



ALEXIS de TOCQUEVILLE INSTITUTION

The Honorable Michael Powell
Federal Communications Commission
445 12th St SW
Washington, DC 20554

4/8/02

Dear Chairman Powell,

The scholars of the Alexis de Tocqueville Institution (AdTI) study the spread and perfection of democracy around the world, seeking to uphold the liberal ideals of civil liberty, political equality and economic freedom and opportunity.

In line with this mission, and on behalf of the Institution, I am writing to urge the Commission to approve the proposed merger between Dish Network and DIRECTV.

DIRECTV (owned by Hughes Electronics) and Dish Network (owned by EchoStar Communications) are competitors in the direct broadcast satellite business. For all practical purposes, they are the only names in the game, handling some 90% of the satellite television business in the United States.

At first glance, therefore, it might appear that a merger of the two firms would be anti-competitive, and therefore inimical to the ideals of AdTI. A more careful examination of the case, however, reveals the opposite to be true.

A single broadcast satellite company would be able to provide better competition for the cable systems than the two together provide as separate entities. The cable systems account for approximately 80% of the subscription television industry, the two satellite companies accounting for most of the remainder (17%).

It is this competition in the overall industry that really matters, not the competition in the satellite segment. This is particularly true because of the nature of the cable segment. Each cable system has an effective monopoly in its own area; consumers who want cable have no choice: they take the service offered, or go without. So, in terms of keeping prices down and quality of service up, it is critical that the broadcast satellite industry be able to offer robust competition to cable.

That competition will be enhanced if the merger is allowed. In part, this is a technical matter. Given their access to broadcast spectrum bandwidth, the two satellite companies are forced into a costly and service-inhibiting duplication that results in the use of more than 500 channels to carry identical programming. With the merger, this unwise allocation of a very scarce resource is removed. Almost twice as much bandwidth becomes available, and new

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services are made possible, including carrying local stations in all 210 designated television market areas.

Nor are the benefits of the proposed merger limited to the area of television service. At stake also are important considerations in the infant broadband Internet access industry. In this area, both cable and satellite companies have the ability to provide much needed competition for the local telephone companies, including the four giant Bell companies.

The economic slowdown and post-September 11 uncertainty have stifled growth in broadband for the past year, but this is surely a temporary pause. High-speed broadband access to the Internet is clearly the wave of the future, and it is vital that real competition exist among various companies and technologies providing it.

Indeed, for many people, rural Americans and others for whom neither cable nor telephone line options such as DSL are available, satellites are the only means of high-speed Internet access for the foreseeable future. If the satellite industry is strengthened so it can better compete with both cable and telephone companies, it can only work to the advantage of those who have no other practicable option, while at the same time providing beneficial competition for the business of those people who do have other options.

The two satellite TV companies have done much good work in raising the standard for television transmission. They pioneered digital service, for example, and forced the cable companies to speed up their own development of that technology. In interactive TV, again, they led the way, and are now doing so in high definition programming.

Approval of the merger will allow them to do an even better job of providing this sort of leadership in the future, and I therefore urge the Commission to act favorably on the merger request.

Sincerely,

Kenneth Brown, Jr
President
Alexis de Tocqueville Institution