

Corbin

Electronically Filed
Mar 30 2021 10:33 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

From: Binns, Todd
Sent: Friday, January 19, 2007 10:06 AM
To: Binns, Todd; Thompson, Corbin; Steele, Dana
Cc: Lanning, Steve; Hargan, Denise; Bangert, Russell
Subject: RE: Update

Incremental SNG and Subscriber counts appended. Updating summary reports. Campaign reports are next and may change counts slightly if we find any additional upgrade or other DNC inapplicable campaigns. For the meeting I'm expecting to have the days out reports done and summaries by month.

Corbin – Can you give an update on the overall analysis.

Dana/Russell – Do we have Monte Faucet attending our meeting as he is the current DNC compliance manager? We should probably include his boss as well.

Todd Binns

Echostar

GM - Database Marketing

303-723-2644

From: Binns, Todd
Sent: Friday, January 19, 2007 8:56 AM
To: Binns, Todd; Thompson, Corbin; Steele, Dana
Cc: Lanning, Steve; Hargan, Denise
Subject: RE: Update

Customer scrub completed. Will apply incremental SNG and current subscriber fields. Dates for campaigns report will follow.

Todd Binns

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PX0696-006

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Docket 81704 Document 2021-09117 TX 102-010261

JA010999
009796
DISH8-0001669

Echostar

GM - Database Marketing

303-723-2644

From: Binns, Todd
Sent: Friday, January 19, 2007 12:00 AM
To: Binns, Todd; Thompson, Corbin; Steele, Dana
Cc: Lanning, Steve; Hargan, Denise
Subject: RE: Update

Customer scrub still running which will reduce these counts but here is version1. I also have redone the June Summary to reflect the incremental SNG subs we removed by doing address scrubs instead of phone and changed the campaign summaries to calls so all the numbers tie out – less confusing.

Tomorrow I will be focused on getting the customers removed and generating the days out by campaign reporting. I believe the roughly 200 phone numbers we can't source each month are SNG as the call rates for the unknown and SNG are very closely correlated month to month.

Todd Binns

Echostar

GM - Database Marketing

303-723-2644

From: Binns, Todd
Sent: Thursday, January 18, 2007 10:50 PM
To: Binns, Todd; Thompson, Corbin; Steele, Dana
Cc: Lanning, Steve; Hargan, Denise
Subject: RE: Update

SNG, VOOOM, Globecast, LTS tagged on Jul and Aug files. Campaigns are being limited to those campaigns that created during or before the month in question per conversation with Dana. Corbin was able to track down days out – nice work and much thanks.

Todd Binns

Echostar

GM - Database Marketing

303-723-2644

From: Binns, Todd
Sent: Thursday, January 18, 2007 9:35 PM
To: Thompson, Corbin; Steele, Dana
Cc: Lanning, Steve; Hargan, Denise
Subject: RE: Update

Files loaded and campaign appends are running. Customer bounce will follow. I don't have the days post DNC effective date but working to source.

Todd Binns

Echostar

GM - Database Marketing

303-723-2644

From: Thompson, Corbin
Sent: Thursday, January 18, 2007 8:43 PM
To: Steele, Dana; Binns, Todd
Cc: Lanning, Steve; Hargan, Denise
Subject: RE: Update

8:30 update.

2 month analysis has been through the IT steps and is now in the hands of database marketing.

July 2005

File contained 2,575,019 call records

2,475,164 records were for CSG Accounts (698,223 unique CSG Accts)

99,855 were Leads (25,409 unique Leads)

46,931 Lead calls were found in our Lead tracking database (15,873 unique phone numbers)

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TX 102-010263

52,924 Lead calls were forwarded to Database marketing (9,536 unique phone numbers)

August/September 2005

File contained 4,000,815 call records

3,953,187 records were for CSG Accounts (1,048,184 unique CSG Account numbers)

47,628 were leads (12,090 unique phone numbers)

21,095 lead calls were found in our lead tracking database (4,610 unique phone numbers)

26,533 lead calls were forwarded to Database marketing (7,480 unique phone numbers)

Thanks,

Corbin

From: Steele, Dana
Sent: Thursday, January 18, 2007 4:50 PM
To: Binns, Todd
Cc: Lanning, Steve; Thompson, Corbin; Hargan, Denise
Subject: RE: Update

Again, I sincerely appreciate the updates. I will be available on-line or at 303-437-0822 with any questions or issues.
Thank you.

From: Binns, Todd
Sent: Thursday, January 18, 2007 4:49 PM
To: Steele, Dana
Cc: Lanning, Steve; Thompson, Corbin
Subject: Update

2 Month - July lead suppression is still running. August is still loading.

Comprehensive - Alternative phone bounce is almost done for the comprehensive evaluation. This helps us remove customers.

My wife is out of town this week so I have to leave at 5 to get my kids. I will be dark until 8 and then resume work. Corbin has to leave at 5 as well and will be dark for about an hour.

Todd Binns

Echostar

GM - Database Marketing

303-723-2644

<<

FCC Inquiry_Post_GlobeCastV3.ppt (58.0KB)

Summary Data.xls (50.0KB)

Phone Scrub Waterfall.xls (24.0KB)

(132.1KB)

>>

EXHIBIT 494

EXHIBIT 494

JA011004
009801

TX 102-010266

From: Binns, Todd
Sent: Thursday, February 01, 2007 4:02:43 PM
To: Duran, Randy
Subject: RE: Notes from DNC Meeting, Jan 30

Randy – Thanks for the write-up, very useful. Fyi – the 230 was actually reduced to 151 and are those records that no one could source and we will probably never know where they came from. The bigger issue is the accounts that overlap with records in Database Marketing's campaigns as these were scrubbed but the DNC records were not removed. Counts were 2,324, 5,324, 3,405 for June, July, August of 05 respectively. These are the numbers I sent Corbin.

Jason is going to send you the Database Marketing flow.

Attorney/client privilege.

Todd Binns

Echostar

GM - Database Marketing

303-723-2644

From: Duran, Randy
Sent: Thursday, February 01, 2007 6:40 AM
To: Binns, Todd; Pierce, Jason; Thompson, Corbin; Bagwell, Rodney; Faucett, Monte; Davis, Bob; Black, Harold; Hastings, Peter; Maricle, Darren
Cc: Lanning, Steve; Murray, Joe; Steele, Dana; Hargan, Denise; Duran, Randy
Subject: Notes from DNC Meeting, Jan 30

Subject to Attorney-Client Privilege.



Notes from DNC Meeting, Jan 30, 1 PM – 2 PM

Attendees: Binns, Todd; Thompson, Corbin; Steele, Dana; Hargan, Denise; Bagwell, Rodney; Faucett, Monte; Davis, Bob; Black, Harold; Hastings, Peter; Maricle, Darren; Duran, Randy; Pierce, Jason

The attendees above met for one hour to de-brief on last week's activities and to figure out the next steps. It was not enough time, but it was a good start. We need to schedule a follow-up meeting soon.

There are several components to the DNC issue. We need to understand what happened in the past and determine how to prevent it from happening again. Further, we need to review our current processes and

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JA011005
009802
DISH8-0001654

TX 102-010267

determine if we can make any improvements that will support our effort to prevent future DNC issue.

Here are some notes from our discussion:

Discussion Topics:

- Why did we call the numbers on the DNC list? We may not ever know with the current list of 230 numbers the FTC identified.
- We must move from a 90-day grace period to a 30-day period.
- Fix “the Bio report.” A BRD is in progress (Harold Black)
- Documentation policy – we need to be able to document known occurrences so Legal can be pro-active in dealing with them.
- What IT measures can we put in place to keep better history of data loads, number scrubs, loading errors, etc.?
- The items we identify should be implemented in a separately formally defined project with business requirements and level of effort estimations.
- How can we prevent it from happening again?
 - We need to finish mapping the current process, which Todd Binns started in our meeting. This will allow us to evaluate each step and determine gaps or opportunities to enhance the process.
- Identify process owner(s)
 - Monte Faucett agreed to be the overall process owner for ‘all things DNC.’

Immediate actions items:

- Todd Binns gave Corbin a new list of distinct phone numbers from July and August that are on the DNC list and cannot be tracked to particular campaigns.
- Corbin will sort through list as he did before and try to determine result codes for the calls made to those numbers.
 - Todd Binns and Corbin previously analyzed phone numbers, error rates, etc.
 - Corbin and Randy clarified that we have result codes for each phone call in the phone call log. The codes indicate if a number was busy, if we reached answering machine, etc. Legal may use these to try to reduce our liability/exposure. For example, we could argue that we should not be fined for calling a number that was busy.
- We started a conversation about what dates the FTC gives us and how we then modify the dates when we process the files. The FTC provides (and we download) two kinds of DNC files, one that is comprehensive (with about 135M records) and another with incremental changes. Monte downloads the comprehensive file every 30 days if I’m not mistaken. He downloads the incremental files as they are made available by the FTC. He sends the files to the Outbound Reporting team to pre-process the files and break them into smaller pieces, usually five.

- The larger, comprehensive file apparently contains only phone numbers, no dates. The FTC (via AT&T) does not include effective dates or expiration dates in this file. Monte downloads this file every 30 days.
- The incremental files contain changes (deltas) from one file to the next. According to people in meeting, these files contain effective and expiration dates for the phone numbers.
- It appears that we already identified possible issues with how EchoStar changes effective and expiration dates in the phone numbers that we load. This need to continue this conversation very soon.
- There may also be opportunity to automate more of the process, especially early on. The data warehouse, for example, has tools to schedule jobs that run at certain times every day, week or month as necessary. The jobs can process files, move them to other locations, load them into databases, all with error logging in case something goes wrong. This could eliminate the work the Outbound Reporting team does.
- I asked the data warehouse (via Corbin Thompson and Tim Gattone) to fully document its role in the DNC process. If Todd or Monte continues to map out earlier stages of the process, the data warehouse can plug in its section to get a full view.
- Dana wants every person involved in the process to indicate whether they did everything they could to ensure their part of the process worked flawlessly.

Subject to Attorney-Client Privilege.

Thx,

Randy

EXHIBIT 495

EXHIBIT 495

JA011008
009805

TX 102-010270

From: Hargan, Denise <Denise.Hargan@echostar.com>
Sent: Thursday, June 7, 2007 11:32 AM
To: Pastorius, Emily <emily.pastorius@echostar communications corp.com>
Subject: RE: Recycled Leads Process

It would really help to make sure I'm always in the loop on these matters based on my DNC involvement and knowledge base. Makes it harder for these folks to get around the "rules" – which they will try to do – especially marketing☺.

Denise L. Hargan, Senior Paralegal
EchoStar Satellite L.L.C.
Direct Line: 720-514-5449
Direct Fax: 303-723-3928

Confidential - Attorney Client Work Product Privilege

From: Pastorius, Emily
Sent: Thursday, June 07, 2007 9:08 AM
To: Hargan, Denise
Subject: RE: Recycled Leads Process

I referred them to Lori Kalani, who is more up to speed at the moment on outbound telemarketing / privacy issues than I.

From: Hargan, Denise
Sent: Thursday, June 07, 2007 8:58 AM
To: Pastorius, Emily
Cc: Blum, Jeffrey
Subject: FW: Recycled Leads Process

Just wondering if you responded to this? I have serious concerns about what has been proposed below. Perhaps we should set up a meeting and discuss with Brian, Mark Gotto and Russell.

Denise L. Hargan, Senior Paralegal
EchoStar Satellite L.L.C.
Direct Line: 720-514-5449
Direct Fax: 303-723-3928

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From: Pacini, Brian
Sent: Thursday, May 31, 2007 1:54 PM
To: Pastorius, Emily
Cc: Bangert, Russell; Gotto, Mark; Hargan, Denise
Subject: FW: Recycled Leads Process

Hello Emily,

I work in Marketing and I am in charge of analytics and list selection on direct marketing campaigns. This includes outbound telemarketing. With Dana Steele's departure, it is my understanding that you are the attorney for DNC concerns. Is that correct? If so, we are tasked with a new initiative to send inquiry phone calls that have gone stale (30 to 50 days after the initial inbound call) to a retailer.

We have concerns over the legal/DNC/privacy concerns for an outside company calling out lists. Are you the best person to advise us on our concerns?

Thanks,

Brian Pacini
Analytical Marketing
EchoStar Communication Corp
brian.pacini@echostar.com



JA011009
009806
DISH8-0034987

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PX0704-001

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TX 102-010271

From: Pacini, Brian
Sent: Wednesday, May 30, 2007 2:20 PM
To: Carlson, Erik; Stingley, Tom; Binns, Todd; Gotto, Mark; Bangert, Russell
Cc: Klein, Phil; Lanning, Steve; Williamson, Jeremy; Neylon, Brian
Subject: RE: Recycled Leads Process

Will defender be calling on our behalf? Are all the legal and privacy concerns covered?

Thanks,

Brian

From: Carlson, Erik
Sent: Wednesday, May 30, 2007 12:44 PM
To: Pacini, Brian; Stingley, Tom; Binns, Todd; Gotto, Mark; Bangert, Russell
Cc: Klein, Phil; Lanning, Steve; Williamson, Jeremy; Neylon, Brian
Subject: RE: Recycled Leads Process
Importance: High

Have we made any progress on this? I would like to get Defender leads this week as they are setting up there campaign to begin next week. I have a contact person at Defender and need the like for EchoStar that can manage the list distribution and work with Defender on the results.

Here is the test we discussed with them last week.

10,000 leads in 3 categories. They will be blind to the categories (we send one file of 10,000 leads) however we need to be able to track per category.

1. "Dead Leads" We have attempted outbound and mailed with no result. 30 days old but no greater than 45 days. - 8,000 leads
2. "Day 1" We have not touched. Provide the leads to Defender vs. sending them to Gotto's group to outbound - 1,000 leads
3. "Day 10" We have attempted to call with no sale and now are sending mail - 1,000 leads

Please let me know when/if this is possible.

Thanks,
Erik

From: Pacini, Brian
Sent: Monday, May 21, 2007 10:53 AM
To: Stingley, Tom; Carlson, Erik; Binns, Todd; Gotto, Mark; Bangert, Russell
Cc: Klein, Phil; Lanning, Steve; Williamson, Jeremy
Subject: Recycled Leads Process

Here is the outline of the recycled lead tracking process. I included to dos and owners of the to dos.

Thanks,

Brian Pacini
Database Marketing
EchoStar Communication Corp
brian.pacini@echostar.com

EXHIBIT 496

EXHIBIT 496

JA011012
009809

TX 102-010274

From: Davis, Bob <Bob.Davis@echostar.com>
Sent: Friday, June 6, 2008 9:40 PM (GMT)
To: Pastorius, Emily <emily.pastorius@echostar.com>
Subject: RE: Sales Leads to Defender

It is Defender...

From: Pastorius, Emily
Sent: Friday, June 06, 2008 3:40 PM
To: Davis, Bob
Subject: RE: Sales Leads to Defender

Do you know which retailer? Is it Defender or Elephant Group (aka Marketing Guru/SatelliteSales)?

From: Davis, Bob
Sent: Friday, June 06, 2008 1:49 PM
To: Pastorius, Emily
Subject: FW: Sales Leads to Defender
Importance: High

Emily,

We were just made aware of a new Acquisition initiative from Marketing. It appears that we will be sending warm leads to a retailer / vendor to dial on our behalf. In order to be sure we are in compliance, I wanted to run this by you. Our plan is to conduct a full Federal, State, Wireless, Internal scrub on this list.

Thoughts?...let me know if there are other considerations with this type of campaign.

Thanks,
Bob D.

From: Pacini, Brian
Sent: Friday, June 06, 2008 1:16 PM
To: Schmidt, Caio; Sorensen, Scott
Cc: Davis, Bob; Montano, Joey
Subject: RE: Sales Leads to Defender
Importance: High

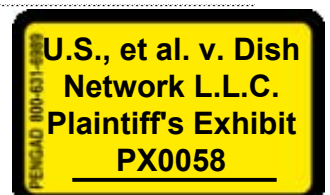
Caio,

I don't think you answered this question. You are coordinating with Bob's group, correct?. If Defender is calling on our behalf then we are responsible for the DNC scrub, which means it should probably go through Bob's group.

I made the needed changes to the code and am ready to kick these off. Please call me to discuss.

Brian

From: Pacini, Brian
Sent: Thursday, May 29, 2008 5:16 PM
To: Schmidt, Caio; Sorensen, Scott
Subject: RE: Sales Leads to Defender



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JA011013
009810
DISH5-0000066604

TX 102-010275

What does this mean for Bob Davis's group and Possible Now? Do they need to scrub the files? Does Defender need to scrub via Possible Now.

Thanks,

Brian

From: Jacobson, James
Sent: Thursday, May 29, 2008 5:04 PM
To: Pacini, Brian; McElroy, Steve
Cc: Schmidt, Caio; Sorensen, Scott
Subject: RE: Sales Leads to Defender

Defender **IS** calling on behalf of Dish Network. Legal steps have been taken for this to be appropriate.

James Jacobson
Vice President of Sales
Dish Network
9601 S. Meridian Blvd.
Englewood, CO 80112
Phone: 303-884-5150
Email: james.jacobson@echostar.com

-----Original Message-----

From: Pacini, Brian
Sent: Thursday, May 29, 2008 4:45 PM
To: Jacobson, James; McElroy, Steve
Cc: Schmidt, Caio; Sorensen, Scott
Subject: RE: Sales Leads to Defender

Is Defender calling on our behalf? Before, they were not, and we had to do a full DNC scrub which impacted performance and list size.

Thanks,

Brian

-----Original Message-----

From: Jacobson, James
Sent: Thursday, May 29, 2008 4:43 PM
To: McElroy, Steve
Cc: Schmidt, Caio; Sorensen, Scott; Pacini, Brian
Subject: RE: Sales Leads to Defender

Steve:

We will provide the first batch of leads for Defender by the end of next week (6/6). Please let me know as soon as you learn the number of agents they'll be using so that we can determine the appropriate batch size. Thanks.

James Jacobson
Vice President of Sales
Dish Network
9601 S. Meridian Blvd.
Englewood, CO 80112
Phone: 303-884-5150
Email: james.jacobson@echostar.com

-----Original Message-----

From: McElroy, Steve
Sent: Monday, May 19, 2008 3:44 PM
To: Jacobson, James
Subject: RE: Sales Leads to Defender

James,

Can you provide me an ETA on getting the first list of leads?

Thanks,
Steve

-----Original Message-----

From: Jacobson, James
Sent: Wednesday, May 07, 2008 2:11 PM
To: Stingley, Tom
Cc: McElroy, Steve
Subject: RE: Sales Leads to Defender

Okay. Thanks.

James Jacobson
Vice President of Sales
Dish Network
9601 S. Meridian Blvd.
Englewood, CO 80112
Phone: 303-884-5150
Email: james.jacobson@echostar.com

-----Original Message-----

From: Stingley, Tom
Sent: Wednesday, May 07, 2008 1:57 PM
To: Jacobson, James
Cc: McElroy, Steve
Subject: RE: Sales Leads to Defender

Yes. Done deal to work with Defender on this opportunity. We need to put together a bucket of LTS leads. I am open to providing a few different buckets to Dave to call - 7 day, 30 day and 60 day and see how he does with them. We need to balance our bucket with what we also provide him. We need a plan to review and a recommendation understanding that we do not want to take away from our own OTM but rather compliment it or grow it.

Work with Steve on a plan.
Tom

-----Original Message-----

From: Jacobson, James
Sent: Wednesday, May 07, 2008 1:42 PM
To: Stingley, Tom
Subject: Sales Leads to Defender

Tom:

I need your insight into a commitment we have made to Defender to provide sales leads out of Direct Sales.

My understanding from Steve McElroy is that you and Jim made this commitment to David Lindsey and that it is a done deal. After speaking with Mark Gotto, he believes the intent is to work with Brian Paccini (Steve Lanning's team) to provide the Aged LTS (lead tracking system) List greater than 60 days.

Please confirm that my understanding is correct. Also, is this a one time thing or have we agreed to provide this on a consistent basis and with what frequency?

Thank you.

James Jacobson
Vice President of Sales
Dish Network
9601 S. Meridian Blvd.
Englewood, CO 80112
Phone: 303-884-5150
Email: james.jacobson@echostar.com

-----Original Message-----

From: McElroy, Steve
Sent: Wednesday, May 07, 2008 8:06 AM
To: Jacobson, James
Subject: Fw: Additional Language for Exhibit A to the DISH Telemarketing Agreement - Additional Residential Incentive Schedule

James,

I need a process to deliver lists of old tired direct sales leads to Defender.

Can you help me with this?

Steve

-----Original Message-----

From: David Lindsey <dlindsey@defenderdirect.com>
To: McElroy, Steve
CC: mjc@kgirlaw.com <mjc@kgirlaw.com>; Stingley, Tom
Sent: Tue May 06 21:20:22 2008
Subject: Re: Additional Language for Exhibit A to the DISH Telemarketing Agreement - Additional Residential Incentive Schedule

I did not recall how Jim was planning to handle that. I guess we can make it that way and then talk again in June. Mark please adjust.

Steve how is the list coming?

Dave Lindsey

Sent from my Blackberry mobile device

-----Original Message-----

From: McElroy, Steve <Steve.McElroy@echostar.com>
To: David Lindsey
CC: Mark Colucci <MJC@kgirlaw.com>; Stingley, Tom <Tom.Stingley@echostar.com>
Sent: Tue May 06 13:03:50 2008
Subject: RE: Additional Language for Exhibit A to the DISH Telemarketing Agreement - Additional Residential Incentive Schedule

Dave,

Thank you for getting this to us.

One point of clarification. It is my understanding that when Jim DeFranco adjusted your volume tiers, that he did this for a temporary time frame running April 2008 through June 2008. The language below assumes that the tier would stay at the same 8000 volume level even beyond June 30th. Can you please have your attorney change the language to reflect the fact that your tiers will return to the agreement schedule at the end of June before I

submit it to our legal department for finalization.

If I have misunderstood anything, please let me know.

Respectfully,

Steve

From: David Lindsey [mailto:dlindsey@defenderdirect.com]
Sent: Monday, May 05, 2008 4:17 PM
To: McElroy, Steve; Stingley, Tom
Cc: Mark Colucci
Subject: FW: Additional Language for Exhibit A to the DISH Telemarketing Agreement - Additional Residential Incentive Schedule

fyi, please see proposed language below...

if we can incorporate these two items we are ready to sign. can you please send me a clean execution copy with directions on how to execute?

thanks!
Dave Lindsey
DEFENDER Direct, Inc.
Authorized Dealer for ADT, DISH and GE
office: 317-253-5200 ext. 202
fax: 317-536-0358
dlindsey@defenderdirect.com

From: Mark Colucci [mailto:MJC@kgirlaw.com]
Sent: Monday, May 05, 2008 2:11 PM
To: David Lindsey
Subject: Additional Language for Exhibit A to the DISH Telemarketing Agreement - Additional Residential Incentive Schedule

Dave,

As we discussed, Defender wants to include language in the Telemarketing Agreement with DISH that memorializes DISH and Defender's agreement that (i) each "activation of a new Residential Subscriber Account" under the Telemarketing Services Agreement will be deemed a "New Account" for purposes of Section 5 or Exhibit "B" to the Second Amendment to EchoStar Retailer Agreement, and (ii) that Section 5 is amended such that the Incentive is paid at 8,000 New Accounts rather than 15,000 as provided in the Second Amendment. Correct me if I am wrong, but I don't think Section 4 of Exhibit B of the Second Amendment is affected.

I would suggest the following language as a new Section 4 to Exhibit "A" of the Telemarketing Agreement:

4. Alternative Growth Incentives. New activations of Residential Subscriber Accounts for which Supplier correctly and completely performed the order entry tasks related to the provisioning of Eligible Residential Programming (as defined in the Incentive Payment Structure Business Rules) for such accounts (which programming is activated within 14 days from the date of initial activation) using the OE Tool shall be credited toward Supplier's Alternative Growth Incentive as new Residential Subscriber Account activations, pursuant to Section 5 of Exhibit "B" of that certain Second Amendment to EchoStar Retailer Agreement, effective as of June 1, 2007, by and between Supplier and EchoStar Satellite Corporation (the "Amendment"), wherein Supplier is referred to as "Retailer." Provided that, the parties hereto agree, and DISH on behalf of EchoStar Satellite Corporation agrees, that the words "fifteen thousand (15,000)" at line 5 of Section 5, of Exhibit B of the Amendment shall hereby be amended to read "eight thousand (8,000)" and the chart within said Section 5 shall hereby be amended to read:

GROSS NEW RESIDENTIAL SUBSCRIBER ACCOUNT ACTIVATIONS

ALTERNATIVE GROWTH INCENTIVE PER NEW RESIDENTIAL SUBSCRIBER ACCOUNT ACTIVATION

8,000+

\$10.00

Except as expressly modified herein, the EchoStar Retailer Agreement, as previously amended, shall remain in full force and effect in accordance with its terms and conditions. Except as expressly modified herein and by the amendments to the EchoStar Retailer Agreement, there are no written or unwritten side agreements or oral agreements between the parties which alter, amend, modify or supplement the EchoStar Retailer Agreement. The distribution of this Section 4 shall not be construed as an admission or acknowledgement by DISH that Supplier is not in breach or default of the terms and conditions of the EchoStar Retailer Agreement or any Other Agreement.

Mark Colucci
Attorney at Law

Kroger, Gardis & Regas, LLP
111 Monument Circle, Suite 900
Indianapolis, Indiana 46204-5125
(317) 692-9000 · Fax (317) 777-7417

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PX0058-006

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JA011018
009815
DISH5-0000066609

TX 102-010280

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EXHIBIT 497

EXHIBIT 497

JA011020
009817

TX 102-010282

From: Han, Bernie <Bernie.Han@echostar.com>
Sent: Tuesday, August 12, 2008 6:45 PM (GMT)
To: Stingley, Tom <Tom.Stingley@echostar.com>; Blum, Jeffrey <Jeffrey.Blum@echostar.com>; DeFranco, Jim <Jim.DeFranco@echostar.com>; Van Emst, Blake <Blake.VanEmst@echostar.com>; Werner, Bruce <Bruce.Werner@echostar.com>
Subject: RE: privileged -
Important_Notice_Unauthorized_use_of_3rd_Party_Lead_Generation_and_Telemarketing_Services_0619072 (2)

the worry is that the monitoring for compliance is so impractical that it might be undermining the effectiveness of the policy. our estimate is that there are thousands of affiliates that our retailers deal with and yet we only had ten requests for approval over the timeframe of a year. i'm not sure why that is but either 1) they don't understand the policy/it's not clear but clearly dish is allowing some and they'll interpret it the way they prefer or 2) they understand but don't take it seriously

one alternative is that we communicate that they can't use any affiliate of any kind, period. that would certainly be much clearer and that would be very easy to monitor. not sure that is realistic but short of that, i think that clearly prohibiting non-u.s based parties would have some value

From: Stingley, Tom
Sent: Thursday, August 07, 2008 1:26 PM
To: Han, Bernie; Blum, Jeffrey; DeFranco, Jim; Van Emst, Blake; Werner, Bruce
Subject: RE: privileged -
Important_Notice_Unauthorized_use_of_3rd_Party_Lead_Generation_and_Telemarketing_Services_0619072 (2)

Bernie

We prohibit the use of any affiliate, sub agent, agent, third party call center, etc... whether they are US based or not unless we provide formal approval. We reiterated this in the chat to the retailers today along with the consequences associated with violation against the retailer agreement which can lead up to termination. We will also emphasize this in the retailer facts blast.

We have a formal process (on the retailer web site) whereby a retailer can provide us third parties that they request to do business with for approval.

The challenge is monitoring the retailers for compliance.

Tom

From: Han, Bernie
Sent: Thursday, August 07, 2008 8:58 AM
To: Han, Bernie; Blum, Jeffrey; DeFranco, Jim; Stingley, Tom; Van Emst, Blake; Werner, Bruce
Subject: RE: privileged -
Important_Notice_Unauthorized_use_of_3rd_Party_Lead_Generation_and_Telemarketing_Services_0619072 (2)

1) i believe we should specify that we prohibit the use of any non-u.s.-based affiliates, lead generators, or any other partners either directly or indirectly through other partners to generate orders for dish network in any way

2) i'm not sure that we should talk about a written consent process if we're not serious about it and everyone knows we're not serious about it. we don't even have the resources/ability to administer the approvals if everyone complied. while that policy still holds as it is part of our retailer agreements, including this message may dilute some credibility of the facts blast. does not including it, on the other hand, imply that you're free to use anyone else in the u.s. even if dirty?

From: Han, Bernie
Sent: Wednesday, July 30, 2008 2:14 PM
To: Blum, Jeffrey; DeFranco, Jim; Stingley, Tom; Van Emst, Blake; Werner, Bruce



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PX0662-001

DISH8-0000042

PRODUCED OVER DEFENDANT'S PRIVILEGE DESIGNATION UNDER COURT ORDER

TX 102-010283

Subject: privileged - Important_Notice_Unauthorized_use_of_3rd_Party_Lead_Generation_and_Telemarketing_Services_0619072 (2)

is this notice the same as what was sent last september?

how many consent requests have we received in the past 10 months? from how many retailers?

do we have a list of currently approved affiliates by retailer?

if a party breaches a retailer agreement by using an unauthorized affiliate, do we have the right to avoid the mediation/arbitration process since the agreement is no more?

From: Blum, Jeffrey

Sent: Wednesday, July 30, 2008 1:45 PM

To: DeFranco, Jim; Stingley, Tom; Han, Bernie; Van Emst, Blake; Werner, Bruce

Subject: Important_Notice_Unauthorized_use_of_3rd_Party_Lead_Generation_and_Telemarketing_Services_0619072 (2)

per yesterday's meeting, here is a draft of the affiliate facts blast for your review.

EXHIBIT 498

EXHIBIT 498

JA011023
009820

TX 102-010285

From: Blum, Jeffrey <Jeffrey.Blum@dishnetwork.com>
Sent: Thursday, July 8, 2010 6:29 PM
To: Kitei, Brett <Brett.Kitei@dishnetwork.com>; Berridge, Kimberly <Kimberly.Berridge@dishnetwork.com>
Subject: RE: Certification Report

good job

From: Kitei, Brett
Sent: Thursday, July 08, 2010 4:40 PM
To: Blum, Jeffrey; Berridge, Kimberly
Subject: FW: Certification Report

FYI –

Brett J. Kitei
Corporate Counsel | DISH Network L.L.C.
(303) 723-2290 [p] | (720) 514-8479 [f] | brett.kitei@dishnetwork.com

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT OR CONFIDENTIAL TRANSMITTAL
This transmittal may contain privileged and confidential information and is intended only for the recipient(s) listed above. If you are neither the intended recipient(s) nor a person responsible for the delivery of this transmittal, you are hereby notified that any distribution or copying of this transmittal is prohibited. If you have received this transmittal in error, please delete this e-mail immediately and notify Brett Kitei at (303) 723-2290 or by return e-mail.

From: Ken Sponsler [mailto:ksponsler@compliancepoint.com]
Sent: Thursday, July 08, 2010 2:37 PM
To: Kitei, Brett
Cc: Alysa Zeltzer Hutnik (AHutnik@KelleyDrye.com)
Subject: Certification Report

Brett,

Please see the attached telemarketing and Do Not Call certification report. I would like to thank you and Bob Davis for providing our staff with full cooperation and for opening all the doors to this process. We have seen firsthand that DISH is taking compliance very seriously and has made significant investments in technology and personnel.

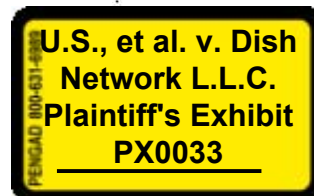
Please reach me with any comments or concerns.

Best regards,

Ken Sponsler, CIPP, PMP
Vice President and General Manager



Office: 770 255-1020
Direct: 770 255-1094
Conference: 678 252-1076
Mobile: 770 363-7149
www.compliancepoint.com



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DISH8-0004564

PX0033-001

DishNetwork-JA0-1002013
009821

TX 102-010286



This e-mail is not to be construed as legal advice nor should it be used as a substitute for legal counsel. Please seek the opinion of your attorney regarding matters of law.

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DISH8-0004565

PX0033-002

DishNetwork LA011025
TX 102-010287 009822

TX 102-010287



July 8, 2010

Re: DISH Network Corporate Telemarketing Compliance Certification

Background

On May 3-4, 2010, CompliancePoint, Inc performed a telemarketing and Do Not Call compliance assessment of DISH Network's current operational, technical and business processes at the direction of the law firm Kelley Drye & Warren, LLP. The assessment included interviews with DISH employees and managers as well as reviews of available documents and data. The purpose of the assessment was to determine if DISH Network was meeting US federal and state telemarketing and Do Not Call compliance requirements.

In addition to interviews, CompliancePoint was able to review onsite processes as well as compliance related documents and data sources available through DISH Network's compliance technology partner, PossibleNOW.

About CompliancePoint, Inc

CompliancePoint, Inc is a wholly owned subsidiary of PossibleNOW, Inc, the leading provider of consumer privacy preference compliance technology products and services. CompliancePoint has conducted dozens of consumer privacy preference compliance assessments, audits and validations. The company currently monitors compliance of dozens of call centers on behalf of sellers that employ their services. CompliancePoint also performs calling data compliance audits that help sellers ensure outbound calls were compliant at the time of dial. Our staff is comprised of Certified Information Privacy Professionals and Certified American Teleservices Association Self Regulatory Organization auditors, with extensive experience in federal and state telemarketing and Do Not Call regulatory and operational requirements. Members of our staff are frequent speakers at industry events.

Discussion

CompliancePoint assessed the following general compliance areas:

- **DNC Suppression** – ensures that the telemarketer has a sound process to suppress all DNC numbers from federal, state, internal and wireless DNC lists if applicable.
- **Company-specific Internal DNC list** – ensures that the telemarketer employs a process to collect and honor consumer DNC requests for internal as well as any third party service bureaus within 30 days of request.
- **DNC Policy** – ensures that the telemarketer possesses and abides by an appropriate DNC Policy and maintains the capability to send out a consumer version upon request, and maintains applicable records of related activities.
- **Training** – ensures that the telemarketer trains its agents as well as any third parties on the telemarketing rules, their DNC Policy and maintains records of such training in accordance with federal and state requirements.
- **Written Compliance Guidelines** – ensures that the telemarketer has documented processes to comply with the federal and state DNC requirements including all relevant areas of the regulations.
- **Telemarketer Registration** – ensures that the telemarketer has registered in all the applicable states that would require telemarketer registration and has valid exemptions in the states that registration has not been completed.

Prepared at the Direction of Counsel–Kelley Drye & Warren, LLP

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Confidential - U.S. v. DISH

DISH11-020903

PX0033-003

DishNetwork-JA0110265
009823

Privileged and Confidential Attorney-Client Work Product

- **Record Keeping** – ensures that the telemarketer maintains all applicable records in accordance with federal and state regulations.
- **Scripting Disclosures** – ensures that the telemarketer's scripts include all applicable federal and state scripting disclosures such as permission to continue, immediate disconnect and state specific rules and that agents verbalize these disclosures during outbound calls.
- **DNC Exemption Compliance** – ensures that the telemarketer is managing DNC exemption criteria in accordance with federal and state requirements.
- **Calling Time Restrictions** – ensures that the telemarketer is adhering to federal and more restrictive state calling time and holiday restrictions.
- **Compliance Monitoring and Enforcement** – verifies that the telemarketer has implemented sufficient monitoring and enforcement policies and procedures to ensure compliance with company, federal and state requirements.
- **Call Abandonment Rate Compliance** – verifies that the telemarketer is complying with the federal call abandonment rate safe harbor provisions.
- **Caller ID Compliance** – ensures that the telemarketer is displaying the appropriate caller ID name and number on all outbound calls.
- **Other Compliance Areas** – verifies the telemarketer is complying with federal and state requirements relative to their specific telemarketing activities including two party consent rules, appropriate use of prerecorded messages, novel payment method rules, free to pay, debt collection rules etc.

Findings

Our findings indicate that DISH Network has employed sufficient policies, procedures and processes to ensure compliance with relevant federal and state telemarketing rules. The company has employed a compliance department staff at the corporate level that oversees campaign compliance including scripting reviews, campaign life cycle management, DNC suppression and third party monitoring and oversight. Managers at lower levels are directed to enforce compliance mandates and procedures.

Customer concerns, including DNC complaints are elevated to the Executive Response Team (ERT) for immediate resolution. An escalation plan is effectively managed at all levels to ensure DISH remains aware of compliance anomalies should they occur.

The vast majority of DISH Network's telesales are through inbound calls. Our audit reveals that DISH Network has subscribed to and suppresses against all relevant DNC lists in accordance with federal and state requirements. An audit of DISH Network's current SAN reveals a current subscription to all available area codes. DISH Network accesses their version of the National Registry on a daily basis through their affiliation with their compliance suppression provider, PossibleNOW, Inc.

All outbound campaigns undergo a two-part suppression process utilizing PossibleNOW's services as well as internal suppression technology. An audit of the suppression parameters being employed indicates compliance with all federal and state DNC and exemption criteria. Outbound campaign files used internally as well as distributed to third party vendors are active for only 15 days. At the conclusion of the 15 day life cycle, campaign files are purged from the dialers and re-suppressed to ensure compliance with DNC requirements. DISH Network performs all DNC suppression processes prior to sending campaign files for outbound dial to third party telemarketers.

Consumer DNC requests are entered directly into the dialer system by agents resulting in suppression from further calls by the following day. DISH provides an intranet solution (CC Web) to enable third party agents to input and access company-specific DNC information. Inbound as well as outbound agents have access to CC Web. Our audit reveals that DISH Network's processes to accept and honor a consumer's request not to be called will not exceed 15 days maximum from the date of request. Agents are able to send consumers a version of the DISH DNC Policy upon request through the CC Web interface.

Agents are trained on federal and state specific scripting requirements as well as the DISH DNC Policies. Dialer technology employed by DISH and their third party telemarketers support compliance with state specific scripting disclosures as well as call time restrictions.

Privileged and Confidential Attorney-Client Work Product

Call abandonment rate compliance is monitored by the DISH compliance staff on a weekly basis. Third party telemarketers are required to submit weekly call abandonment reports as well. Our audit indicates that call abandonment rates average less than 2% overall. Call abandonment is calculated by the total number of abandoned calls divided by the total number of calls answered by a live person per campaign per 30 day period. Reports of compliance are maintained as required.

Our audit reveals that DISH Network ensures compliance with federal and state EBR allowances by capturing a consumer's inquiry date for inquiry exemptions and last payment date for transaction exemptions. A review of the EBR suppression tables used by DISH reveals full compliance with federal and more restrictive state exemption rules relevant to each campaign type.

Dial attempts per consumer are limited to six attempts per campaign life cycle (15 days). The consumer's number is automatically removed from the dialer after the six attempts have been made.

DISH Network and its two third party telemarketers display a toll free number Caller ID on every outbound dial. Telephone service provider technology does not currently allow the display of a name. Consumers calling the toll free number reach DISH Network's IVR system where DNC requests may be accepted and processed in accordance with procedures described earlier. The IVR is active 24 hours per day.

Our audit reveals that DISH Network is registered as a telemarketer in states that require registration with two pending approvals in Maine and New Jersey.

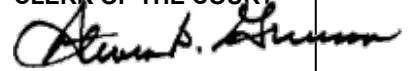
Telemarketing agents are monitored for compliance by supervisors randomly. DISH requires that each agent's calls are monitored for quality and compliance minimally twice per month. Reports of call monitoring are maintained. Agent non-conformance is reported to supervisors for enforcement action which includes counseling, retraining or dismissal.

Corporate compliance monitoring is accomplished through periodic report requirements, agent monitoring and QA activities. Records appear to be maintained in accordance with requirements.

Recommendations

Our audit of DISH Network's compliance processes, procedures and policies indicates full compliance with relevant federal and state DNC and telemarketing requirements. The company has employed a compliance and legal review capability that manages the campaign life cycle in accordance with requirements. Third parties are monitored and are required to submit periodic reports of compliance. DISH appears to be exerting sufficient procedures to remain in full compliance and contractually obligates third parties to comply as well.

In our opinion, DISH Network could benefit from bolstering its written policies documentation to more accurately reflect its actual due diligence efforts.



1 **APEN**

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19 *Nominal Defendant DISH Network*
20 *Corporation*

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

23 **PLUMBERS LOCAL UNION NO. 519 PENSION**
24 **TRUST FUND and CITY OF STERLING**
25 **HEIGHTS POLICE AND FIRE RETIREMENT**
26 **SYSTEM, derivatively on behalf of nominal**
27 **defendant DISH NETWORK CORPORATION,**

28 Plaintiffs,

v.

CHARLES W. ERGEN; JAMES DEFRANCO;
CANTEY M. ERGEN; STEVEN R.
GOODBARN; DAVID MOSKOWITZ; TOM A.
ORTOLF; CARL E. VOGEL; GEORGE R.
BROKAW; JOSEPH P. CLAYTON; and GARY
S. HOWARD,

Defendants,

DISH NETWORK CORPORATION, a Nevada
corporation,

Nominal Defendant

CASE NO.: A-17-763397-B
DEPT. NO.: XI

**VOLUME 27 OF APPENDIX TO
THE REPORT OF THE SPECIAL
LITIGATION COMMITTEE OF
DISH NETWORK CORPORATION**

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 222-2500 ♦ Fax: (702) 669-4650

01:23903446.1

<u>Ex.</u>	<u>Date</u>	<u>Description</u>	<u>Page No.</u>
499	04/15/2011	Draft Script Risk Management, Audit and Compliance	9826
500	08/16/2011	Email from A. Dexter to S. Walden, et al.	9839
501	08/18/2011	Email from K. Berridge to B. Kitei	9847

DATED this 8th day of January 2019.

By /s/ Robert J. Cassity
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Robert J. Cassity, Esq. (9779)
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*Attorneys for the Special Litigation Committee of
Nominal Defendant DISH Network Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of January 2019, a true and correct copy of the foregoing **VOLUME 27 OF APPENDIX TO THE REPORT OF THE SPECIAL LITIGATION COMMITTEE OF DISH NETWORK CORPORATION** was served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

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EXHIBIT 499

EXHIBIT 499

JA011032
009826

TX 102-010294

DRAFT SCRIPT

04 15 11

Risk Management, Audit and Compliance

Slide 1 - Introduction (Bruce / Cesar)

Cesar Delgado (Latino translation)

Intro:

Good Afternoon, my name is Bruce Werner. Thanks for coming to our Risk Management Presentation. So we are all on the same page, let's start off with a Disclaimer.

The information that we share with you today is not legal advice and in no way replaces the direction that you may obtain from your advisors relative to your business. If you do have questions, we strongly recommend that you seek the advice of an attorney.

In addition, let's discuss your particular business issues outside of this venue. We will make every effort to address your individual concerns at your request.

I work in Retail Services Risk Management - Audit and Compliance. I've been part of this unit for almost seven years and in that time I've seen the group grow and adapt to a changing environment. Prior to coming to DISH I worked for US Bank - at the time it was the fourth largest bank in America. There I managed a Bank Card Fraud Operations team here in Denver. Earlier stops in my career included working for PrimeStar by TCI one of the early entrants into the DBS business.

Broadly, our Risk Management group is tasked with identifying and mitigating risks associated with new customer activations and incentive payments as outlined in Business Rules and the Retailer Agreement.

From the perspective of Retail Services then," What is Risk Management about?"

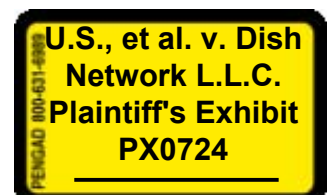
It's about support to the sales channels and our retailers.

Slide 2 - What is Risk Management? – (Bruce / Cesar)

Currently, Risk Management and Compliance is all about

- Overseeing compliance with the retailer agreement,
- Conducting audits, when appropriate
- Researching account discrepancies and / or
- Investigating suspicious behaviors
- Engaging and educating retailers and sales teams

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JA011033
DISH9-0005385

TX 102-010295

Slide 3 - Presenters - (Bruce / Cesar)

Joining me this morning are Reji Musso and Christina Voorhies.

Reji manages a team of folks that's all focused on what we call Compliance. [Peter works in the Sales Department and engages

- As you know the Retailer Agreement is a complex document
- Reji's group is focused on supporting and ensuring adherence with this document and its expectations

Reji Musso - Introduction: DISH 10 years, DNS 6 years, Retail Services – charged with building a Compliance Team to oversee retailer compliance with the agreement. In my last 4 years in Retail Services, we have worked to support our retailers and assist in understanding the complexities of the responsibilities of being a retailer for DISH Network as it relates to the Retailer Agreement. I am fondly (I hope) referred to as the DISH police, but certainly not the enemy. My team of 5 and I want to be a resource to help prevent potential issues and clear up any confusion.

Deleted: the

How many of you have contacted the Retail Care Line in the past? Well, in addition to managing Compliance, I am also responsible for managing the Quality Assurance for the Care Line.

Peter Moreno (Latino translation) – Intro

Peter: My name is Peter Moreno; I have been with Dish Network for almost 5 years. I started with as a Field Sales Development Representative, working with National Accounts and Alliance Partners training new sales personnel. For the past 4 years, I have worked in the Sales and Distribution division as an Area Sales Manager helping retailers grow their businesses while maintaining compliancy.

We stay very busy... just as

Christina, or Chrissy as many of us know her, is. She is my counterpart on the Audit side... and can share a little about her team?

Chrissy – INTRO... _____

Roger Hernandez (Latino Translation) - Intro

Christina / Roger - We have a lot of ground to cover today. Please make note of your questions on your handout and we will address them during the Q & A Session at the end of the presentation. We will also provide you with our contact information if we need to discuss anything offline.

Slide 4 – Course Objectives – (Christina / Roger)

Inform attendees of where Risk Management is, was and where we are going
Educate in areas that may have lacked focus in the past and clear up confusion
Remind attendees of the Responsibilities under the Retailer Agreement
Engage with the attendees, providing a forum for discussion

Throughout this presentation we are going to make every effort to provide you with information including the history and the future, a little education that may spark interest for your particular business model, some reminders about your obligations under the agreement and ultimately to engage in questions from the floor and additional discussion.

Let's just jump right into the topics that we want to cover historically and moving forward.

Slide 5 – Topics - (Reji / Peter)

This high level presentation will cover a variety of topics including trademark oversight, the use of Third Party Affiliates / Vendors. We will also discuss Offshore IP Addresses and Secondary Promotional Accounts. Last, but certainly not least, we will talk about the retailers' responsibilities regarding adherence to laws. All of these topics are included in portions of the Retailer Agreement that encompass Risk Management – Audit and Compliance.

Trademark Oversight – DISH and DISH Network are registered trade marks

Third Party Use – also known as affiliates

Offshore IP Access

Secondary Promotional Accounts also known as “Duplicates”

Adherence to Laws – Federal, State and Local

Reji / Peter – Trademark Oversight

Slide 6 - Authorized Retailer Logo

Is everyone familiar with this logo? We want to insure that you understand that this is the logo that you are required to use in all of your marketing materials, flyers, print ads, television, radio, e-mail, telephone identification, etc. If there is not enough space, then you must designate yourselves as “authorized retailer.” You may not answer your phones as DISH or DISH Network, but you may say “XYZ Satellite, Authorized Retailer for DISH or DISH Network.” If you have any questions about how to represent yourselves, please e-mail vendorinquiries@dishnetwork.com for additional information and direction.

Slide 7 - Today

The Retailer Agreement and the Trademark License Agreement will always be the governing documents. We have realized that additional attention is needed in educating, reminding and better defining the parameters for use of our various trademarks.

The overall objective for Trademark Compliance is to eliminate retailer confusion through education and feedback. Some of you may have been contacted in the matter of clarification and the correction with everything from logos to phone listings.

Comment [BK1]: Slide show says consumer confusion? Would revise slide to say “eliminate confusion”

From all of us in Compliance, we want to thank each and every one of you who do this RIGHT and abide by the terms of the Trademark License Agreement and use DISH® and DISH Network® appropriately.

Slide 8 - Tomorrow

As we move into tomorrow, we will be watching Social Media like Facebook and Twitter. There are blogs by and among retailers that express opinions, but they are not necessarily the opinions of DISH Network. We need to make sure to use appropriate logos and disclaimers. We recently published a "focuson" document that detailed the expectations. In fact, try to attend the class on Social Media.

Additionally, we are increasing our vigilance with the Internet. There is unauthorized use of our trademark by retailers and third parties alike.

Our direction is BRAND protection.

Oddly enough, some of our largest challenges with misrepresentation and misuse of our trademarks often occurs with unauthorized third parties and lead generation companies. Speaking of third parties, Bruce / Cesar is going to talk to us about some of the challenges we have and continue to encounter with unauthorized use of third parties.

Bruce,

Bruce / Cesar - Third Party Use

Slide 9 – Today

So who is authorized to use DISH Network logos and trademarks? You may be. At least retailers that have active retailer agreements are authorized. How about Third parties?

We realize that retailers engage third parties (also know as affiliates) to fulfill obligations under their agreement.

What exactly is an affiliate – in the terms of your agreement, a third party is an individual or company who generates leads or sales on your behalf and is NOT your employee. Bear in mind that we require submission of a form in order to "grant consent to use." We do not "approve" these vendors – you are wholly responsible for the risks and benefits of engaging with these affiliates. It is up to you to run your business.

You must receive express PRIOR written consent, according to the Agreement, to engage with third parties. This happens through vendorinquiries@dishnetwork.com. In addition, prior to the request, you must do your own due diligence on these affiliates i.e. reference checks, Google, obtain copies of marketing proposals, etc.

While these affiliates appeared to be interested in "Helping a retailer's business," they actually expose retailers to significant risk. The biggest risk we've seen is when affiliates sell leads which to unsuspecting retailers.

Comment [BK2]: Sentence needs to be reworked.

It isn't uncommon for retailers to receive unsolicited e-mails offering sales or leads. How many of you have received those e-mail contacts offering to get leads or sales for you? Some of these e-mails have asked retailers to provide login ID to enter sales directly. These affiliates have engaged in unacceptable behaviors i.e. qualifying new customers for other retailers using your credentials.

Deleted: retailers

What we do about it -

1. We look closely at the sales activity and talked to retailers
2. We publish Business Rules to reiterate what a retailer must do regarding 3rd Parties.
3. We emphasize the importance of Requesting Consent to Use **before using any third party**.

We see retailers complying with their agreement – requesting use of third party vendors before engaging. And this is important because ultimately it will help protect your business.

Additionally, Compliance maintains a “naughty” list and can direct you away from a company or individual who may seem like the best thing since sliced bread only to ultimately create more issues.

We are seeing a decline in the number of solicitation e-mails being generated because the positive response is just not there from our cautious retailers.

We also know for certain that these entities do not have your best interest in mind. They are interested in a quick profit and disappear into another business name and hit up the next unsuspecting retailer.

Slide 10 - Tomorrow

We investigate unauthorized affiliates and are able to identify the retailers that are working with an affiliate. It is not recommended to engage with a third party, especially one that is known to us and has been published in earlier communications.

Today, as are many other businesses, we are challenged with “phishing.” Accomplished and crafty individuals are gathering customer information by cleverly asking for it. Be aware and make sure you know who you are really talking to.

We have implemented a Personal Information Disclaimer and encourage you to do the same with your customers.

And, in case I haven’t stressed this enough, you must request the use of third party or Affiliate before you use them. If you don’t, you will be in violation of your agreement, creating harm to your business followed by serious consequences.

While we are on the topic of affiliates, I don’t want to forget to discuss a related issue – Off shore access to Dish Network tools. Many of the Affiliates that caused so much trouble for our retailers operated outside the US.

Bruce / Cesar - IP Addresses

Slide 11 – Today

Based on our Retailer Agreement, business must be conducted within the United States and its Territories.

We see hits from all over the world and this necessitates a remedy.

We have initiated communication with the retailers regarding these interactions.

In discussions, we also recognized that these identified retailers had seemingly legitimate reasons for conducting business from abroad. You told us that

1. You travel, and want to keep an eye on the business while away.
2. You were looking for sales support in various international markets.
3. You were approached by an individual or a business for lead generation.
4. You said it was cheaper.

What we learned from this experience is that most of these “Good Reasons” turned out to be risky.

To address the problems, we did quite a few things

4. We implemented Black and White List strategies to limit access. (Discuss the difference)
5. We did a lot to increase communication to alert retailer to the risks.
 - a. Reminded retailers of the importance of managing user names and passwords
 - b. We published Business Rules to define and clarify what a retailer must do regarding 3rd Parties.

We monitor the IP traffic and proactively address concerns with the retailers.

We have prohibited access to DISH Network tools from offshore.

We know when someone logs into the Retailer Care Site on the behalf of a retailer from offshore.

We can trace “hits” to specific retailers and we will address with those individuals.

Today we know that the biggest risks to DISH Network and frankly to your business come from outside the US.

Slide 12 – Tomorrow

Access to DISH Network tools from offshore will continue to be prohibited.

We will continue to analyze the data and address issues with identified retailers

We are looking to minimize and ultimately eliminate the unauthorized accesses that have a negative impact to your businesses and ultimately ours.

As I mentioned earlier, we would touch on Second Promotional Accounts (Duplicates). So, Chrissy / Roger, what’s new?

Christina / Roger – Secondary Promotional Accounts

Slide 13 – Today

Our team has evolved over the last few years.

We have shortened the length of time to complete audits and have refined the process to eliminate chargebacks of incentive payments by NOT paying for the duplicate sale initially.

We now work closely with our IT security team and have implemented an automated process that identifies possible previous and or existing customers that appear to be duplicated accounts. The system will provide data on a template which is assigned to a team of auditors.

The auditors will then confirm whether or not each account is entitled to receive an incentive.

As soon as the audit is completed our team will either exclude or chargeback the incentive based on our systems calculation schedule.

We provide a daily file that contains all of the affected retailers across the country and advise the team to provide you with tips and tools to help prevent future occurrences and mitigate risk.

If there is a dispute of the chargeback and once you are able to provide support to prove that the account should be eligible for payment, please send your dispute to audit.support@dishnetwork.com. We will review your information and approve or deny repayment as appropriate.

Deleted: After the audit was completed we would calculate a chargeback based on the fraud identified and communicate only with the retailer. In addition, any communication from our Audit team was a surprise. ¶
Today w

Slide 14 – Tomorrow

Ideally, stopping the qualification from resulting in an account is the best solution. This will protect DISH, your business and the consumer.

As a result this should reduce the amount of manual duplicate account audits processed and allow our team to focus on other potential risks such as Movers, additional incentive, and SSN review.

Reviewing SSN usage is critical – in fact, misuse of a consumer's credit file is unlawful. In that regard Reji wants to discuss adherence to laws for our retailers.

Reji / Peter – Adherence to Laws – Federal, State and Local

Slide 15 - Today

Compliance manages oversight for complaints that escalate from our Customer Service Centers that are not related to direct sales. We often connected them to a retailer and would then reach out to discuss and request a response relative to the complaint.

Through this oversight, we built relationships with retailers who found themselves on the wrong end of a complaint – some valid, some invalid.

Let's talk a little about the Telephone Consumer Protection Act (TCPA). This legislation governs Do Not Call expectations – and I'm sure most of you are familiar with that. There are many caveats to TCPA. Not only does it cover DNC, but it also covers interactions that could be perceived by the consumer as Frequent, Persistent, Rude, Obscene and / or Harassment. In fact, it applies if you are just using the telephone – returning calls from assumed opt-ins from trade shows or fairs, internet landing pages, referrals, etc.

So, how can you protect your business? I urge each of you to reach out to PossibleNOW, our approved vendor for DNC efforts to discuss your business model and what you may or may not need. Be aware that there are many states that also have DNC lists of their own and frequently rules that create additional requirements for the businesses soliciting customers.

Deleted: This legislation does not only apply to outbound telemarketing or cold calling. In fact, it applies if you are using a telephone – returning calls from assumed opt-ins from trade shows or fairs, internet pages, referrals, etc.

Deleted: 13

So, how can you protect your business? First of all, know the law. In addition, I urge each of you to reach out to PossibleNOW, our approved vendor for DNC efforts to discuss your business model and what you may need.

Deleted: Be aware that there are also 13 states that have DNC lists and there may also be rules that create additional requirements for your commercial customers.

My group also works with retailers on Attorney General or Better Business Bureau complaints. I cannot stress enough the importance of understanding the expectations of your state government and abiding by them.

For example, if you engage in Door to Door sales, there may be a right of rescission. There may be laws relative to signage. You may need special licenses or privileges to do business or installations in a specific state. It is a requirement of the Retailer Agreement that you educate yourselves, engage with your own legal counsel and abide by the rules governing your business at all levels.

We have devoted significant efforts in addressing these concerns with our retailers. As a result we have seen an overall decline in our complaint numbers.

As you should all know, in July of 2009, DISH entered into an Assurance of Voluntary Compliance which certainly impacted the way you were allowed to do business. Among other things, no longer were you able to charge third party cancellation fees. While we understand that this may have been painful, this was the right thing to do for consumers – all about best practices.

Deleted: I

Deleted: N

Within the context of the AVC there are things that you CAN do. You can charge a “processing fee” of up to \$49.99. Please folks, please be aware that this charge, if utilized has to be prior to or at installation. If a customer disconnects prior to the end of the contract, you cannot charge a retroactive activation fee. Anything charged at cancellation is a cancellation fee, plain and simple.

Deleted: could

You can also charge for unreturned equipment (MSRP) in the first 6 months; however, if the customer returns the equipment to DISH, which often happens, you must refund those monies.

Deleted: could

Slide 16 - Tomorrow

So where is Compliance going? We will continue to stay on top of any regulatory changes – and expect you to do likewise. We expect to see additional information regarding mobile messaging.

Social Media i.e. Twitter, Facebook, etc. (and by the way I urge each of you to take that class) is playing a role in the sharing of DISH products and opinions. There are Business Rules surrounding the use of this medium.

We will continue to focus on the Internet.

Take measures to reduce the LIKELIHOOD of consumer complaints. Make sure the customer is totally aware of the terms and conditions of the promotion. It's the "NO Surprises" theory.

Monitor and oversee your vendor compliance "Self police" and while we are also watching, your eyes and ears can help with reporting infractions that you observe.

We can work together to continue to drive good business and customers who want to stick with DISH.

Slide 17 Reji / Peter - SUMMARY

We have talked about a lot of things today – where we are TODAY and what's coming TOMMOROW regarding RISK MANAGEMENT – Audit and Compliance.

We talked about compliance with government requirements, eliminating financial gain for offshore entities through investigations and continued education and by minimizing access to our systems.

The creation of secondary promotional accounts is declining.

The chargeback periods have decreased.

We are proactively reaching out to retailers.

Bruce will review the sections of the Retailer Agreement relative to today's presentation.

Slide 18 - Bruce / Cesar — RETAILER AGREEMENT

All of what we have discussed today is predicated on the Retailer Agreement. These are the specific sections that we referenced throughout. It is important for you to be aware of these sections, not to the exclusion of others, but to understand that the rules have always been there – they are not new.

Slide 19 Chrissy / Roger — WRAP UP

And, here we are – full circle –

We hope that we have provided a good overview of Risk Management for each of you.

In the meantime, we hope you have learned something that you didn't know and that we have refreshed your memory with some of your obligations under your Agreement.

What we would like to do now is to take any questions that you might have.

SLIDE 20 – Inboxes for Compliance / Audit issues
Briefly discuss what goes to what inbox

SLIDE 21 – CONTACT INFO – presenters
Our e-mail contact info

SLIDE 22 – CONTACT INFO – POSSIBLE NOW

SLIDE 23 – QUESTIONS (INSERT SLIDE)

EXHIBIT 500

EXHIBIT 500

JA011045
009839

TX 102-010307

From: Dexter, Amy </O=ECHOSTAR COMMUNICATIONS
CORP/OU=ECHOSTAR/CN=RECIPIENTS/CN=AMY.DEXTER>
Sent: Tuesday, August 16, 2011 3:09 PM
To: Walden, Steven <Steven.Walden@dishnetwork.com>
Cc: Berridge, Kimberly <Kimberly.Berridge@dishnetwork.com>
Subject: FW: Flex list - Confidential/Privileged

Just to keep you in the loop, Latino Marketing (Juliana Kornell, Alfredo Rodriguez) have decided to go around the process outlined by myself and Kimberly (Legal) and make these calls themselves off the dialer. We have reiterated multiple times the risk they are taking by proceeding down this path.

The analytics team (Sherman Langford) had gone ahead and released the dial to directly to the marketing folks, so the ball is no longer in our court. It does seem like we might get a copy of the script they are planning on using so we can ensure there isn't a sales component, but this still leaves us with no record of the dials, time, date, result, etc.

Amy

Amy Dexter

Resource Manager
Outbound Operations
CSC Administration & Management
EchoStar Satellite, LLC
303-723-2484
Amy.Dexter@dishnetwork.com

From: Berridge, Kimberly
Sent: Tuesday, August 16, 2011 1:01 PM
To: Langford, Sherman
Cc: Dexter, Amy; Montano, Joey; Kitei, Brett; Head, Mike; Kornell, Juliana; Grauberger, Danette
Subject: RE: Flex list - Confidential/Privileged

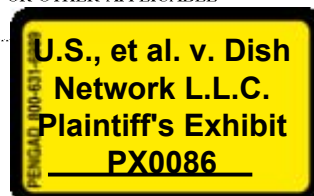
PRIVILEGE

Thank you for letting me know. However, as I stated in my email before we are taking a significant risk if we do not follow proper procedures on these calls.

Kimberly Berridge
Litigation Paralegal
Direct Phone: (303) 723-2171
Direct Fax: (720) 514-6351

THIS EMAIL MESSAGE AND ANY ATTACHMENTS ARE CONFIDENTIAL AND MAY BE SUBJECT TO THE ATTORNEY-CLIENT OR OTHER APPLICABLE PRIVILEGES

From: Langford, Sherman



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DISH9-0002314

TX 102-010308

Sent: Tuesday, August 16, 2011 12:55 PM
To: Berridge, Kimberly
Cc: Dexter, Amy; Montano, Joey; Kitei, Brett; Head, Mike; Kornell, Juliana; Grauberger, Danette
Subject: RE: Flex list - Confidential/Privileged

Kimberly, my team has provided the list to Juliana per direction from her VP, Alfredo. Alfredo was looped in on your email below (yesterday, 4:01pm email) prior to approving release of the list. I believe they are planning on sending the script for review, but will let Juliana weigh in on that.

Sherman

From: Berridge, Kimberly
Sent: Tuesday, August 16, 2011 12:21 PM
To: Kornell, Juliana; Langford, Sherman; Head, Mike
Cc: Dexter, Amy; Montano, Joey; Kitei, Brett
Subject: RE: Flex list - Confidential/Privileged
Importance: High

PRIVILEGE

I wanted to follow up on this because we have yet to be provided with a script for these surveys. It is essential that this script is reviewed for compliance with applicable telemarketing laws before this campaign is dialed.

Please let me know the status of this as soon as possible.

Thank you,
Kimberly

Kimberly Berridge
Litigation Paralegal
Direct Phone: (303) 723-2171
Direct Fax: (720) 514-6351

THIS EMAIL MESSAGE AND ANY ATTACHMENTS ARE CONFIDENTIAL AND MAY BE SUBJECT TO THE ATTORNEY-CLIENT OR OTHER APPLICABLE PRIVILEGES

From: Berridge, Kimberly
Sent: Monday, August 15, 2011 4:01 PM
To: Kornell, Juliana; Langford, Sherman; Head, Mike
Cc: Dexter, Amy; Montano, Joey
Subject: RE: Flex list - Confidential/Privileged
Importance: High

PRIVILEGE

All -

Due to the fact that we are currently in litigation with the FTC and four attorneys general relating to our making outbound telephone calls to customers we must follow proper procedures for all outbound calls. I know this seems like a burden for a small survey campaign like this one. However, the FTC has focused on our surveys in this litigation which means at some point we may be explaining these calls which makes having followed procedure and being able to provide dialing results critical. We also need to have the outbound team approve the script prior to making any calls because we must make sure that this is truly a survey campaign and does not include anything that could make it a telemarketing campaign instead.

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JA011047
DISH9-0002315
009841

TX 102-010309

If you have any questions please let me know.

Thanks,
Kimberly
Kimberly Berridge
Litigation Paralegal
Direct Phone: (303) 723-2171
Direct Fax: (720) 514-6351

THIS EMAIL MESSAGE AND ANY ATTACHMENTS ARE CONFIDENTIAL AND MAY BE SUBJECT TO THE ATTORNEY-CLIENT OR OTHER APPLICABLE PRIVILEGES

From: Dexter, Amy
Sent: Monday, August 15, 2011 2:45 PM
To: Kornell, Juliana
Cc: Montano, Joey; Langford, Sherman; Head, Mike; Berridge, Kimberly
Subject: RE: Flex list

Hello Juliana -

We understand you have a small outbound campaign that you want to reach out to subscribers who recently signed up under the Flex offer. Even though this is a small campaign, there are guidelines and procedures that must be followed for legal compliance. We need you to complete the attached form and return it along with a copy of the script you intend on using when making the calls. We will process the dial list accordingly and then you / your team members can come down and dial the campaign from a visitors cube on the 2nd floor which is equipped with a phone and computer from which you can place the calls. We must record specific data from each call attempt (date, time of call, number called, result of the dial, etc) which is all done through the dialer software which is on these computers.

Let us know if you have additional questions, as soon as you return the form and script, we will get the list from Mike and get it ready for you to dial on. Thanks -

Amy

Amy Dexter

Resource Manager
Outbound Operations
CSC Administration & Management
EchoStar Satellite, LLC
303-723-2484
Amy.Dexter@dishnetwork.com

From: Head, Mike
Sent: Monday, August 15, 2011 2:25 PM
To: Kornell, Juliana
Cc: Dexter, Amy; Montano, Joey; Langford, Sherman
Subject: RE: Flex list

Juliana,
I disagree that it's not an outbound campaign. We are making calls as representatives of Dish Network and that implies some obligations on our end that must comply with directions from our legal department. I have included Joey Montano and Amy Dexter to this message since they are more intimately aware of those issues.

Amy and Joey,
Can you address the issue of calling customers, even informally?

Thanks,

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DISH9-0002316
000842

TX 102-010310

Mike

From: Kornell, Juliana
Sent: Monday, August 15, 2011 2:16 PM
To: Head, Mike
Subject: RE: Flex list
Importance: High

Mike

Could you please send me the list? I have not talked with the outbound guys because this is not an outbound campaign. This is an informal call for the Latino team members to call about 30 customers that subscribed to the new FlexTV offer and understand why they subscribed and what part of the offer (marketing messaging) was more appealing to them.

Is it possible to exclude any "do not call" customers from the list?

Thanks,

Juliana

Juliana Kornell
Marketing Operations Manager
DishLATINO
9601 S. Meridian Blvd.
Englewood, CO 80112
Desk: (720) 514-5241
email: juliana.kornell@dishnetwork.com

From: Head, Mike
Sent: Wednesday, August 10, 2011 3:43 PM
To: Kornell, Juliana
Subject: RE: Flex list

Juliana,
The list is pulled. Have you spoken with the outbound guys yet?

From: Kornell, Juliana
Sent: Wednesday, August 10, 2011 1:04 PM
To: Langford, Sherman; LaraColores, Marcia
Cc: Head, Mike
Subject: RE: Flex list

Ira wants this project done by this Friday. Any possibility to get the list without the hyperion request?

Juliana Kornell
Marketing Operations Manager
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009843

TX 102-010311

From: Langford, Sherman
Sent: Wednesday, August 10, 2011 11:59 AM
To: LaraColores, Marcia; Kornell, Juliana
Cc: Head, Mike
Subject: RE: Flex list

You will want to escalate the ticket, probably from Alfredo. Didn't know it had been so long without any response from ITSD. Usually we will escalate after a week at most.

Sherman

From: LaraColores, Marcia
Sent: Wednesday, August 10, 2011 11:12 AM
To: Kornell, Juliana; Head, Mike
Cc: Langford, Sherman
Subject: RE: Flex list

Already did weeks ago

From: Kornell, Juliana
Sent: Wednesday, August 10, 2011 11:11 AM
To: Head, Mike; LaraColores, Marcia
Cc: Langford, Sherman
Subject: RE: Flex list

Is it possible to pull the list without the hyperion request for this time?

Marcia
Please send a ticket so you can send request through Hyperion moving forward.

JK

Juliana Kornell
Marketing Operations Manager
DishLATINO
9601 S. Meridian Blvd.
Englewood, CO 80112
Desk: (720) 514-5241
email: juliana.kornell@dishnetwork.com

From: Head, Mike
Sent: Wednesday, August 10, 2011 11:02 AM
To: Kornell, Juliana; LaraColores, Marcia
Cc: Langford, Sherman
Subject: RE: Flex list

I was just looking for the Hyperion request but I don't see one. Can you tell me the request ID?

Mike

From: Kornell, Juliana
Sent: Wednesday, August 10, 2011 11:01 AM
To: LaraColores, Marcia; Head, Mike
Cc: Langford, Sherman

Subject: RE: Flex list

Hi Mike

We just need a list of 30 accounts. Is it possible to get this list by the end of the week? This is for a project that Ira has requested.

Thanks,

JK

Juliana Kornell
Marketing Operations Manager
DishLATINO
9601 S. Meridian Blvd.
Englewood, CO 80112
Desk: (720) 514-5241
email: juliana.kornell@dishnetwork.com

From: LaraColores, Marcia
Sent: Wednesday, August 10, 2011 10:59 AM
To: Head, Mike
Cc: Langford, Sherman; Kornell, Juliana
Subject: FW: Flex list
Importance: High

Mike,
Could you please provide me with a list of Flex customers who acquired our service since 7/14/2011? The following criteria need to be included in the list. Could you please provide Juliana with the list once it is done, as I will be leaving on vacation?

- Flex subscriber
- Package
- Date of activation
- phone number
- name
- language of billing
- type of service (residential, commercial, MDU, partner, etc.)

Thanks
Marcia

From: Kornell, Juliana
Sent: Wednesday, August 10, 2011 9:49 AM
To: LaraColores, Marcia
Subject: FW: Flex list
Importance: High

Marcia

Per email below, could you please put together a list of Flex customers that subscribed after the FlexTV launch for the team to call? Three customers per team member.

We need this before you leave on vacation.

Thanks,

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DISH9-0002319
000845

TX 102-010313

JK

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Marketing Operations Manager
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9601 S. Meridian Blvd.
Englewood, CO 80112
Desk: (720) 514-5241
email: juliana.kornell@dishnetwork.com

From: Rodriguez, Alfredo (Dish Latino)
Sent: Wednesday, August 10, 2011 9:33 AM
To: Kornell, Juliana
Subject: FW: Flex

From: Bahr, Ira
Sent: Sunday, August 07, 2011 11:53 AM
To: Rodriguez, Alfredo (Dish Latino)
Subject: Flex

A--

I want to get some more info on the new Flex subs which the Flex offer is attracting. Do we know, for example, how many are MDUs? Also, I think you should assign your team to each call two of the new Flex customers and find out what they liked about the offer, and maybe drill down into which components of the deal were most attractive and why.

Thanks,

Ira

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DISH9-0002320
009846

TX 102-010314