

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Consolidated Applications of)
)
EchoStar communications Corporation,)
General Motors Corporation, and)
Hughes Electronics, Corporation,)
)
Transferors,)
)
and)
)
EchoStar Communications Corporation,)
)
Transferee)
)
For Consent to Transfer of Control)
of a Broadcast Satellite System)

CS Docket No. 01-348

To: The Commission

REPLY COMMENTS OF NORTH PACIFIC INTERNATIONAL TELEVISION, INC.

1. North Pacific International Television, Inc. ("NPIT") hereby submits its reply comments in this proceeding. NPIT is the licensee of broadcast television station KHCV(TV), Seattle, Washington, a station that EchoStar and DirecTV have refused to carry on their satellite systems. NPIT filed initial comments indicating that EchoStar and DirecTV have proven through their conduct that they have no interest in serving as a delivery system for over-the-air television broadcasting and will do whatever they can to minimize their broadcast carriage obligations.

2. Many commenters residing in rural areas have filed comments in favor the merger, in the hope of obtaining more local-into-local service in small television markets. These hopes are understandable, but the merger is not likely to produce the results these commenters desire.

While the merged EchoStar may indeed offer local-into-local into more markets than EchoStar does today, EchoStar's past course of conduct demonstrates forcefully that it will carry as few broadcast signals as possible, thus reducing the choices of rural residents and likely depriving them of all but the largest network affiliates. The exclusion of any station that does not jump through the formidable hoops that EchoStar erects, including overcoming the dual-receiving antenna arrangement that EchoStar has requested authority to implement, will force small broadcast stations out of business; and small markets will never enjoy the variety of network and local services now enjoyed by larger markets. They will get a partial loaf at best and will end up forever short-changed.

3. Other commenters applaud the merger as a way to bring high-speed Internet access to remote areas. While this goal is laudable, and satellite service may be capable of providing such service, there is no assurance that the merger will make that service a reality. EchoStar may suggest it will provide Internet service; but in the absence of legal compulsion to provide it, the Commission cannot be confident that service will be provided, or if provided, that it will not later be curtailed or withdrawn. EchoStar will do whatever maximizes its profit; and any promise of new service made now to promote the merger will not last if fulfilling the promise turns out to be too costly.

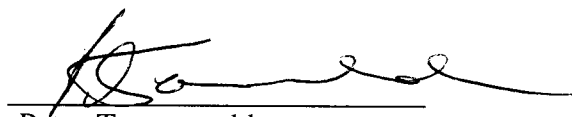
4. History has consistently demonstrated time and again that when a large business enterprise does not want to do something, it will come to the Commission for a waiver or rule change or will turn to Congress or the courts to escape its legal obligations or its promises. For example, the Bell Operating Companies do not want to build out DSL service unless they can do it on their own terms, which means not making the lines available to competitors as

unbundled network elements; and meeting resistance at the Commission, they have turned to Congress for relief in the pending Tauzin-Dingell bill. Also, the major broadcasters, chafing at ownership caps, have been remarkably successful in attacking those caps in court.^{1/} There is no reason to believe that EchoStar will behave differently from any other large business or that EchoStar will change its historical pattern of avoiding broadcast carriage requirements whenever possible.

5. In short, the claimed benefits of the merger may become illusory if they are not perceived by EchoStar as maximizing profits. But what will not be illusory is the creation of a monopoly on direct-to-home satellite television service. That will be the real result of the merger. EchoStar will have a monopoly on the delivery of satellite television services, reinforced by vertical integration from the Vivendi investment recently reported by EchoStar. Its behavior may be limited to some extent by competition from wired cable television in larger markets, but it will have free rein in the very rural areas that the Commission hopes to benefit. Once the cat is out of the bag, it will never return. That is a fact that the Commission cannot and must not ignore. The benefits are hopes and wishes, but the harm is real.

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Respectfully submitted,



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February 25, 2002

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^{1/} See, e.g., *Fox Television Stations, Inc. v. FCC*, Case Nos. 00-1263 *et al.*, D.C. Circuit, decided February 19, 2002.

CERTIFICATE OF SERVICE

I, Peter Tannenwald, do hereby certify that I have, this 25th day of February, 2002, caused to be sent by first class United States mail, postage prepaid, copies of the foregoing Reply Comments of North Pacific International Television, Inc. to the following:

Gary M. Epstein, Esq. Latham & Watkins 555 - 11th St., N.W., Suite 1000 Washington, DC 20004	Dish Network Service Corporation (EchoStar Communications Corporation) 5701 South Santa Fe Drive Littleton, CO 80120
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I further certify that I have sent copies of the foregoing Reply Comments by e-mail to the following FCC officials and the copying contractor:

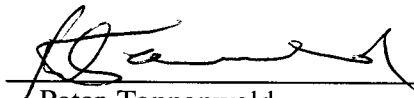
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