February 15, 2023

Senator Ted Cruz  
Ranking Member  
Committee on Commerce, Science, and Transportation  
Dirksen Senate Office Building  
Room 512  
50 Constitution Ave NE  
Washington, DC 20002

Senator Lindsey O. Graham  
Ranking Member  
Committee on the Judiciary  
Dirksen Senate Office Building  
Room 224  
50 Constitution Ave NE  
Washington, DC 20002

Senator Michael S. Lee  
Russell Senate Office Building  
Room 363  
Washington, DC 20510

Senator Tom Cotton  
Russell Senate Office Building  
Room 326  
Washington, DC 20510

Re: Response to Letter of February 1, 2023

Dear Senators Cruz, Graham, Lee, and Cotton:

I am writing on behalf of DIRECTV in response to your letter, dated February 1, 2023, sent to Bill Morrow, CEO of DIRECTV, and others regarding Newsmax and OANN carriage on DIRECTV. We agree with you that it’s important to include a wide range of perspectives in our channel line-up, and doing so is a cornerstone of our value proposition to our customers. In fact, we were one of the first pay TV operators to distribute Newsmax when the channel was founded nearly a decade ago.

With respect to the Newsmax situation, put simply, this is a typical business dispute that has nothing to do with ideology, politics or censorship – despite unfounded accusations to the contrary by Newsmax, its CEO, its commentators and others. The bottom line is that DIRECTV wanted to continue carrying Newsmax on its platform under the exact same terms that have been in place for years, but Newsmax refused to continue these terms and demanded millions of dollars in extra payments. It is in fact Newsmax that dropped DIRECTV.

Please allow me to share a few additional points for context:

- When DIRECTV’s prior agreement with Newsmax was set to expire, Newsmax advised us that it would extend our right to distribute the channel only if we agreed to pay tens of
millions of dollars in new licensing fees – a cost we would have to pass along to all of our customers. We did not agree. No other major pay TV operator in the market currently pays per subscriber fees to carry the channel.

- Newsmax seeks to change the model by which it commercializes its channel. To date, Newsmax has been an advertising-supported channel. To maximize ad sales it distributes the channel free of charge to the approximately 75 million US households that have a pay TV service as well as to the approximately 55 million US households that don’t and instead view the channel on Newsmax’s website or through services like Roku and Amazon Fire. Under its proposed new model, Newsmax plans to make its channel available exclusively in pay TV, to the detriment of the 55 million households that don’t have a pay TV service, and to start charging pay TV operators a per subscriber fee to distribute the channel.

- Newsmax insisted on its terms – as is its right to do – and we insisted on ours. Lacking continued authorization to distribute Newsmax, DIRECTV was forced to remove the channel from our lineup.

- Although not currently available on DIRECTV, Newsmax continues to be available on most other major pay TV operators and is also available free of charge (including to DIRECTV’s customers) on Newsmax’s website and on platforms like Roku and Amazon Fire.

- Newsmax’s claims that DIRECTV is biased against conservative voices is untrue. Importantly, DIRECTV recently launched The First, a conservative news and commentary channel featuring Bill O’Reilly, Jesse Kelly, Liz Wheeler, and Dana Loesch, among others.

- DIRECTV carries five channels that most people would consider to be predominately news: Fox News, CNN, MSNBC, The First and NewsNation. By most people’s measure, two lean conservative (Fox News and The First), two lean liberal (CNN and MSNBC) and one is a new channel that is advertising that it is news focused and in the center (NewsNation). Fox News is by far the leader in terms of audience and household penetration. Newsmax, when we distributed it, was a distant fourth among news channels to Fox, MSNBC and CNN.

- The amounts DIRECTV pays for conservative channels, in the aggregate, is roughly similar to what we pay for liberal channels, in the aggregate.

For both sides, the ongoing dispute comes down to economics. We want to provide our customers with the robust level of programming that they expect without unnecessarily increasing their financial burden. Newsmax seeks to change its business model by starting to charge pay TV providers to distribute its channel and, in exchange, to make its channel only available to subscribers of such pay TV services.

Unfortunately, in pursuit of a purely commercial goal that it has not been able to obtain through negotiations, Newsmax is using its news/editorial platform to publish inaccurate and misleading information regarding our contract dispute. Each day, the news outlet is publishing nearly two dozen blogs on its website and dozens of posts on its main social handle, creating targeted content
for its commentators, leveraging its network of contributors and dedicating significant airtime each hour to our business dispute. In our view these efforts are obscuring facts, not elucidating the news.

For example, as to Vice, Newsmax has made allegations of bias based on false claims about DIRECTV’s carriage. Contrary to Newsmax’s assertions, DIRECTV does not consider Vice a “news” channel. DIRECTV only carries Vice as part of our agreement with A&E Network, under which we pay a lump sum for a suite of channels that happens to include Vice. Thus, whatever fees are paid to Vice are determined by A&E, and not DIRECTV.

Ultimately, contracts require an agreement between parties. That’s what the free market is all about. We continue to be willing to negotiate with Newsmax in good faith, but believe it is our duty to protect our customers and preserve our right to provide the network at the right price, if we choose to do so.

Carriage disputes are frustrating for all. Unfortunately, they have long been part of our industry. Just like other pay TV operators, we have in the past experienced outages with other content providers. Typically, they are temporary. After networks withdraw their content, we continue to negotiate, and the parties ultimately reach agreement. We hope this matter can be resolved in the same way.

Additionally, based on our review, we are not aware of any government official, including in the Executive Office of the President, or any Democratic Member of Congress or staff, or anyone affiliated with the Democratic party organizations making any threats or promise of inducements to pressure any DIRECTV employee regarding its negotiations with Newsmax.

Similarly, no representative of our shareholders, AT&T and TPG, has been involved in our negotiations with Newsmax, pressured us to conclude those negotiations in any particular way, or expressed to DIRECTV any animus regarding Newsmax’s political leanings.

With respect to your questions regarding OANN, we are currently in litigation with OANN, and as I am sure you can appreciate, we are not in a position to provide any information.

Once we have had more time to gather other information requested in your letter, we will provide an additional response by no later than March 1st.

Sincerely,

Michael Hartman
General Counsel and
Chief External Affairs Officer