

**UNITED STATES PATENT AND TRADEMARK OFFICE**

SERIAL NO: 76/514690

APPLICANT: Business Communications Systems, LLC

**CORRESPONDENT ADDRESS:**

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**RETURN ADDRESS:**

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CORRESPONDENT'S REFERENCE/DOCKET NO: 55032-292994

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1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address..

Serial Number 76/514690

Applicant is requesting reconsideration of a final refusal dated June 17, 2004.

**Recitation of Services – Final Requirement Withdrawn**

The applicant's amendment of the recitation of services is acceptable and has been entered in the record.

**Section 2(d) Final Refusal Continued**

In its December 20, 2004 communication, the applicant argued that the parties' goods and services are not related and tried to distinguish its telecommunications services from the applicant's telecommunications equipment, and goes into a lengthy discussion about the differences between "common carrier" and "content carrier" telecommunications. The examining attorney has considered the applicant's arguments carefully but found them unpersuasive.

The applicant's distinction between "common carrier" and "content carrier" ignores the reality of the telecommunications industry, namely, that convergence of "common carrier" and "content carrier" functions has occurred, and is presently ongoing. (See attached news article printouts from [www.lexis.com](http://www.lexis.com) as well as attached web page printouts showing that telecommunications companies offer both "common carrier" and "content carrier" services as well as branded receiving equipment.)

It is well settled that the issue of likelihood of confusion between marks must be determined on the basis of the goods or services as they are identified in the application and the registration. *Canadian Imperial Bank of Commerce v. Wells Fargo Bank*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987); *Paula Payne Products Co. v. Johnson Publishing Co., Inc.*, 473 F.2d 901, 177 USPQ 76 (C.C.P.A. 1973). Since the identification of the registrant's goods is very broad, it is presumed that the registration encompasses all

goods/services of the type described, including those in the applicant's more specific identification, that they move in all normal channels of trade and that they are available to all potential customers. *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981). TMEP §1207.01(a)(iii).

Despite the applicant's arguments, the registrant is identifying communications receiving equipment for use in aircraft. There are no limitations as to whether the equipment is used for business aircraft, commercial aircraft or private aircraft. The applicant is offering telecommunications services and related telecommunications repair/installation/maintenance services that are commonly offered under the same mark as communications equipment. (See attached and previously supplied third party registrations, as well as web page printouts which show that DirecTV® offers branded common carrier services, content carrier services to consumers and businesses [including service to private jets and JetBlue® commercial passenger aircraft], maintenance services, and branded satellite receiving equipment.)

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

Accordingly, applicant's request for reconsideration is denied. The refusal under Trademark Act Section 2(d) that was maintained and made FINAL (in the June 17, 2004 final action) is CONTINUED. The time for appeal runs from the date the final action was mailed. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c).

#### **NOTICE: FEE CHANGE**

Effective January 31, 2005 and pursuant to the Consolidated Appropriations Act, 2005, Pub. L. 108-447, the following are the fees that will be charged for filing a trademark application:

- (1) \$325 per international class if filed electronically using the Trademark Electronic Application System (TEAS); or
- (2) \$375 per international class if filed on paper

These fees will be charged not only when a new application is filed, but also when payments are made to add classes to an existing application. If such payments are submitted with a TEAS response, the fee will be \$325 per class, and if such payments are made with a paper response, the fee will be \$375 per class.

The new fee requirements will apply to any fees filed on or after January 31, 2005.

#### **NOTICE: TRADEMARK OPERATION RELOCATION**

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

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Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

/Nelson B. Snyder III/  
Trademark Examining Attorney  
Law Office 103  
(571) 272-9284  
(571) 273-9103 (fax)

Print Request: Selected Document(s): 27, 39, 40, 56, 67, 68, 74

Time of Request: January 24, 2005 07:58 AM EST

Number of Lines: 55

Job Number: 1861:28415560

Client ID/Project Name:

Research Information:

US Newspapers and Wires  
convergence w/3 (telecommunications or satellite or broadcast!)

27. Television Week, November 1, 2004, Monday, Pg. 35, 552 words, WICT Timeline  
... Women in Cable & **Telecommunications** to reflect the **convergence** of the cable and **telecommunications** industries. 1996 WICT ...

39. hollywoodreporter.com, September 23, 2004 Thursday, NEWS; International, 267 words, Bec Smith  
... policy also recognizes the increasing **convergence** between **broadcasting and telecommunications** sectors and has backed plans to ...

40. PrimeZone Media Network, September 23, 2004 Thursday, 10:27 AM EST, ANALYST RECOMMENDATIONS, 1045 words, Coverage of China Cable and Communication Initiated by Barrow Street Research  
... market by offering the **convergence of telecommunications**, digital cable TV, and the ...

56. AScribe Newswire, August 19, 2004 Thursday, 1000 words, I Want My HDTV! Digital Television May Be the Wave of the Future, But Will Politics Keep Viewers From Catching It?  
... everything analog] and "digital **convergence**" [the merging of computing, **telecommunications** and broadcasting structures] but also ...

67. The New York Times, July 6, 2004 Tuesday, Late Edition - Final, Section C; Column 2; Business/Financial Desk; Pg. 1, 1261 words, Ball Club Drives an HDTV Bandwagon, By KEN BELSON, SAN DIEGO

... demonstrates a greater **convergence of the broadcast**, electronics and entertainment industries, ...

68. The New York Times, July 3, 2004 Saturday, Late Edition - Final, Section C; Column 5; Business/Financial Desk; Pg. 2, 571 words, S.E.C. Wants to Know How Telecoms Count Customers, By KEN BELSON

... Group, a consultant to **telecommunications** companies. "When you have **convergence** and you smash all these things ...

74. PR Newswire, June 25, 2004 Friday, FINANCIAL NEWS, 252 words, Hearst-Argyle Television Declares Quarterly Dividend, NEW YORK June 25

... a leader in the **convergence** of local **broadcast** television and the Internet through its ...





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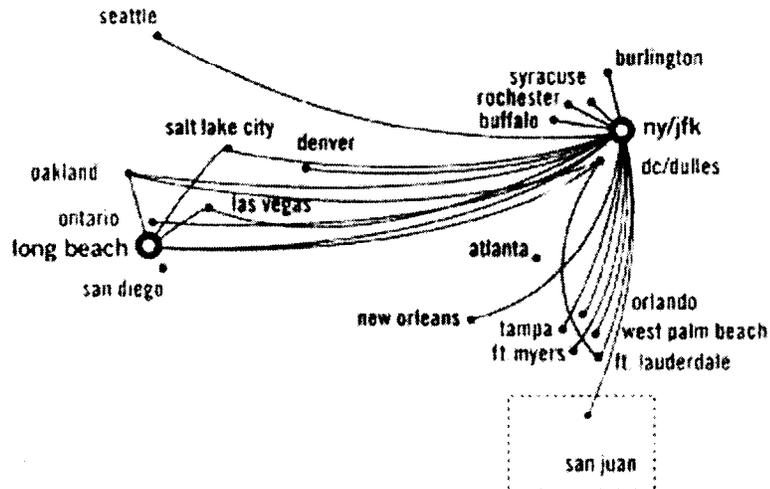
When JetBlue was started over three years ago, we set out with a very simple goal: to bring humanity back to air travel.

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More than twelve million customers later, we're proud to be proving the critics wrong.

**JETBLUE ROUTE MAP**

As of April 14, 2003



**THE JETBLUE STORY**

JetBlue Airways took to the air on February 11, 2000 with the inauguration of service between New York City's John F. Kennedy International Airport and Fort Lauderdale, FL. The airline now serves 20 cities around the country with a fleet of 41 new Airbus A320 aircraft. Every JetBlue aircraft is outfitted with roomy all-leather seats, each equipped with free live satellite TV offering up to 24 channels of DIRECTV® programming.

channels of DIRECTV® programming.

JetBlue's origins date back to 1993, when CEO David Neeleman sold his first airline, Salt Lake City based Morris Air, to Southwest Airlines. It was as a founder and President of Morris Air that Neeleman proved that innovative, high-quality airline service coupled with low fares will attract a strong and loyal market.

Following the sale of Morris Air, Neeleman went on to help launch WestJet, a successful Canadian low-fare carrier, and to develop the e-ticketing system he had implemented at Morris Air into Open Skies, the world's simplest airline reservation system. Neeleman sold Open Skies to Hewlett Packard in 1999.

With three successful aviation businesses under his belt, Neeleman decided the time was right to bring his airline formula to the largest aviation market in the U.S., New York City. In July 1999, having secured a hand-picked management team and \$130 million in capital funding from investors such as Weston Presidio, Soros and Chase Capital, Neeleman surprised the aviation industry with the announcement of his plan to launch a new airline that would bring "humanity back to air travel."

#### FLEET

- 41 Airbus A320 aircraft (12 more to be delivered in 2003), all powered by International Aero Engines V2527-A5 engines
- JetBlue has contracts for a fleet totaling 132 new A320 aircraft
- All JetBlue aircraft are configured for 162 passengers and outfitted with leather seats with free satellite television at every seat.

#### INFLIGHT ENTERTAINMENT

JetBlue is the only airline in the world to offer passengers live satellite television with up to 24 channels of DIRECTV® programming free of charge at every seat. Every JetBlue aircraft is outfitted with a LiveTV system which features individual seatback monitors, armrest remotes with channel and volume controls.

Channels available:	
<ul style="list-style-type: none"><li>● A&amp;E</li><li>● Animal Planet</li><li>● Boomerang (Cartoon Network)</li><li>● CNBC</li><li>● Court TV</li><li>● Discovery</li><li>● Discovery Kids</li><li>● ESPN</li><li>● ESPN2</li><li>● ESPNews</li><li>● ESPN Classic</li><li>● The Food Network</li><li>● Game Show Network</li></ul>	<ul style="list-style-type: none"><li>● Headline News</li><li>● HGTV</li><li>● The History Channel</li><li>● Learning Channel</li><li>● LiveMap</li><li>● NBC</li><li>● Nickelodeon \ Nick at Nite</li><li>● Telemundo</li><li>● Travel Channel</li><li>● TV Land (Freeview \ Specialty Events on weekends)</li><li>● VH1 Classic</li><li>● The Weather Channel</li></ul>

#### JETBLUE – FIRST AND ONLY

- First and only U.S. start-up airline to launch with more than \$100 million in capital
- First and only airline to offer up to 24-channels of live satellite television free at every seat
- First and only airline to broadcast the Olympic Games live at every seat
- First U.S. airline to introduce "nanerless cocknit" flight technology

- First U.S. airline to introduce "paperless cockpit" flight technology
- First U.S. airline to install bullet-proof cockpit doors across its fleet
- First and only airline to install surveillance cameras in passenger cabin for customer and crew security

**2002 AWARDS AND ACCOLADES**

Best Domestic Airline	<i>Condé Nast Traveler, 2002 Reader's Choice Awards</i>
Best Domestic Airline - Coach	<i>Condé Nast Traveler, 2002 Business Travel Awards</i>
Best Domestic Airline - Value For Cost	<i>Condé Nast Traveler, 2002 Business Travel Awards</i>
Best Domestic Airline	<i>North American Travel Journalists Association, Five-Star Award</i>
#2 Domestic Airline	<i>Travel and Leisure, 2002 World's Best Awards</i>
Best Low-Cost Carrier (Runner-Up)	<i>Business Traveler, 2002 Best in Business Travel Awards</i>
"It" Airline	<i>Entertainment Weekly, 2002 It List</i>
Editor's Choice	<i>Worth</i>
Airline of the Year	<i>Airfinance Journal</i>
Americas Corporate Finance Deal of the Year	<i>Airfinance Journal</i>
Marketer of the Year	<i>Advertising Age</i>
Finance Award	<i>Airline Business, 2002 Airline Strategy Awards</i>
Best IPO of 2002	<i>Corporate Finance Magazine</i>
Market Development Award	<i>Air Transport World, 2002 Industry Achievement Awards</i>
Best Overall Airline	<i>Onboard Services Magazine, 2002 Onboard Service Awards</i>
Best Inflight or Onboard Service	<i>Onboard Services Magazine, 2002 Onboard Service Awards</i>
Best Onboard Entertainment	<i>Onboard Services Magazine, 2002 Onboard Service Awards</i>
Best Uniforms (2nd Place)	<i>Onboard Services Magazine, 2002 Onboard Service Awards</i>



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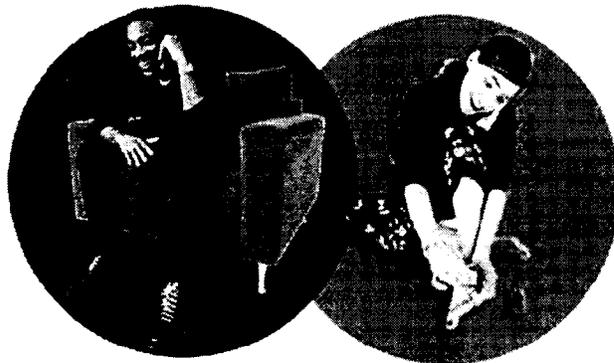
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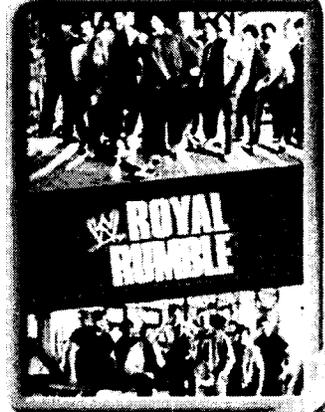
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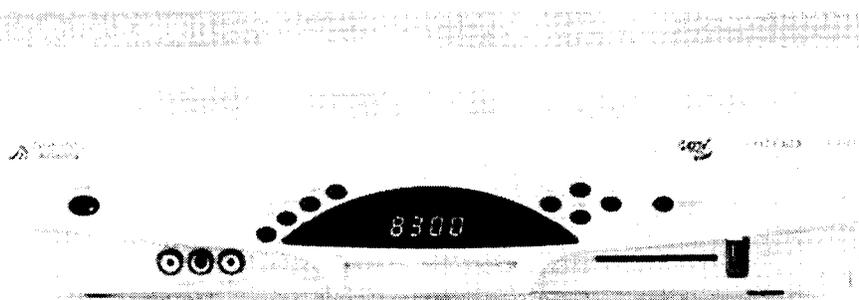
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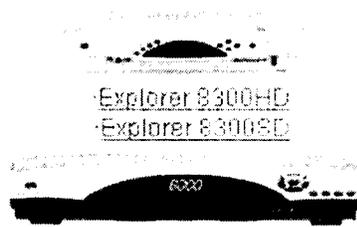
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- [Blocking programs and recordings](#)

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**“ DID YOU KNOW?**  
DIRECTV sends out an informative monthly newsletter. [Learn more.](#)

## PACKAGES

DIRECTV for Business

- Bars and Restaurants
- Private Offices
- Business Viewing Areas
- Hotels, Dorms and Hospitals
- Private Corporate Jets
- Apartments & Condos

### Private Offices

**Looking for must-have information right away, right in your office?**

No matter what your business — entertainment, financial services, sports marketing, advertising, etc. — we have the programming that's right for you. Stay on top of the information you need with our [Private Office Viewing Packages](#).



Interested in becoming a DIRECTV business customer?

To put DIRECTV programming to work for you, call **1-888-200-4388**.

**Ready to order? Just print out the [Private Office Viewing Paperwork](#).**

You'll need [Microsoft Office](#) to open the files above.

**Looking for a powerful way to reach your employees, customers and other VIPs?**

Let DIRECTV deliver your own corporate broadcasts! Our [DIRECTV Private Network Service](#) makes it possible.

Programming, pricing, terms and conditions subject to change.



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*It's a brand-new year, and we're bringing you the brand-new **DIRECTV Showcase!***

**Did You Know?**

You can get DIRECTV® service at your apartment. [Learn more.](#)

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### Business Viewing Areas

Here's your chance to show customers you mean business. Get DIRECTV® entertainment for your Business Viewing establishment:

- Fitness clubs
- Retail stores
- Banks & financial institutions
- Lobbies
- Supermarkets
- Auto dealerships
- Waiting rooms
- Other common business areas



Interested in becoming a DIRECTV business customer?

Tailor your environment with more than 50 popular channels, including ESPN, E! Entertainment Television, CNN, Cartoon Network and Bloomberg Television. Add to that up to 23 regional sports networks and over 40 channels on Music Choice. There are a variety of specialized sports packages to choose from, too.

Your customers will enjoy crystal-clear digital-quality picture and sound. They'll love DIRECTV programming and you'll love what it does for your business image.

Put us to work for you today. Find the [Business Viewing Areas](#) that best suit your needs. Call **1-888-200-4388** for more information.

**Ready to order? Just print out the [Business Viewing Agreement](#).**

You'll need [Microsoft Word](#) to open the files above.

Programming, pricing, terms and conditions subject to change.



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**“ DID YOU KNOW?**

We have a handy channel lineup here at DIRECTV.com. [Learn more.](#)

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Private Corporate Jets

Take a break on your next business flight and enjoy DIRECTV® programming from the comfort of your private corporate jet.

With a DIRECTV inflight entertainment system installed on your private corporate jet, you can sit back and enjoy the special DIRECTV AIRBORNE™ service from high in the sky. We offer the most complete inflight package of news, sports, music, movies and general entertainment available in the United States, so you're sure to be just as informed or entertained in the air as you are in your own living room.



Interested in becoming a DIRECTV business customer?

Ordering DIRECTV® programming for your private corporate jet is easy, too. Just print out the [DirectV Corporate Jet Inflight Entertainment System Order Form](#). You'll need [Microsoft Office](#) to open this file. Then contact one of these approved inflight entertainment distributors about installing an inflight entertainment system on your aircraft:

**AIRSHOW®**  
 Alan Bearden  
 Vice President of Sales  
 Tel: (714) 734-6235  
 Fax: (714) 730-1698  
 E-mail: [alan.bearden@airshow.com](#)

**BOEING CONNEXION**  
 Rick L. Cuzzupoli  
 Tel & Fax: (949) 790-1460  
 E-mail: [rick.cuzzupoli@boeing.com](#)

**HONEYWELL INTERNATIONAL, INC.**  
 Honeywell Customer Response Center  
 OneView™ Airborne Information System  
 Tel: (877) 436-2005  
 Fax: (602) 822-7206 or (877) 484-2981  
 E-mail: [directv@honeywell.com](#)

DIRECTV AIRBORNE™ service is only available in the continental United States. The signal may be lost in severe turbulence, and/or if severe banking of the aircraft is required for safety and security reasons.

DIRECTV is not responsible for interruptions of service that are beyond our control including, without limitation, acts of nature, power failure, or any other cause.



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**Now you do. UFC 51: Super Saturday  
featuring Tito Ortiz vs. Vitor Belfort**



**" DID YOU KNOW?"**

You can take DIRECTV® service when you move. [Learn more.](#)

## PRODUCTS

DIRECTV® Receivers

- Choose the Proper Receiving Equipment
- Questions about Standard Receivers?
- Buy Online from DIRECTV
- Buy from Local Retailers

### DIRECTV RECEIVERS

DIRECTV Receivers are the gateway to great entertainment. When installed with the appropriate satellite dish, each receiver gives you access to more than 225 digital-quality channels, plus a customizable on-screen program guide with a built-in "Locks and Limits" feature for rating and spending control.

Here at DIRECTV.com, you can order a complete DIRECTV System and you can order additional receivers.

DIRECTV Receivers and satellite dishes are sometimes sold separately, so make sure you select the receiver that's designed to receive the mix of features and services you want.

DIRECTV receiving equipment is available under popular manufacturer names. We have many product pages posted here on DIRECTV.com for your convenience.

### WANT MORE INFORMATION?

Find out about:

[DIRECTV Receivers](#)

[FAQs](#)

[How to Choose the Right Receiver for Your System](#)

[How to Buy a Receiver from a Local Retailer](#)

Hardware, programming and services are sold separately. Programming and services are subject to change.



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**NBA LEAGUE PASS**  
Free Preview January 24-30  
on channels 721-733 and 601



**“ DID YOU KNOW? ”**

We offer FREE monthly events to our customers. [Learn more.](#)

**PRODUCTS**  
DIRECTV® Receivers

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PROGRAMMING & SERVICES	18" x 20" OVAL DISH (Multi-Satellite)	18" ROUND DISH (dual LNB)	RECEIVER TYPE	RECEIVER MODEL
Access to over 225 channels	*	*	Any	Any
Access to over 225 channels	*	*	Any	Any
Access to over 225 channels	*		Standard DIRECTV Receiver	Model 5000
DIRECTV PARA TODOS™ programming	*		Standard DIRECTV Receiver	Model 5000
High-Definition Programming*	*		DIRECTV HD Receiver	Model 5000HD
DIRECTV® DVR with TiVo® service	*	*	DIRECTV DVR	Model 5000HD

\* For access to DIRECTV High-Definition programming, a triple LNB Multi-Satellite Dish Antenna is required, along with a DIRECTV HD Receiver and High-Definition television equipment.



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**CARNIVALE** PREMIERES JANUARY 9, 2005 AT 9 PM (ET) ONLY ON HBO!

**DID YOU KNOW?**  
We have a handy channel lineup here at DIRECTV.com. [Learn more.](#)

**PACKAGES**  
Additional Services

- DIRECTV — The Guide®
- DIRECTV PROTECTION PLAN
- Adult Pay Per View

**DIRECTV PROTECTION PLAN**

Protect your DIRECTV® System with the DIRECTV PROTECTION PLAN. For a low monthly fee, the DIRECTV PROTECTION PLAN covers all the components of your DIRECTV System, giving you peace of mind that you and your family can enjoy nonstop DIRECTV® entertainment.

**DIRECTV PROTECTION PLAN BENEFITS**

We always provide quality equipment, but in the event that something does go wrong, the DIRECTV PROTECTION PLAN gives you the ultimate in professional technical services for your DIRECTV System, including:

- Replacement of defective equipment including remotes and receivers (if problem cannot be resolved over the phone)
- Coverage of wiring, satellite antenna, connections/switches, and more
- Power surge related repairs
- Dish antenna realignments
- 24-hour technical support
- In home service calls (if necessary)

Get ALL THAT FOR JUST \$5.99 a month for accounts with standard DIRECTV Receivers and

Get ALL THAT FOR JUST \$5.99 a month for accounts with standard DIRECTV Receivers and only \$7.99 a month for accounts with the DIRECTV DVR, DIRECTV HD Receiver, or DIRECTV® Receiver with UltimateTV® Service. This low monthly fee covers every DIRECTV Receiver on your account. Peace of mind has never been so affordable.

#### NEW CUSTOMERS

You can add the DIRECTV PROTECTION PLAN to your account when you order online.

#### CURRENT CUSTOMERS

If you have a standard DIRECTV Receiver(s) to sign up, and then follow the simple steps below. If you have a DIRECTV® DVR, DIRECTV HD Receiver, or DIRECTV Receiver with UltimateTV Service, please call 1-800-DIRECTV.

1. SIGN IN with your user name and password, or click on the "Register" link and go through the easy steps, then continue with Step 2.
2. SELECT Option B, and then click the "Continue" button at the bottom of the page.
3. SCROLL down to Step 3 (Add Additional Services) and SELECT "DIRECTV PROTECTION PLAN," then CLICK on the "Continue" button.
4. REVIEW your change and CLICK on the "Accept These Changes" button.

#### PROTECTION PLAN TERMS & CONDITIONS

Terms and conditions for the DIRECTV PROTECTION PLAN vary by state. Click on your location to read the full terms and conditions for [Alabama](#), [Arizona](#), or [California](#) states.

The DIRECTV PROTECTION PLAN is offered by AIG Warranty Guard and underwritten by New Hampshire Insurance Company on behalf of DIRECTV where authorized by law.

A fee of \$49 for standard IRD equipment, \$249 for DIRECTV DVR or DIRECTV® Receiver with Ultimate TV Service, or \$400 for DIRECTV HD Receiver will be charged to your DIRECTV bill if the equipment is not returned within 30 calendar days. The plan will also provide a return box for faulty equipment and even pick up the shipping costs. You'll receive replacement equipment in about 72 hours.



Now. Every. Day.™



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**Find out how you can help!**

**EasyPay**  
AUTOMATIC  
SECURE  
EFFORTLESS

## Customer Support



Just like a true friend.  
Cox is here for you 24/7

Customer Support

### Cox Service Assurance Plan<sup>SM</sup>

With the Service Assurance Plan from Cox, you won't have to worry about costly repairs. Your coverage includes all your home interior wiring to your televisions, and high-speed Internet modems. It also covers the telephone wiring you own - even if Cox is not your phone service provider. <sup>\*\*</sup> Plus we will diagnose any problems, show you how to get the most out of your equipment, and make sure your Cox services are trouble-free.

**Please note:** This service will not be available until June 1, 2004

To sign-up for the Cox Service Assurance Plan or for more details, give us a call. You can find our phone number on the Contact Customer Support page.

[Terms & Conditions](#)

**\*\*Certain limitations apply.**



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**EasyPay**  
AUTOMATIC  
SECURE  
EFFORTLESS

# Contact Us



Just like a true friend,  
Cox is here for you 24/7

## Phone Numbers

**Customer Support, Ordering & Billing:**

**(703) 378-8422**

8:00 am - 9:00 pm

7 days a week!

Best time to call is mid-afternoon!

**24/7 automated phone:**

**(703) 378-8422**

[Check your balance](#) | [Make a payment](#) | [Establish/change your PIN](#) | [Confirm/Change/Cancel an appointment](#)

**En Español Llame Al**

**(703) 378-3980**

8:00 AM - 9:00 PM

7 days a week!

**TTY Customer Service  
HEARING IMPAIRED ONLY**

**(703) 378-3924**

8:00 AM - 9:00 PM

7 days a week!

**Outage Information /  
Box Refresh Helpline**

**(703) 378-HELP (4357)**

**Career Opportunities**

**(703) 480-5227**

**Commercial Sales**

**1-866-811-4400**

**Cable Advertising**

**(703) 563-5500**

**Cable theft hotline:**

**(703) 480-5230**

**IN DEMAND PPV**

[COXNYA.InDEMAND@cox.com](mailto:COXNYA.InDEMAND@cox.com)

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