

**[NTC MEMORANDUM CIRCULAR NO. 10-10-2003,
October 01, 2003]**

**IMPLEMENTING RULES AND REGULATIONS GOVERNING
COMMUNITY ANTENNA/CABLE TELEVISION (CATV) AND DIRECT
BROADCAST SATELLITE (DBS) SERVICES TO PROMOTE
COMPETITION IN THE SECTOR**

WHEREAS, community antenna/cable television (CATV) system and direct broadcast satellite (DBS) system as direct-to-home/direct -to-user (DTH/DTU) service help provide the public with wider access to more sources of news, information, education, science and technology, entertainment and other programs/contents complementing other forms of mass media;

WHEREAS, the State, may by law regulate the operations of CATV and DBS services to protect public interest and promote the general welfare;

WHEREAS, Art. XII, Section 19 of the Philippine Constitution mandates the State to regulate or prohibit monopolies when the public interest so requires, and disallows combinations in restraint of trade or unfair competition;

WHEREAS, it is the policy of the State to promote a healthy competitive environment and to protect consumers' welfare against monopoly or quasi-monopolistic powers by operators and program/content providers in the provision of CATV and DBS thereby ensuring to all operators, the consumer and the general public with fair, reasonable and continued access to diverse programs and contents in the interest of public service.

WHEREAS, the absence of fair competition in the CATV and DBS market will deprive, subscribers and consumers of a wider variety of choices and diversity of programming content, and is detrimental to public interest and the accelerated development of said industry.

WHEREAS, any contract or arrangement entered into between operators and program/content providers which tends or aims to exclude, inhibit, and frustrate their ability to offer diverse programs to the subscribing public may hinder the growth and sustained development of the industry to the prejudice of the subscribing public;

WHEREAS, in some instances, in the interest of public service, when justified and properly regulated, exclusive contracts can encourage investment, expand access to unserved and underserved areas, and promote opportunities for existing and new entrants to the CATV and DBS markets;

NOW, THEREFORE, to promote fair and healthy competition in the industry, prevent monopoly or any combination in restraint of trade or unfair competition, and as to provide the country with the widest access possible to sources of news, information, entertainment and data available, the National Telecommunications Commission

(NTC) pursuant to the powers vested upon it by law and Department Circular No. 2003-01 dated 03 March 2003, hereby issues the following guidelines:

Article 1

Definition of Terms

SECTION 1. For purposes of these rules and regulations, the following definitions shall apply:

- a. **"Cable Television System or Community Antenna Television (CATV)"** refers to any facility that, in whole or in part, receives directly or indirectly over the air, and amplifies or otherwise modifies and improves the received signals broadcast by one or more television, satellite or radio stations and distributes such signal by wire, fiber optic or cable to subscribing members of the public who pay for such service (s).
- b. **"Direct Broadcast Satellite (DBS) Service"** - refers to the service that delivers TV programs to the home through a satellite receiving dish, rather than through a cable system landline wherein pictures are sent aloft, bounced off a satellite transponder and returned directly to the subscriber's home; also known as direct-to-home/direct-to-user (DTH/DTU) broadcast system.
- c. **"Commission"** shall refer to the National Telecommunications Commission.
- d. **"Exclusive Contracts"** shall refer to contracts and/or other arrangements that grant, or have the effect of granting sole or exclusive rights to air or broadcast programs/content to one or some CATV/DBS operators to the exclusion of other CATV/DBS operators.
- e. **"Programs/Content Provider"** shall refer to any entity engaged in the business of providing, distributing and/or selling of television programs and signals through satellite technology or any other technology, in whole or in part, to authorized CATV and DBS operators.

Article 2

Development of Competition and Diversity in Programs/Content Distribution

SECTION 2. General Rule - As a general rule, exclusive contracts between CATV/DBS operators and program/content providers, (collectively, the "Parties") and/or any behavior that is tantamount to exclusivity, including but not limited to discrimination in the supply of programs or content, are presumed to be anti-competitive and contrary to sound public policy. Except as otherwise provided under these guidelines, exclusive contracts and/or any exclusive arrangements between the parties are prohibited.

SECTION 3. Exceptions - Any CATV/DBS operator seeking to execute an exclusive contract with a program/content provider shall submit a petition to the Commission seeking approval for the same.

The Commission shall not entertain any petition to approve an exclusive contract, unless it is shown:

- a. that all parties to the contract have agreed to submit any dispute pertaining thereto to the jurisdiction of competent Philippine authorities;