

ORAL TESTIMONY OF
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ECHOSTAR SATELLITE L.L.C.
before the
UNITED STATES COPYRIGHT OFFICE
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Ms. Peters and staff members of the U.S. Copyright Office:

My name is Stanton Dodge and I am the Executive Vice President, General Counsel and Secretary of EchoStar Satellite L.L.C. It is an honor to testify before you today. On behalf of our roughly 21,000 employees and 13.5 million subscribers, I would like to thank you for affording us this opportunity to present our views on an issue critical to our business: the compulsory copyright regime.

We have submitted comments for the record, so rather than recite those comments in detail this afternoon, I will make two fundamental points:

First, the compulsory copyright system should remain in force.

Congress' forward-looking policy of establishing a compulsory copyright license for satellite TV providers laid the groundwork for an entire industry, Direct Broadcast Satellite, to become the major competitive force in the pay-TV market today. From a start-up in 1996, DISH Network now serves about 15 percent of the pay-TV market, and when combined with DirecTV, the DBS industry as a whole serves almost 30 million households. The FCC and Department of Justice repeatedly cites satellite TV as the

major price and quality competitor to the incumbent cable operators, spurring lower prices and better service for all pay-TV subscribers nationwide.

The compulsory copyright regime helped us get here.

For example, Section 122, drafted with the help of this office, gave us the ability to carry local broadcast signals to our subscribers, eliminating a major competitive advantage enjoyed by cable operators. A GAO study found that consumers quickly adopted satellite TV with local broadcast signals: satellite TV's penetration on average is 12 percent higher in markets where satellite provides local broadcast signals than when we do not carry such signals.

All of this has been good news to consumers, who benefit when pay-TV providers compete.

We retransmit all our programming in real time. From collecting a programmer's signal via terrestrial fiber or C-Band satellite, to up-linking that signal to our satellites in orbit, to down-linking that programming to our millions of subscribers, we are carrying the copyrighted work of multiple artists, sports leagues, newscasters, and others in the blink of an eye.

Without the compulsory copyright regime, we would be fatally hamstrung in our ability to transmit programming. There simply are too many copyright holders in the chain for

us to negotiate quickly enough with all of them, while serving our subscribers with a competitive product.

Like any good innovation, however, good laws must be updated in order to remain effective.

Today, there are too many unnecessary differences between the cable and satellite compulsory copyright regimes that hurt our competitiveness. Methods developed in the 1950s and 1960s for defining local markets are straining under the rush of new methods for delivering audio and video to consumers.

My second point, therefore, is that it is time to update the good innovation of satellite compulsory copyright licenses. It is time for a uniform digital compulsory license.

We are at a watershed moment in the history of copyright law and pay-TV. The digital broadcast transition mandated by Congress goes into effect in 2009. In the same year, the satellite compulsory copyright regime will be up for renewal by Congress. Meanwhile, multiple new video platforms and providers are emerging, including the telephone companies and the Internet-protocol video providers using IP technology to deliver video on myriad devices, including laptop computers and wireless handheld devices.

The legal, technological, and economic stars are aligning for a unique opportunity to streamline and improve the entire compulsory copyright system.

We at EchoStar believe that Congress should enact a single, uniform digital compulsory copyright license that not only levels the playing field between cable and satellite providers, but accommodates new competitors that may not fit neatly within either of those two categories.

I am sure that back in the 1930s, when radio was new, or the 1970s, when cable television began its rise, or the 1980s when big-dish satellite communications came to the fore, the Copyright Office and Congress felt compelled to update the copyright laws to account for these new technologies.

History has taught us, however, that technology always evolves faster than laws can be passed.

We believe that a more holistic, technology-neutral approach to the compulsory copyright system will afford copyright holders, distributors, and consumers more flexibility and protection than does our current system. We hope to work with you to develop recommendations to Congress that will enable a robust, competitive pay-TV market for decades to come.

I look forward to answering your questions.