

46. This course of conduct by DirecTV and RCA includes the engineering of a joint, anti-competitive boycott of EchoStar among the National Exclusive Retailers. To further police and maintain this boycott, the National Exclusive Retailers have communicated directly with one another and with DirecTV, and DirecTV has served as a conduit for indirect communication among the National Exclusive Retailers. Over and above adhering to the terms of the boycott, the foregoing retailers provide information to DirecTV about retailers who carry competing goods, such as EchoStar, so that DirecTV may terminate their contracts and otherwise penalize them, including by withholding from them money attributable to their past sales of DirecTV products, and by acting in concert with others to deprive them of access to other important products.

47. DirecTV's and RCA's actions were designed to exclude EchoStar from the high-power DBS market, and thus to harm EchoStar. In fact, these actions have directly and proximately harmed EchoStar by, among other things, raising EchoStar's costs of distributing its high-power DBS service and equipment, and by forcing EchoStar to distribute through retailers that are less efficient than the National Exclusive Retailers and therefore generally disfavored by consumers, thereby putting EchoStar at a competitive disadvantage.

48. These exclusive arrangements also harm all consumers, by, among other things, substantially limiting their ability to choose between high-power DBS service and equipment on the merits in an optimal competitive environment, by preventing consumers from readily comparing high-power DBS service and equipment on the merits, and by increasing the costs to consumers of attempting to compare the merits of such service and equipment. As a result of the

boycott, consumers face the remarkable situation that well-established retailers such as Best Buy and Circuit City refuse to sell a highly celebrated and dynamic new consumer electronics product.

DirecTV Enters into Exclusive Contracts with HDTV Manufacturers

49. In conjunction with its exclusive contracts with retailers, DirecTV has also demanded -- and received -- from the major manufacturers of HDTVs the exclusive right to embed high-power DBS receivers in their products. As with respect to retailers, the exclusivity is non-reciprocal: DirecTV is not contractually or otherwise limited to embedding its receivers in any particular brand of HDTV, and it is not limited to marketing or co-marketing its products and services in cooperation with any one manufacturer.

50. High-definition television is one of the most highly anticipated technological developments of the new millennium. The federal government has already approved it as the standard for future television broadcasts. The Consumer Electronics Association estimates that within eight years every household in America will have switched to HDTV, at a total investment of billions or even trillions of dollars.

51. From the standpoint of HDTV consumers, ordinary television is not a reasonable substitute for HDTV, any more than the grainy, black-and-white signals of the 1950s would be a substitute for viewers of color television today. Indeed, a consumer pays hundreds (even thousands) of dollars more for an HDTV than for a comparably-sized non-high-definition television. Having made such an investment, HDTV purchasers are likely to regard receiving only non-HDTV programming as a particularly unacceptable alternative.

52. High-power DBS has unique synergies with HDTV, and HDTV, in turn, represents substantially the most important future route of distribution for high-power DBS receivers, eliminating the need for additional receiving equipment capable of converting digital signals into a form the viewer's television can display. High-power DBS subscribers nationwide can already receive the special digital signal necessary for HDTV programming. An owner of an HDTV who resides in an area that does not offer HDTV signals via cable or over-the-air broadcasts (as is the case with most HDTV owners) has no alternative but to subscribe to a high-power DBS service.

53. The major manufacturers of HDTVs (and of HDTV set-top boxes) include RCA, Mitsubishi, Matsushita, Hitachi, Toshiba and ProScan. Together, these manufacturers account for a substantial percentage of the annual sales of HDTVs (and HDTV set-top boxes) in the United States. DirecTV has secured exclusive deals with all of these manufacturers, whereby each has agreed to "embed" DirecTV-compatible receivers, and only DirecTV-compatible receivers, in its HDTVs and HDTV set-top boxes. Each manufacturer has also agreed not to incorporate the receiving equipment for any other direct-to-home satellite services in its brand of television set (whether digital or analog, high-definition or standard definition).

54. These contracts unreasonably restrain trade, because they substantially foreclose competition for high-power DBS equipment and service, both in general and among HDTV owners in particular. The anti-competitive effects of these contracts outweigh their pro-competitive benefits, if any.

55. In addition, DirecTV has exploited its exclusive relationships with the HDTV manufacturers to police its exclusive deals with retailers. DirecTV has threatened that supplies of HDTVs -- a business of increasing importance -- will be withheld from any retailer that does not agree to become or remain a DirecTV exclusive retailer. DirecTV can also enforce this threat directly, because showroom models of HDTVs that include imbedded DirecTV receivers cannot be effectively demonstrated to consumers without a DirecTV feed, which DirecTV can withhold at any time.

DirecTV Signs Exclusive Agreements with Major Sports Leagues,
Including the NFL, That Preclude Competition by EchoStar

56. Although approximately a dozen NFL games are televised on network television (including cable-owned stations) each Sunday during the NFL season, an individual viewer using cable or over-the-air broadcasts cannot choose from among the games broadcast in different local markets. Rather, that viewer can watch only the two or three games made available in that viewer's local market.

57. DBS distribution, in contrast, permits the real-time broadcast of distant NFL games, and permits a viewer to watch more of the games. The ability of a high-power DBS provider to transmit distant NFL games enhances the attractiveness of high-power DBS service and further distinguishes it from network broadcasting and cable service, because cable companies cannot provide their subscribers with this sports programming feature.

58. DirecTV induced the NFL and its member teams into an agreement to jointly sell their rights in all football games to DirecTV, specifically boycotting EchoStar -- and only

EchoStar -- entirely. In addition, DirecTV offers these games in an all-or-nothing package to its subscribers at a fixed cost per season.

59. DirecTV induced the NFL to preclude EchoStar from even bidding for the rights to provide DBS transmission of certain NFL programming -- both at the time when DirecTV and the NFL entered into their original agreement, and when that original agreement with the NFL was up for renewal. The NFL advised EchoStar that its deal with DirecTV prevented it from considering any other DBS provider.

60. Eliminating EchoStar's ability to compete for NFL games is particularly unjustifiable in light of the fact that EchoStar specified that its bid would not have been conditioned on excluding DirecTV from also broadcasting the games.

61. DirecTV induced the NFL to exclude EchoStar and its millions of viewers by agreeing to pay the NFL not only on the basis of DirecTV's viewership, but on the basis of potential EchoStar viewership as well. That is, DirecTV paid the NFL not only for dealing exclusively with it, but also paid an additional amount to induce the NFL and its members teams specifically to boycott EchoStar.

62. DirecTV has entered into similar exclusive arrangements with other major sports leagues, including the NBA, with similar anti-competitive purposes and effects.

63. DirecTV's exclusive dealing agreements with the NFL and other sports leagues, particularly in conjunction with the sports blackout, syndicated exclusivity and network non-duplication rules that were recently made applicable to high-power DBS providers, will

effectively bar EchoStar from offering premium out-of-market (or "distant") sports programming to DISH Network customers. Each of these agreements lasts for a number of years, and each includes an exclusive re-negotiation period that precludes the sports league from even speaking with EchoStar about submitting a bid for the future rights to broadcast such programming.

64. These agreements unreasonably restrain trade, because they substantially foreclose competition for premium sports programming. The anticompetitive effects of these contracts outweigh the pro-competitive benefits, if any.

65. DirecTV's actions were designed to exclude EchoStar from the high-power DBS market, and thus to harm EchoStar. In fact, DirecTV's actions have directly and proximately harmed EchoStar by foreclosing it from including -- or even bidding to include -- these crucial sports broadcasts in its programming package, putting EchoStar at a competitive disadvantage. The ability to offer a wide array of distant NFL games and games of other sports leagues is a significant programming advantage for DirecTV over EchoStar.

66. These exclusive arrangements also harm EchoStar's subscribers, by, among other things, denying them access to the games, and harm DirecTV's own subscribers, because DirecTV forces them to purchase the games in an all-or-nothing package for an anti-competitive price.

67. The anti-competitive effects of DirecTV's exclusive-dealing agreements with the NFL and other major sports leagues are even greater since the recent application of sports blackout, syndicated exclusivity and network non-duplication rules to high-power DBS providers. These rules give the NFL and other major sports leagues the opportunity to police

their exclusive-dealing agreements with DirecTV by selectively blocking broadcasts of out-of-market (or distant) sports programming.

68. These anti-competitive exclusive arrangements are an abuse of DirecTV's market power, and each such arrangement further solidifies DirecTV's monopoly and makes future competitive abuses easier and more likely.

DirecTV Falsely Advertises Its High-Power DBS Equipment and Service,
and Falsely Disparages EchoStar, to Retailers and Consumers

69. In addition to predation and anti-competitive conduct designed to insulate it from competition, DirecTV has falsely advertised its high-power DBS equipment and service, made false and misleading statements or omissions about DISH Network, and disparaged EchoStar and DISH Network to retailers and consumers of high-power DBS equipment and service.

70. In order to discourage retailers (and customers) from doing business with EchoStar, DirecTV (through its sales personnel and representatives) has disparaged DISH Network in its trade or business by making false statements regarding the nature, characteristics and viability of EchoStar's business, products and services.

71. DirecTV representatives falsely informed retailers that DISH Network is unlikely to remain in business. DirecTV has also falsely told retailers that DISH Network's offers and sales tactics are deceptive.

72. DirecTV has also made a materially misleading comparison between DISH Network and DirecTV's high-power DBS service in a chart on DirecTV's website. The chart purports to be a side-by-side comparison of the number of channels, by category (e.g., "Music

Channels") offered on DISH Network and DirecTV, respectively. In footnotes to the chart, DirecTV knowingly makes the following false and/or misleading statements or material omissions to disparage EchoStar:

(a) DirecTV states that EchoStar broadcasts some of its channels on a part-time basis only, but fails to disclose the material fact that many of the DirecTV programming channels are also part-time. With respect to its own service, DirecTV's statement is thus (at least) affirmatively misleading and partially incorrect. This undisclosed fact, if known to consumers and retailers, would weaken DirecTV's attempt to characterize its high-power DBS service and programming as superior, and in a freely competitive market would influence consumers' and retailers' decision to purchase or sell DirecTV.

(b) Second, DirecTV states that a second dish is required to receive all 17 channels of EchoStar's Pay-Per-View programming, and thus suggests that a second dish is required for DISH Network service when it knows and/or should know that this statement is untrue. This statement is thus affirmatively misleading, partially incorrect and/or untrue.

73. The above omission was knowingly material, and the above statements were knowingly false, when made. DirecTV made this omission and these statements with the intention of persuading and inducing retailers (and consumers) not to do business with EchoStar.

74. DirecTV has also engaged in specific conduct prohibited by the Lanham Act in that it has passed off, in concert with at least the other Defendants, manufactured goods to

consumers without revealing its own ownership interest in such manufacturers or the money paid to the manufacturer to induce it to build a product that is suitable only for DirecTV-compatible high-power DBS service. By passing off goods in this fashion, DirecTV and at least the other Defendants are engaged in an effort to create a false impression upon the consumer public that its products are "preferred" by third-party independent manufacturers.

75. As a direct and proximate result of these and other materially false statements and material omissions, DirecTV has disparaged and damaged, and continues to disparage and damage, the reputation of EchoStar, and has injured their business in the marketplace and their ability to compete with DirecTV.

THE RELEVANT MARKETS

The High-Power DBS Market

76. The first relevant market affected by Defendants' conduct is the High-Power DBS Market.

77. The geographic area of the High-Power DBS Market is the continental United States (excluding Alaska).

78. The products and services of which the High-Power DBS Market consists are high-power DBS equipment and high-power DBS subscription TV programming service. High-power DBS equipment consists of dish antennas, receivers and switches, sold through retailers, which are manufactured pursuant to licensing agreements with high-power DBS subscription TV programming service providers. High-power DBS subscription TV programming service

consists of television programming, offered in various packages with varying monthly subscription fees. No other product duplicates or fully substitutes for the high-power DBS dish antenna, receiver or switch, or for the high-power DBS subscription TV programming service.

79. Without high-power DBS equipment and a subscription to high-power DBS subscription TV programming service, customers in the High-Power DBS Market cannot receive the same approximate number, types and variety of television channels or television programming of digital audio and video quality. Thus, customers in the High-Power DBS Market do not consider either over-the-air broadcast signals or cable TV equipment and service to be effective substitutes for high-power DBS equipment and high-power DBS subscription TV programming service.

80. For eighteen months, DirecTV possessed 100% market share in the High-Power DBS Market. DirecTV has unlawfully acquired, maintained and enhanced its power to control prices in and exclude competition from the High-Power DBS Market. DirecTV still serves approximately 65% of the High-Power DBS Market.

81. Entry into the High-Power DBS Market is fundamentally constrained by the number of orbital locations ("slots") at which a high-power DBS satellite can operate. The FCC has allocated only eight high-power DBS orbital slots at the equator for U.S.-owned high-power DBS services. Of those, international treaties allocate for use by the United States only three slots from which a high-power DBS satellite can transmit programming to the entire continental United States (excluding Alaska).

82. A high-power DBS provider must obtain authorizations and permits from the FCC to construct, launch and operate the satellites and other components of a high-power DBS system. The initial capital investments required to put in place a high-power DBS satellite infrastructure amount to hundreds of millions of dollars. Once a high-power DBS provider has put its satellite infrastructure in place, the provider must also build and maintain an infrastructure on land, to uplink signals to the satellite for rebroadcast to consumers and to maintain the satellite in orbit. Finally, a new entrant would have to persuade DirecTV customers to abandon the DirecTV equipment in which they had already made a substantial investment. This lock-in effect constitutes an additional barrier to entry.

The HDTV/High-Power DBS Market

83. The second relevant market affected by Defendants' conduct is the HDTV/High-Power DBS Market.

84. The geographic area of this market is the continental United States (excluding Alaska).

85. The HDTV/High-Power DBS Market has all of the characteristics of the High-Power DBS Market. The additional characteristic of its consumers is that they own HDTVs. An ordinary television is not a reasonably acceptable substitute for an HDTV. Moreover, high-power DBS has special value to owners of HDTVs because they frequently cannot receive an acceptable HDTV signal without it.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

SHERMAN ACT § 1

(Per Se Illegal Restraint of Trade – Concerted Refusal to Deal/Group Boycott)
(Against All Defendants)

86. Plaintiffs incorporate the allegations of paragraphs 1 through 85 above.

87. RadioShack, Circuit City, and Best Buy (the National Exclusive Retailers) have refused to deal in the products of DirecTV's competitors, including EchoStar. Rather, the Retailers have agreed among themselves and, as a group, have agreed with DirecTV to sell and promote only DirecTV-compatible equipment and DirecTV service, in per se violation of Section 1 of the Sherman Act.

88. As a direct and proximate result of these acts, EchoStar has been injured, and continues to be injured, in its business and/or property, and is threatened with continuing and irreparable loss and/or damage.

SECOND CAUSE OF ACTION

SHERMAN ACT § 1

(Illegal Restraint of Trade – Exclusive Dealing)
(Against the DirecTV Defendants and RCA)

89. Plaintiffs incorporate the allegations of paragraphs 1 through 88 above.

90. Substantial sales of high-power DBS equipment occur through the consumer electronic retailers (including the National Exclusive Retailers) that have refused to deal in the products of DirecTV's competitors, including EchoStar (the "Exclusive Retailers"). DirecTV's exclusive-dealing contracts harm the competitive process by, among other things, excluding

competitors, like EchoStar, from substantial and efficient outlets for sales of their products and by increasing the cost to consumers of evaluating competing products.

91. DirecTV has also entered into exclusive-dealing arrangements with the NFL and other major professional sports leagues and with manufacturers of HDTVs, including RCA, which aggravate the foreclosure of competition in the High-Power DBS Market.

92. As a result of its contracts with the retailers, sports leagues and HDTV manufacturers, competition in the High-Power DBS Market is substantially foreclosed.

93. As a direct and proximate result of these acts, EchoStar has been injured, and continues to be injured, in its business and/or property, and is threatened with continuing and irreparable loss and/or damage.

94. DirecTV's exclusive-dealing contracts thus constitute illegal restraints of trade in violation of Section 1 of the Sherman Act.

THIRD CAUSE OF ACTION

CLAYTON ACT § 3

(Illegal Sale or Agreement Not To Use Goods of a Competitor)

(Against the DirecTV Defendants and RCA)

95. Plaintiffs incorporate the allegations of paragraphs 1 through 94 above.

96. Through its exclusive-dealing contracts, DirecTV has conditioned the right to sell DirecTV-compatible high-power DBS equipment and service on the agreement by its Exclusive Retailers not to deal in EchoStar-compatible high-power DBS equipment and service.

97. DirecTV has also conditioned rebates to its Exclusive Retailers on the Exclusive Retailers' refusal to deal in EchoStar-compatible high-power DBS equipment and service.

98. DirecTV has also conditioned the payment of residuals to its Exclusive Retailers on the refusal to deal in EchoStar-compatible high-power DBS equipment and service.

99. DirecTV has also entered into exclusive-dealing arrangements with the NFL and other major professional sports leagues and with manufacturers of HDTVs.

100. RCA has conditioned the sale of HDTVs to the Exclusive Retailers on their refusal to deal with EchoStar.

101. As a result of these contracts with retailers, sports leagues and HDTV manufacturers, competition is substantially foreclosed in the High-Power DBS Market.

102. These agreements also tend to create a monopoly in the High-Power DBS Market.

103. As a direct and proximate result of these acts, EchoStar has been injured, and continues to be injured, in its business and/or property, and is threatened with continuing and irreparable loss and/or damage.

104. By requiring and entering into these exclusive agreements, DirecTV has therefore violated Section 3 of the Clayton Act.

FOURTH CAUSE OF ACTION

SHERMAN ACT § 1

(Unreasonable Restraint of Trade – HDTV Exclusive-Dealing Contracts)
(Against the DirecTV Defendants and RCA)

105. Plaintiffs incorporate the allegations of paragraphs 1 through 104 above.

106. DirecTV has contracted with a substantial majority of the manufacturers of HDTVs, including RCA, for the exclusive right to embed DBS receiving equipment in the HDTVs they manufacture.

107. DirecTV, RCA and the other exclusive HDTV manufacturers jointly possess market power and/or leverage in the market for wholesaling HDTV sets.

108. As a result, competition in the High-Power DBS Market and the HDTV High-Power DBS Market has been substantially foreclosed. Moreover, many high-power DBS equipment retailers have refused to purchase and resell EchoStar-compatible high-power DBS equipment.

109. EchoStar has been injured, and continues to be injured, in its business and or property by reason of the HDTV agreements in violation of Section 1 of the Sherman Act and is thereby threatened with continuing and irreparable loss and/or damage.

FIFTH CAUSE OF ACTION
SHERMAN ACT § 2
(Monopolization)
(Against the DirecTV Defendants)

110. Plaintiffs incorporate the allegations of paragraphs 1 through 109 above.

111. For eighteen months, DirecTV possessed 100% market share in the High-Power DBS Market.

112. DirecTV has unlawfully acquired, maintained and enhanced its power to control prices and exclude competition in the High-Power DBS Market and in the HDTV High-Power DBS Market.

113. DirecTV still serves approximately 65% of the High-Power DBS Market.

114. DirecTV and other companies selling DirecTV-compatible high-power DBS equipment under licensing agreements with DirecTV have sold at least 65% of all high-power DBS equipment.

115. DirecTV has monopoly power both in the High-Power DBS Market and in the HDTV/High-Power DBS Market.

116. Through its illegal acts as described herein, DirecTV has successfully excluded EchoStar from competing on the merits for sales in the High-Power DBS Market and the HDTV/High-Power DBS Market. These illegal acts include, but are not limited to, exclusive-dealing contracts with consumer electronics retailers, manufacturers of HDTVs and major professional sports leagues; conditioning access to HDTVs on exclusive dealing with DirecTV; and business disparagement and unfair competition.

117. Consequently, EchoStar has been injured, and continues to be injured, in its business and/or property in violation of Section 2 of the Sherman Act and is therefore threatened with continuing and irreparable loss and/or damage.

SIXTH CAUSE OF ACTION
SHERMAN ACT § 2
(Attempted Monopolization)
(Against the DirecTV Defendants)

118. Plaintiffs incorporate the allegations of paragraphs 1 through 109 above.

119. DirecTV has engaged in predatory and anti-competitive conduct, including, but not limited to, exclusive-dealing contracts with consumer electronics retailers, manufacturers of

HDTV's and major professional sports leagues: threatening to condition access to HDTV's on exclusive dealing with DirecTV; and business disparagement and unfair competition.

120. DirecTV specifically intends to monopolize the High-Power DBS Market and the HDTV/High-Power DBS Market.

121. If DirecTV's conduct continues unabated, there is a dangerous probability that DirecTV will achieve monopoly power in the High-Power DBS Market and the HDTV High-Power DBS Market.

122. EchoStar has been injured, and continues to be injured, in its business and/or property as a direct and proximate result of DirecTV's unlawful attempted monopolization in violation of Section 2 of the Sherman Act and is therefore threatened with continuing and irreparable loss and/or damage.

SEVENTH CAUSE OF ACTION
LANHAM ACT § 43(a)
(Unfair Competition and False Advertising)
(Against the DirecTV Defendants)

123. Plaintiffs incorporate the allegations of paragraphs 1 through 122 above.

124. In its commercial advertising and promotions, DirecTV has made false statements and material omissions regarding the nature, characteristics or qualities of the goods, services and/or commercial activities of itself and Plaintiffs.

125. In its commercial advertising and promotions, DirecTV has made misleading statements and material omissions intended to cause confusion, mistake or deception about the goods, services or commercial activities of itself and Plaintiffs.

126. DirecTV's false and misleading statements, and material omissions, have in fact deceived, and have a tendency to deceive, a substantial portion of the consumers and retailers to whom the statements and omissions have been made, regarding the relative and absolute nature, characteristics and qualities of the goods, services and commercial activities of DirecTV and EchoStar.

127. DirecTV's false and misleading statements and material omissions have in fact influenced, and are likely to influence, the purchasing decisions of consumers and retailers, including those to whom the statements and omissions were made. Further, the goods advertised by DirecTV have traveled, and do travel, in interstate commerce.

128. EchoStar has been injured, and continues to be injured, as a direct and proximate result of DirecTV's conduct, and is threatened with continuing and irreparable loss and or damage.

129. DirecTV's foregoing conduct violates Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).

EIGHTH CAUSE OF ACTION
COLORADO CONSUMER PROTECTION ACT
(Deceptive Trade Practices)
(Against the DirecTV Defendants)

130. Plaintiffs incorporate the allegations of paragraphs 1 through 129 above.

131. DirecTV has disparaged the goods, services, property and/or business of Plaintiffs by false and misleading representations of fact.

132. DirecTV is likely to continue to engage in such unfair competition and/or deceptive trade practices.

133. DirecTV has engaged, and is likely to continue to engage, in such bad faith conduct. Such conduct is malicious, willful and wanton.

134. EchoStar has been injured, and continues to be injured, in the course of its business, in part in Colorado, as a direct and proximate result of such deceptive trade practices in violation of Col. Rev. Stat. § 6-1-105(1)(h), and is thereby threatened with continuing and irreparable loss and/or damage, in part in Colorado.

NINTH CAUSE OF ACTION
COLORADO ANTITRUST ACT

(Per Se Illegal Restraint of Trade – Concerted Refusal to Deal/Group Boycott)
(Against All Defendants)

135. Plaintiffs incorporate the allegations of paragraphs 1 through 134 above.

136. The National Exclusive Retailers have refused to deal in the equipment and service of DirecTV's competitors, including EchoStar. Rather, the National Exclusive Retailers have agreed among themselves and, as a group, have agreed with DirecTV to sell and promote only DirecTV-compatible equipment and DirecTV service, in per se violation of Col. Rev. Stat. § 6-4-104.

137. EchoStar has been injured, and continues to be injured, in the course of its business, in part in Colorado, as a direct and proximate result of such anti-competitive practices, and is thereby threatened with continuing and irreparable loss and/or damage, in part in Colorado.

TENTH CAUSE OF ACTION
COLORADO ANTITRUST ACT
(Illegal Restraint of Trade – Exclusive Dealing)
(Against the DirecTV Defendants)

138. Plaintiffs incorporate the allegations of paragraphs 1 through 137 above.

139. Substantial sales of high-power DBS equipment and service occur through the Exclusive Retailers. DirecTV's exclusive-dealing contracts harm the competitive process by excluding competitors, like EchoStar, from substantial outlets for sales of their equipment and service.

140. DirecTV has also entered into exclusive-dealing arrangements with the NFL and other major professional sports leagues and with other manufacturers of HDTVs, which aggravate the foreclosure of competition in the High-Power DBS Market.

141. As a result of its contracts with the retailers, sports leagues and HDTV manufacturers, competition in the High-Power DBS Market is substantially foreclosed.

142. EchoStar has been injured, and continues to be injured, in the course of its business, in part in Colorado, as a direct and proximate result of such anti-competitive practices in violation of Col. Rev. Stat. § 6-4-104, and is thereby threatened with continuing and irreparable loss and/or damage, in part in Colorado.

ELEVENTH CAUSE OF ACTION
COLORADO ANTITRUST ACT
(Unreasonable Restraint of Trade – HDTV Exclusive-Dealing contracts)
(Against the DirecTV Defendants and RCA)

143. Plaintiffs incorporate the allegations of paragraphs 1 through 142 above.

144. DirecTV has contracted with a substantial majority of the manufacturers of HDTVs, including RCA, for the exclusive right to embed DBS receiving equipment in the HDTVs they manufacture.

145. DirecTV, RCA and the other exclusive HDTV manufacturers jointly possess market power and/or leverage in the market for wholesaling HDTV sets.

146. As a result, competition in the High-Power DBS Market and the HDTV High-Power DBS Market has been substantially foreclosed. Moreover, many high-power DBS receiving equipment retailers have refused to purchase and resell DISH Network-compatible high-power DBS receiving equipment.

147. EchoStar has been injured, and continues to be injured, in the course of its business, in part in Colorado, as a direct and proximate result of such anti-competitive practices in violation of Col. Rev. Stat. § 6-4-104, and is thereby threatened with continuing and irreparable loss and/or damage, in part in Colorado.

TWELFTH CAUSE OF ACTION
COLORADO ANTITRUST ACT
(Monopolization)
(Against the DirecTV Defendants)

148. Plaintiffs incorporate the allegations of paragraphs 1 through 147 above.

149. For eighteen months, DirecTV possessed 100% market share in the High-Power DBS Market and in the HDTV/High-Power DBS Market.

150. DirecTV has unlawfully acquired, maintained and enhanced its power to control prices and exclude competition in the High-Power DBS Market.

151. DirecTV still serves approximately 65% of the High-Power DBS Market and the HDTV/High-Power DBS Market.

152. DirecTV and other companies selling DirecTV-compatible high-power DBS equipment under licensing agreements with DirecTV have sold at least 65% of all high-power DBS equipment.

153. DirecTV has monopoly power both in the High-Power DBS Market and in the HDTV/High-Power DBS Market.

154. Through its illegal acts as described herein, DirecTV has successfully excluded EchoStar from competing on the merits for sales in the High-Power DBS Market and in the HDTV/High-Power DBS Market. These illegal acts include, but are not limited to, exclusive-dealing contracts with consumer electronics retailers, manufacturers of HDTVs and major professional sports leagues; conditioning access to HDTVs on exclusive dealing with DirecTV; and business disparagement and unfair competition.

155. EchoStar has been injured, and continues to be injured, in the course of its business, in part in Colorado, as a direct and proximate result of DirecTV's unlawful monopolization, in violation of Col. Rev. Stat. § 6-4-105, and is thereby threatened with continuing and irreparable loss and/or damage, in part in Colorado.

THIRTEENTH CAUSE OF ACTION
COLORADO ANTITRUST ACT
(Attempted Monopolization)
(Against the DirecTV Defendants)

156. Plaintiffs incorporate the allegations of paragraphs 1 through 109 and 118 through 147 above.

157. DirecTV has engaged in predatory and anti-competitive conduct, including, but not limited to, exclusive-dealing contracts with consumer electronics retailers, manufacturers of HDTV's and major professional sports leagues; threatening to condition access to HDTV's on exclusive dealing with DirecTV; and business disparagement, trade libel and unfair competition.

158. DirecTV specifically intends to monopolize the High-Power DBS Market and the HDTV High-Power DBS Market.

159. If DirecTV's conduct continues unabated, there is a dangerous probability that DirecTV will achieve monopoly power in the High-Power DBS Market and in the HDTV High-Power DBS Market.

160. EchoStar has been injured, and continues to be injured, in the course of its business, in part in Colorado, as a direct and proximate result of DirecTV's unlawful attempt to

monopolize, in violation of Col. Rev. Stat. § 6-4-105, and is thereby threatened with continuing and irreparable loss and/or damage, in part in Colorado.

FOURTEENTH CAUSE OF ACTION
CALIFORNIA CARTWRIGHT ACT

(Per Se Illegal Restraint of Trade – Concerted Refusal to Deal Group Boycott)
(Against All Defendants)

161. Plaintiffs incorporate the allegations of paragraphs 1 through 160 above.

162. DirecTV directly competes with EchoStar.

163. DirecTV has organized a group boycott of its competitors, including EchoStar, by the National Exclusive Retailers. This boycott is perpetrated through DirecTV's exclusive-dealing contracts with those retailers. The boycott extends to stores located in California.

164. DirecTV has also entered into exclusive arrangements with HDTV manufacturers and major professional sports leagues.

165. DirecTV conceived and initiated these exclusive-dealing contracts for the purpose of barring competitors, including EchoStar, from the High-Power DBS Market and the HDTV High-Power DBS Market, in California and elsewhere.

166. DirecTV has used its economic power and dominant position to secure the acceptance of exclusive-dealing contracts, not for the advantage of any business partner but rather for the advantage of DirecTV.

167. EchoStar has been injured, and continues to be injured, in the course of its business, in part in California, as a direct and proximate result of DirecTV's anti-competitive

conduct, i.e. violation of the Cartwright Act, Cal. B. & P. Code § 16720, and is thereby threatened with continuing and irreparable loss and/or damage, in part in California.

FIFTEENTH CAUSE OF ACTION
CALIFORNIA UNFAIR COMPETITION LAW
(Against the DirecTV Defendants and RCA)

168. Plaintiffs incorporate the allegations of paragraphs 1 through 167 above.

169. DirecTV directly competes with EchoStar, in part in California.

170. DirecTV and RCA have committed and/or conspired to commit unfair business acts and business practices in California that offend established policy and are unethical, oppressive, unscrupulous and/or substantially injurious to consumers.

171. The acts and/or practices of DirecTV and RCA, committed in California and having a substantial effect on commerce, threaten an incipient violation of the antitrust laws and violate the policy and spirit of the antitrust laws because their effects are comparable to or the same as a violation of the antitrust laws and significantly threaten or harm competition.

172. EchoStar has suffered, and continues to suffer, injuries from such unfair acts and practices in violation of California Bus. and Prof. Code § 17200 et seq., and is threatened with continuing and irreparable damage and/or loss.