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Congress of the United States
House of Representatives

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JUN 18 2002

The Honorable Michael K. Powell
FCC Chairman,
Federal Communications Commission
445 12th Street Southwest, Rm 8B201
Washington, D.C. 20554-0001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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M.K. Powell
EchoStar
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JUN 18 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Chairman:

I write to express my serious reservations with the proposed merger between EchoStar Communications and DirecTV. The paring has serious consequences for consumers throughout the United States, and in rural America in particular. At the present time, I ask that you not approve the merger until these issues are adequately addressed.

In October 2001, EchoStar and Hughes Electronics announced a proposed merger in which EchoStar would acquire DirecTV, effectively creating a monopoly in the satellite communication industry. Studies estimate that cable television is not available to twenty-five million rural homes or more. Rural communities, like those in the 28th Texas Congressional District which I represent, rely on Direct Broadcast Satellite (DBS) Services for access to educational and entertainment programing. If the merger is approved, thousands of my rural constituents would have only one choice for access to DBS, without effective competition from other providers.

The proposed merger could not only translate into diminishing quality of service and rising prices for consumers in rural communities, but it could also reduce the number of options for consumers in urban areas as well. For residents of San Antonio, Texas, and other communities that are served by only one cable provider, DirecTV represents a viable third option in their search for affordable, diverse television programming. History has shown that reducing the number of competitors in a market from three to two or two to one can have a devastating impact on consumers.

I also have serious concerns about EchoStar's attempts to avoid providing full access to local network broadcasters. In 1999, Congress, with my support, passed the 1999 Satellite Home Viewer Improvement Act (SHVIA), which granted DBS companies the ability to provide local network broadcast programming to consumers, but did not require them to do so. The law specified, however, that if a DBS company provided one or more local stations in a market it must provide all local stations in that market, a requirement which cable companies are also obligated to fulfill. EchoStar, the acquiring company, appears to have neglected this

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The Honorable Michael K. Powell
April 15, 2002
Page 2

responsibility, while using unfair practices to do so.

On April 4, 2002, the Media Bureau of the Federal Communications Commission ruled that EchoStar's "two-dish" plan, as implemented, violates both the Satellite Home Viewer Improvement Act of 1999 and FCC rules. The Media Bureau found that EchoStar violated statutory and regulatory requirements to offer all local stations in a nondiscriminatory manner on the electronic program guide (EPG) and menu because the stations available only on a second dish are not listed on the EPG unless the second dish is installed and are not included on the menu of stations offered in the same manner as the stations available on the first dish. The Bureau also ruled that EchoStar violated the statutory prohibition on discrimination among local stations based on price and the statutory and regulatory requirements for contiguous channel placement. These discriminatory practices have obstructed access by small broadcasters to consumers in my district and limited the range of programming available.

Clearly, consumers have much to be concerned about. I hope that you consider these concerns when reviewing the effects of the proposed merger between EchoStar and DirecTV, and look forward to your prompt response. Thank you for your attention to this matter.

Sincerely,


Ciro D. Rodriguez
Member of Congress

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