

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
DIRECTV, Inc.) Facility ID Nos. M00029, M11977-11979
) NAL/Acct. No. MB200841410031
) FRN: 0013739842

ORDER

Adopted: August 27, 2008

Released: August 28, 2008

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Media Bureau (the "Bureau") and DIRECTV, Inc. ("DIRECTV"). The Consent Decree terminates an investigation by the Bureau against DIRECTV, a direct broadcast satellite service provider, for possible non-compliance with the requirements of the Commission's equal employment opportunity rules, 47 C.F.R. §§ 76.75(b)(1) and (g)(4), 76.77(a), 76.1702(a) and (b), and 25.601.

2. The Bureau and DIRECTV have negotiated the terms of the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation involving DIRECTV referenced therein.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether DIRECTV possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, IT IS ORDERED that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 0.61 and 0.283 of the Commission's Rules, 47 C.F.R. §§ 0.61, 0.283, the Consent Decree attached to this Order IS ADOPTED.

6. IT IS FURTHER ORDERED that the referenced investigation IS TERMINATED.

7. IT IS FURTHER ORDERED that a copy of this Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to DIRECTV, care of its attorney of record, Stacy Fuller, Vice President, Regulatory Affairs, The DIRECTV Group, 901 F Street, N.W., Suite 600, Washington, D.C. 20004.

FEDERAL COMMUNICATIONS COMMISSION

Monica Shah Desai, Chief
Media Bureau

CONSENT DECREE

1. This Consent Decree is entered into by the Media Bureau of the Federal Communications Commission and DIRECTV, Inc., a direct broadcast satellite service provider, for the purpose of terminating the Bureau's investigation into the circumstances set forth in paragraphs 3 and 4 below.

2. For purposes of this Consent Decree, the following definitions shall apply:

- (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
- (b) "Adopting Order" means an order of the Bureau adopting this Consent Decree.
- (c) "Any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every" and the word "every" shall be construed to include the word "each."
- (d) "Bureau" means the FCC's Media Bureau.
- (e) "Commission" or "FCC" means the Federal Communications Commission.
- (f) "DIRECTV" or "DIRECTV, Inc." means the direct broadcast satellite service provider currently known as "DIRECTV," and all of its subsidiaries and affiliates that are such providers, including, but not limited to, Satelites de Puerto Rico, Ltd. d/b/a DIRECTV Puerto Rico, Ltd.
- (g) "EEO" means "Equal Employment Opportunity."
- (h) "Effective Date" means the date on which the Bureau releases the Adopting Order.
- (i) "Inquiry" means the Bureau's investigation of DIRECTV's potential violations of the Act and the Rules, as set forth in paragraphs 3 and 4 of this Consent Decree.
- (j) "MVPD" means a multichannel video programming distributor, as defined in 47 C.F.R. § 76.71.
- (k) "Parties" means the Bureau and DIRECTV collectively, and "Party" refers to the Bureau or DIRECTV, individually.
- (l) "Rules" means the Commission's regulations set forth in Title 47 of the Code of Federal Regulations.
- (m) "Unit" or "the Unit" means DIRECTV, Inc.

I. BACKGROUND

3. On July 6, 2005, at the request of DIRECTV, the Commission's Media Bureau staff met with representatives of DIRECTV, who voluntarily reported that the company had failed to file its MVPD EEO Program Annual Reports (FCC Form 396-C) for 2003 and 2004, as required by 47 C.F.R. § 76.77(a). DIRECTV also voluntarily reported that it had inadvertently failed to maintain EEO public file reports for 2003 and 2004, as required by 47 C.F.R. §§ 76.1702(b) and 25.601. DIRECTV further advised that it consequently had failed to make its reports for the Unit available for public inspection, as required by 47 C.F.R. § 76.1702(a). DIRECTV acknowledged that it did not take corrective action until June 20, 2005, which it stated was soon after it had become aware of the issue. DIRECTV represented that, notwithstanding the foregoing, at all times during the periods in question, it had in place a continuing program of practices designed to ensure equal employment opportunity to job applicants and employees of the Unit, and that it had periodically reviewed its efforts to recruit, hire and promote employees and to use the services of recruitment sources and businesses without discrimination. It further represented that,

on an annual basis, it had engaged in several supplemental recruitment and outreach activities that it claimed to have exceeded the requirements set forth in 47 C.F.R. § 76.75(b)(2).

4. The Bureau reviewed the Unit's EEO public file reports and discovered that, during the 2003 and 2004 reporting periods (March 26 through September 11, 2003, and September 12, 2003 through September 11, 2004), the Unit failed to recruit or failed to recruit adequately for every full-time vacancy, as required by 47 C.F.R. § 76.75(b)(1), because it had relied solely on the Internet or non-public sources, such as employee referrals or walk-ins to fill some of those vacancies. The Unit did not claim exigent circumstances for any of the vacancies for which it failed to recruit or recruit adequately. In May 2006, DIRECTV advised the Bureau staff that, in the process of formulating and instituting company-wide programs to ensure compliance with the Commission's EEO rules, it had recently discovered that its affiliate with MVPD operations in Puerto Rico, Satelites de Puerto Rico Ltd. d/b/a DIRECTV Puerto Rico Ltd., while maintaining an EEO program, had nevertheless similarly failed to file MVPD EEO Program Annual Reports (FCC Form 396-C) and to maintain EEO public file reports for 2003, 2004, and 2005, as required by the EEO rules noted above. In addition, in a 2007 EEO Program Annual Report (Form 396-C), DIRECTV voluntarily disclosed that it had not recruited for two of its 287 full-time vacancies during the September 10, 2006 through September 9, 2007 reporting period, as required by 47 C.F.R. § 76.75(b)(1), because it had relied exclusively on employee referrals to fill the vacancies. Bureau review of DIRECTV's responses to Bureau inquiries concerning the reporting periods ending in 2005, 2006, and 2007 and the period from September 10 through December 31, 2007 further revealed that DIRECTV had recruited inadequately for additional openings, in the same manner as it had in the 2003 and 2004 periods noted above. In light of the foregoing, the Bureau believes that DIRECTV's self-assessment was not sufficient to comply with the requirements of 47 C.F.R. § 76.75(g)(4).

5. The Parties acknowledge that a consent decree to address the matters set forth in paragraphs 3 and 4 above is in the public interest. The Parties agree that any Commission forfeiture proceeding will be time-consuming and require substantial expenditure of public and private resources. In order to conserve such resources and to promote compliance with the Rules, and in light of DIRECTV's voluntary disclosure, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

II. AGREEMENT

6. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a final determination regarding any compliance or noncompliance by DIRECTV with the requirements of the Act or the Rules. The Parties agree that this Consent Decree is for settlement purposes only and that, by agreeing to this Consent Decree, DIRECTV does not admit or deny any noncompliance, violation, or liability associated with or arising from its actions or omissions involving the Act, or the Rules that are the subject of this Consent Decree.¹

7. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement of the Inquiry between DIRECTV and the Bureau. In express reliance on the covenants and representations contained herein, the Bureau agrees to terminate the Inquiry. In consideration for the

¹ The Commission is required by the Act to annually certify whether MVPDs under its jurisdiction that are required to maintain EEO programs have been in compliance with the Act. The Commission has completed its EEO compliance review of all DIRECTV units for 2003-2007, as required by Section 634(e)(1) of the Act and Section 76.77(b) of the Rules, 47 U.S.C. § 554(e)(1) and 47 C.F.R. § 76.77(b), and this Consent Decree constitutes the Commission's findings following that review. This Decree also supersedes any certification decisions previously made by the Commission concerning DIRECTV units for the years 2003 through 2007 and substitutes this Decree's findings as the final decision.

termination of the Inquiry and in accordance with the terms of this Consent Decree, DIRECTV agrees to the terms, conditions and procedures contained herein.

8. The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other orders of the Commission or the Bureau and any violation of the terms of this Consent Decree shall constitute a violation of a Commission order, entitling the Commission or the Bureau, pursuant to delegated authority, to exercise any rights and remedies attendant to the enforcement of a Commission order.

9. DIRECTV agrees that the Bureau has jurisdiction over the matters that are the subject of this Consent Decree and the authority to enter into and adopt this Consent Decree and the parties agree to be legally bound by the terms and conditions of this Consent Decree.

10. As part of the Adopting Order, the Bureau shall terminate the Inquiry and this proceeding. From and after the Effective Date, in the absence of the discovery of material new information not previously disclosed to the Bureau by DIRECTV, the Bureau shall not, either on its own motion or in response to any petition, third-party objection, complaint, or other information, initiate any inquiries, investigations, forfeiture proceedings, hearings, or other actions, formal or informal, against DIRECTV for compliance with the EEO and public file provisions of the Rules covered by its 2003 public file report through December 2007, provided that DIRECTV satisfies all of its obligations under this Consent Decree. In the event that DIRECTV fails to satisfy any of its obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to any violations of the Act or the Rules, including those subject to the Inquiry, and/or violations of this Consent Decree.

11. DIRECTV represents that it has adopted, has implemented, and agrees to abide by a compliance plan (the "Compliance Plan") for the purpose of ensuring compliance with the EEO requirements set forth in the Act and the Rules. The Compliance Plan is set forth in the Attachment hereto. DIRECTV agrees to keep such Compliance Plan in effect, where applicable, for three (3) years after the Effective Date.

12. Within thirty (30) days after the Effective Date, DIRECTV shall make a voluntary contribution to the United States Treasury in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00). The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, DIRECTV should enter the NAL/Account Number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code).

13. DIRECTV waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided that no modifications are made to the Consent Decree after the Effective Date that are adverse to DIRECTV. If the Bureau, the Commission, or the United States brings a judicial action to enforce the terms of the Adopting Order or this Consent Decree, or both, DIRECTV will not contest the validity of this Consent Decree or of the Adopting Order. If DIRECTV brings a

judicial action to enforce the terms of the Adopting Order or this Consent Decree, or both, neither the Bureau, the Commission, nor the United States will contest the validity of this Consent Decree or of the Adopting Order.

14. DIRECTV agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

15. The Parties agree that, if any of the provisions of the Adopting Order or the Consent Decree shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

16. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which DIRECTV does not expressly consent) that provision will be superseded by such Commission rule or Order.

17. This Consent Decree cannot be modified without the advance written consent of both Parties.

18. Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

19. This Consent Decree may be executed in counterparts.

20. DIRECTV agrees that this Consent Decree will be binding on it and its subsidiaries, affiliates, successors and assigns.

FEDERAL COMMUNICATIONS COMMISSION

MEDIA BUREAU

By: _____
Monica Shah Desai, Chief

Date: _____

DIRECTV, INC.

(ON BEHALF OF ITSELF AND ITS SUBSIDIARIES AND AFFILIATES)

By: _____
Larry Hunter, Executive Vice President and General Counsel

Date: _____

DIRECTV, INC.
FCC EEO COMPLIANCE PLAN

DIRECTV, Inc. (as defined in the attached Consent Decree) has adopted, and is implementing, a Compliance Plan for the purpose of adhering to the Equal Employment Opportunity (“EEO”) rules of the Federal Communications Commission (“FCC”). The Compliance Plan consists of the following components:

1. **FCC EEO Compliance Manual.** Within thirty (30) days of the Effective Date of the Consent Decree, DIRECTV, Inc. will create, adopt and provide to each employment unit an FCC EEO Compliance Manual setting forth requirements of the FCC’s EEO rules, including, but not limited to, FCC EEO program requirements, recruitment and outreach activities, internal record retention, public file maintenance, and FCC form filing procedures.
2. **Employee Training.** DIRECTV, Inc. will formally train the appropriate personnel in its Human Resources Department on the contents of the FCC EEO Compliance Manual. DIRECTV, Inc. also will train appropriate personnel at each employment unit or office where a public inspection file is located regarding the public inspection file maintenance and accessibility procedures required under the FCC’s rules. Such a training program has been implemented and training will be provided to employees on an annual basis while this Compliance Plan is in effect. Training will also be provided to all new employees and promoted employees with such responsibilities promptly after they commence their duties.
3. **Designation of EEO Compliance Personnel.** DIRECTV, Inc. will assign responsibility for ensuring compliance with the FCC’s EEO rules to one or more employees. Such employee or employees will, among other responsibilities: (1) conduct and/or coordinate training of appropriate employees on the contents of the FCC EEO Compliance Manual; (2) supervise the activities of DIRECTV, Inc. employees who have primary responsibility for public inspection file maintenance; (3) oversee internal record keeping procedures; (4) ensure timely and accurate filing of required FCC forms; (5) review and monitor compliance by DIRECTV, Inc. with the FCC’s EEO rules on an ongoing basis; and (6) be the point of contact for all FCC EEO-related inquiries. Within thirty (30) days of the Effective Date, DIRECTV will notify the Media Bureau, in writing, of the name of each such employee and will so notify it of any change within five (5) business days after such change.
4. **Engagement of FCC Counsel.** DIRECTV, Inc. will engage FCC counsel on an ongoing basis to assist it in the preparation of the FCC EEO Compliance Manual and provide guidance concerning FCC EEO compliance issues, updates concerning changes to the FCC’s EEO rules, and reminders about FCC form filing deadlines. FCC counsel also will review periodically DIRECTV, Inc.’s FCC EEO public file reports and FCC EEO program reports prior to filing with the FCC. In this regard, DIRECTV, Inc. recognizes and acknowledges that any and all information submitted to the FCC must completely and candidly set forth all relevant facts and circumstances.
5. **Semi-Annual Reviews.** Commencing no later than six (6) months after the Effective Date, and continuing for three years thereafter, DIRECTV, Inc. will conduct semi-annual internal reviews, for a total of six (6) such reviews, of its recruitment, outreach, and hiring activities undertaken pursuant to the FCC’s EEO rules. Such reviews will assess the effectiveness of the efforts of DIRECTV, Inc. to comply with the FCC’s rules requiring broad and inclusive outreach and recruitment of potential applicants, and hiring of employees, without regard to race, color, religion, national origin, age, or gender. DIRECTV, Inc. will provide the Media Bureau with a written report of each such review within thirty (30) business days of completion of the review.