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The Honorable John Ashcroft
United States Attorney General
950 Pennsylvania Avenue NW
Washington, DC 20530

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Attorney General Ashcroft:

As you may know, I have great interest and have spent substantial time and energy being involved in public policy questions surrounding the technology and telecommunications industries. I have marveled at this high-tech revolution, the greatest economic event of my lifetime, and the great opportunities it provides for all Americans. Aside from being the economic engine of our economy, technological innovations have already delivered greater access to information, entertainment, and communication in all it's forms - and has the promise to do even more in the future.

Despite my interest, I am not personally in the business of delivering technology services to customers - the entrepreneurs and inventors in our society have taken care of that. My job as Majority Leader has been to do my best to ensure that the legislative and regulatory landscape keeps the heavy foot of government off the necks of these growing businesses so customers and sellers can reach their own deals without our "expertise" getting in the way.

For that reason, I believe that the merger between Echostar and Hughes Electronics (DirecTV) should be allowed to proceed. These companies have obviously determined that consumers would have access to more services through the combined company than would otherwise be available, including not only more channels to choose from, but also more different types of television offerings - like expanded high-definition television, pay-per-view, high-speed Internet access and video-on-demand.

Without the merger, these companies have indicated that they will not have the market presence necessary to meet those needs and still compete with other competitors seeking to provide the same package of services - including cable, DSL lines from telephone providers and wireless services. Customers will be better able to determine whether they are able and willing to pay for the services the merged company plans to

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market than Congress or any federal agency. Why should we make the choice for consumers what they should or should not purchase and at what price?

Opponents of the merger have raised the concern that the combined company will control too much of the available spectrum allocated for satellite broadcasting. I am sympathetic to the view that this limitation on spectrum is potentially a government-imposed barrier to entry for future competitors in the satellite broadcast market, even though there will be competition from other technologies like cable, DSL and wireless. However, in my view the solution to this potential problem is not to block the merger, but to improve the spectrum allocation process.

Increasingly, it has become clear that the current method of allocating spectrum in chunks dedicated to specific technologies has not proved efficient. Some spectrum is so available that it is unused, while other spectrum yields billions of dollars in auctions. Rather than block the merger, or impose spectrum conditions on the merger, the FCC should look at reforming the spectrum allocation process to allow more flexibility in use. Allowing market forces to help direct how spectrum investments are made will create more efficient use, faster innovation, more incentive to share while minimizing "squatting" on existing spectrum, and consequently better services for consumers.

Spectrum allocation is a challenge on a number of different fronts - don't make satellite TV customers wait until those challenges are met. Allow companies to determine how best to provide service to their customers; let customers determine for themselves what they are willing to pay for and from whom; and create more market flexibility in the allocation of spectrum to resolve conflicts in all technologies. These are not mutually exclusive goals.

I request that you consider these views to the extent possible under all applicable federal laws and regulations. In addition, I ask that these comments be entered into the formal record and made available to all interested parties. Thank you for your attention to this important issue.

Sincerely,

DICK ARMEY
House Majority Leader