

## EXHIBIT C

Exhibit C to Letter From Charles L. Kerr to the Court,  
dated August 24, 2012

EchoStar's Proposed Jury Instruction  
On The Adverse Inference Based on Failure to Preserve Emails

The Court has found that EchoStar had an obligation to institute a litigation hold and preserve documents in anticipation of potential litigation as of June 20, 2007, that EchoStar failed to do so, that, as a result, relevant emails were not preserved, and that EchoStar has no reasonable explanation for not preserving those emails.

You may, but you are not required to, conclude that, if those emails were produced in court, they would not have supported EchoStar's position.

*See* N.Y. Pattern Jury Instr.--Civil 1:77.1, at 132 (3d ed. 2012).