventing satellite providers from making effective use of the Section 119 License and leaving hundreds of thousands of households with no network programming.

[16] Comments of the Joint Sports Claimants at 9-11.

B. The Section 119 License Should Not Be Modified to Impose New Exclusivity and Blackout Conditions

NAB urges the Copyright Office to recommend that Congress modify Section 119 to give effect to the FCC's syndicated exclusivity, network non-duplication, and sports blackout rules, which are currently superseded by the Section 119 License.[17] Extending these rules to distant network signals is unwarranted and would be detrimental to unserved households, which would have no access to broadcast programming if out-of-market signals are required to be deleted. Households receiving a distant signal under the Section 119 License by definition are unserved by a local network affiliate and cannot receive the local network affiliate's signal. Since even unserved households located within the protection zone afforded under the FCC's program exclusivity rules are unable to receive the signal of the local network affiliate, no disadvantage to the local network affiliate extends from allowing such household to receive distant programming. On the other hand, exclusivity requirements would undermine the economic viability of distant-into-local service by creating "Swiss cheese" programming incapable of attracting a critical mass of customers. Likewise, the underlying justification for the sports blackout rules is inapplicable to unserved customers, most of whom are located in rural areas that are far from professional sports stadiums.

Therefore, NPS urges the Copyright Office to refrain from recommending an extension of the program exclusivity rules to signals carried by satellite providers pursuant to the Section 119 License.

[17] Comments of the National Association of Broadcasters at 27.

C. Section 119 Need Not be Amended to Address the So-Called "Timing Gap"

NAB suggests that Section 119 must be amended to address the so-called "timing gap."[18] Essentially, NAB argues that after February 17, 2009, the date on which analog broadcast television service will cease, all households in the United States will become "unserved" because they will receive no analog signals, and that this will permit satellite operators to carry the digital signals of distant network affiliates to each of these households.

While SHVERA is, admittedly, riddled with its fair share of ambiguities, the "timing gap" will not have the adverse consequences predicted by NAB for several reasons. First, while there is not currently a predictive signal strength definition for use in determining which households are "unserved" in the digital context, the FCC has undertaken a proceeding to adopt such a definition.[19] Moreover, even if households were to become "unserved" after February 17, 2009 because they no longer receive analog service, DirecTV and EchoStar will still have a strong economic incentive to provide local-into-local service to meet consumer demand. Thus, any "timing gap" issues are likely to be minimal, and the extreme scenario proposed by NAB is unlikely to arise.

III. THE COPYRIGHT OFFICE SHOULD NEITHER RECOMMEND NOR ADOPT INCREASES IN THE SECTION 119 ROYALTY RATE

Several parties ask the Copyright Office to raise, or recommend that Congress raise, the Section 119 royalty rate, claiming that this rate does not reflect market conditions. As an initial matter, NPS notes that because there would be no viable market for distant-into-local service in the absence of the Section 119 License, it is impossible to specify what the "market" rate for

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[18] *Id.* at 48-50.

[19] *See Technical Standards for Determining Eligibility for Satellite-Delivered Network Signals Pursuant to the Satellite Home Viewer Extension and Reauthorization Act*, Notice of Inquiry, FCC 05-94 (2005).

such rights would be. In assessing the value of distant network signals, the Copyright Office and Congress should weigh the competing interests of satellite providers and copyright holders, but should, first and foremost, make a value determination that promotes the public interest. NPS urges the Copyright Office to recommend no increase in royalty rates, as any increase would necessarily be passed along to unserved subscribers who are now paying for network service that the rest of the country can get for free, undermining the ability of these subscribers to receive service at reasonable cost.

A. Royalty Rates Are Not "Well Below Market" As Suggested by Some Parties

The Joint Sports Claimants argue that Section 119 royalty rates are "well below market" based on the licensing fees paid for cable programming networks with the royalty rates paid under the Section 119 License. This comparison is misguided, insofar as the rights afforded to satellite providers under a typical cable programming network licensing agreement are fundamentally different than those afforded under the Section 119 License.

Typically, a license agreement for a cable programming network will afford satellite providers the right to sell local advertising to fill a certain number of "avails" in the network programming. By selling this advertising, the satellite provider is able to generate revenue to offset the licensing fee that must be paid to the network. Thus, the licensing fee reflects both the value of the cable programming network in attracting and retaining subscribers, as well as the value of these advertising sales.

In contrast, the Section 119 License provides no opportunity for a satellite provider to sell local advertising, or otherwise extract added value. In fact, Section 119(a)(6) specifically provides that, notwithstanding the Section 119 License, a satellite provider's carriage of a distant network signal is actionable "if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcement transmitted by

the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the satellite carrier through changes, deletions, or additions, or is combined with programming from any other broadcast signal."[20] Consequently, satellite providers cannot offset royalty rates paid under the Section 119 License with advertising revenues. It follows that Section 119 royalty rates are, and should be, lower than licensing fees paid by satellite providers for the carriage of cable programming networks.

B. Royalty Rates Should Be Maintained at Levels That Will Facilitate Access to Network Programming by All U.S. Households

Unserved households that receive broadcast network signals through distant-into-local service must pay to receive what the rest of the American public gets for free. To these households, there is no such thing as "free over-the-air" television. The rates that these households pay for satellite service are directly impacted by the royalty fees that satellite providers must pay under the Section 119 License. Thus, the higher the Section 119 royalty fee, the higher the rates that satellite providers must charge to their customers. As these rates increase, it becomes more difficult for customers to afford distant-into-local service, and more difficult for satellite providers to justify the provision of distant-into-local service in the first place.

Notably, Section 119 directs the Copyright Arbitration Royalty Panel to consider "the impact on the continued availability of secondary transmissions to the public" in setting royalty rates.[21] Since higher royalty rates necessarily adversely impact the availability of secondary distant-into-local transmissions to the public, the Copyright Office should encourage the lowest reasonable royalty rates wherever possible.

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20 17 U.S.C. § 119(a)(6).

21 17 U.S.C. § 119(c)(3)(D)(iii).

IV. THE COPYRIGHT OFFICE SHOULD NOT INTERFERE WITH ONGOING LITIGATION

As NPS explained in its comments, NPS has over twenty years of experience delivering quality video programming to consumers throughout the United States. Since last year, NPS has provided distant-into-local DBS service to over 100,000 subscribers. While NPS has provided this service using transponder capacity leased from EchoStar, NPS is entirely independent from EchoStar and operates in a manner consistent with all applicable statutes, regulations, and judicial orders.

As several parties note, NPS is currently involved in pending litigation related to an injunction issued against EchoStar in 2006 barring EchoStar from providing service under the Section 119 License. In order to expand its business to another platform, NPS has leased transponder capacity from EchoStar with which to provide subscribers with programming that includes, but is not limited to, distant network programming. As the District Court of the Southern District of Florida recently determined, the EchoStar injunction does not prohibit this arrangement. As the court found:

> Plaintiffs have not demonstrated that the agreement between EchoStar and NPS is anything but an arms-length business transaction to lease satellite space, or that EchoStar is, at this point, anything more than a conduit for the signals which will be sent by NPS. That EchoStar has found a way to minimize harm to its customers and itself, and likely prevent a windfall to its competitors, does not require this Court to modify the injunctive relief entered to encompass conduct not intended to be banned by the Act or the Eleventh Circuit's [injunctive] mandate, and the Court does not find good cause to enter such broad relief.[22]

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[22] Order Denying Motion for Clarification; Denying, as Moot, Motion to Intervene, *CBS Broadcasting, Inc. v. EchoStar Communications Corporation*, Case No. 1:98-cv-02651-WPD (Dec. 18, 2006) (internal citations omitted).

Although the court's decision is currently under appeal, NAB spends much of its comments attempting to relitigate the issues addressed in that decision in this Copyright Office proceeding. NPS respectfully requests that the Copyright Office refrain from involving itself in the issues that are the subject of this litigation or overriding the judgment of the court or its interpretation of applicable law while this matter remains pending.

V. CONCLUSION

For the foregoing reasons, the Copyright Office should make recommendations to Congress consistent with the positions taken in these reply comments.

Respectfully submitted,

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