

April 2, 2002

Via Electronic Filing  
Mr. William Caton  
Acting Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W. TW-A325  
Washington, D.C. 20554

Re: Ex Parte Notice, CS Docket 01-348

Dear Mr. Caton:

The following is an excerpt regarding the proposed EchoStar/DIRECTV merger that appeared in a recent court filing. In the petition for a writ of certiorari filed with the Supreme Court regarding the "carry-one carry-all" rules", the petitioners (the Satellite Broadcasting and Communications Association, EchoStar Satellite Corporation, EchoStar Communications Corporation, and DISH, Ltd., d/b/a Dish Network) made an assertion that is worthy of your attention.

While explaining to the court that the initial action in the district court was brought by SBCA, EchoStar and DIRECTV, the petitioners assert:

"DIRECTV joined petitioners in appealing the district court's decision to the Fourth Circuit, but has chosen not to seek certiorari; accordingly, DIRECTV is a respondent pursuant to this Court's Rule 12.6. While this case was pending before the Court of Appeals, EchoStar and the parent of DIRECTV agreed to merge the two DBS providers into one entity. The merger is subject to approval by the FCC and antitrust regulators. After the entry of the decision below, EchoStar and DIRECTV announced that the additional capacity that would be generated if the merger is approved would enable them to offer local-into-local service to all markets nationwide as soon as 2 years later. *However, the merged entity does not intend to carry all channels in every market unless the decision below is upheld.*" (Cert Petition at FN 2, emphasis added)

Sincerely,

/s/ Brett Tarnutzer

Brett Tarnutzer  
Wallman Strategic Consulting, LLC  
on behalf of Pegasus Communications