

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

In the Matter of )
Campus Televideo, Inc. ) CSR 8923-C, MB Docket No. 16-246
Complaint Concerning Retransmission of )
WSEE-TV and WICU-TV, Erie, PA )

MEMORANDUM OPINION AND ORDER

Adopted: November 17, 2016

Released: November 17, 2016

By the Senior Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. On August 2, 2016, Lilly Broadcasting of Pennsylvania License Subsidiary, LLC and SJL of Pennsylvania License Subsidiary, LLC (jointly, SJL) filed a complaint alleging that since at least the summer of 2014, Campus Televideo, Inc. (CTV) has been receiving the signals of SJL’s full-power television stations WSEE-TV and WICU-TV, Erie, Pennsylvania (the Stations) from DIRECTV, LLC (DIRECTV) and retransmitting them to Edinboro University, which subdistributes them to end user students residing on campus.1 SJL alleged that CTV lacks consent for both the retransmission and the grant of subdistribution rights, and thus is in violation of section 325(b) of the Communications Act of 1934, as amended, and section 76.64(a) of the Commission’s rules.2 For the reasons set forth below, we dismiss the Complaint.

II. BACKGROUND

2. The Complaint sought to demonstrate that CTV does not qualify for the exemption to the retransmission consent requirements for Satellite Master Antenna Television (SMATV) providers.3 CTV requested dismissal of the Complaint because CTV is not acting as a SMATV provider, but rather, as a “commissioned sales representative of DirecTV to solicit and take orders for certain DirecTV programming from commercial establishments, including institutions of higher education such as colleges and universities.”4 In response, SJL stated that CTV’s “characterization of its role regarding the video programming services received by Edinboro University end user students ranges from purely administrative and technical to being a sales representative for DirecTV to being a provider of video services.”5 Accordingly, SJL asked the Commission to investigate CTV’s relationship with DIRECTV and with Edinboro University and its students.6

3. On September 21, 2016, the Media Bureau sent a letter to AT&T Services, Inc., on behalf

1 Complaint and Request for Expedited Enforcement Action at i, 1 (filed Aug. 2, 2016) (Complaint).

2 Id.; 47 U.S.C. § 325(b); 47 CFR § 76.64(a).

3 Complaint at 8-13.

4 Answer at 2 (filed Aug. 23, 2016).

5 Reply at 4-5 (filed Sept. 2, 2016) (footnotes omitted) (Reply).

6 Id. at 6.

of its affiliate DIRECTV, seeking certain information to facilitate the investigation of the Complaint.<sup>7</sup> In its response, DIRECTV stated that CTV is an authorized sales agent for DIRECTV's programming services, and that DIRECTV directly provides the programming services including the Stations to Edinboro University.<sup>8</sup> DIRECTV must pay SJL certain license fees related to commercial customers like Edinboro University, pursuant to the retransmission consent agreement between DIRECTV and SJL.<sup>9</sup> In addition, as a commercial customer of DIRECTV, Edinboro University must compensate DIRECTV for the programming services it receives, a portion of which is related to the Stations.<sup>10</sup>

4. In its Reply, SJL alleged that in addition to the retransmission consent violations, certain stations available to Edinboro University end users were violating the Commission's network non-duplication rules.<sup>11</sup> CTV responded that DIRECTV alone would be responsible for compliance with the network non-duplication rules, not its customer Edinboro University or its sales representative CTV, and that in any event SJL previously raised the issue with DIRECTV which resolved it within less than two weeks.<sup>12</sup> Although SJL responded to other aspects of the Response, it did not further address the alleged violation of the network non-duplication rules.<sup>13</sup>

### III. DISCUSSION

5. Based on the record in this proceeding, we conclude that DIRECTV, and not CTV, retransmits the Stations to Edinboro University for distribution to end user students. CTV is merely acting as an authorized sales agent for DIRECTV's programming services.<sup>14</sup> Accordingly, there is no merit to the Complaint alleging that CTV is retransmitting and granting subdistribution rights for the Stations without consent. To the extent that SJL believes there is a violation of the Commission's rules, including its retransmission consent rules or its network non-distribution rules, with regard to the television programming service Edinboro University receives from DIRECTV, any complaint should be directed against DIRECTV and not its sales agent CTV.

### IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that the complaint filed in the above-captioned proceeding **IS DISMISSED WITH PREJUDICE**.

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<sup>7</sup> Letter from Steven A. Broeckert, Senior Deputy Chief, Policy Division, Media Bureau, to Stacy Fuller, Vice President, Federal Regulatory, AT&T Services, Inc. (Sept. 21, 2016).

<sup>8</sup> Letter from Brendan F. Haggerty, Area Manager, Federal Regulatory, AT&T Services Inc., to Marlene H. Dortch, Secretary, FCC, Attach. at 1 (Oct. 21, 2016).

<sup>9</sup> *Id.*, Attach. at 2.

<sup>10</sup> *Id.*, Attach. at 3.

<sup>11</sup> Reply at 10, n. 24; 47 CFR § 76.122.

<sup>12</sup> Response at 9 (filed Sept. 30, 2016) (Response). CTV requested leave to submit the Response. *Id.* at 1, n. 1. SJL responded that it did not oppose CTV's request, but "it believes that a reply to that Response is in order." SJL Reply to Response at 1 (filed Oct. 10, 2016) (Reply to Response).

<sup>13</sup> *See* Reply to Response.

<sup>14</sup> We see no basis for SJL's assertion that CTV's role remains in dispute. *See* Letter from Mitchell F. Brecher, Counsel to SJL, to Marlene H. Dortch, Secretary, FCC, at 2 (Nov. 4, 2016).

7. This action is taken pursuant to delegated authority under section 0.283 of the Commission's rules.<sup>15</sup>

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert  
Senior Deputy Chief, Policy Division, Media Bureau

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<sup>15</sup> 47 CFR § 0.283.