

Federal Communications Commission

Reference CS Docket No. 01-348

Dear Commissioners:

I hereby recommend against the transfer of control of Section 214 authorizations controlled by Hughes to New EchoStar.

As ECC and Hughes, through its DirectTV subsidiary, are the two major direct broadcast satellite ("DBS") providers in the United States. ECC, GM, and Hughes submit that the proposed transaction will promote the public interest. They state that New EchoStar will more efficiently use spectrum to offer more local-into-local programming, provide a competitive alternative to cable television, offer more broadband services, provide better service to rural and outlying areas at nationally standardized prices, and offer more niche, educational and high-definition television programming.

My reasons against approving such a merger are as follows:

I. Elimination of Competitive Choice

An underlying reason why the United States of America is known as the greatest economic force in the world, is due to the free enterprise system where competition is encouraged. A competitive market will cease to exist. As ECC, and GM/Hughes together control over 90% of the US Satellite consumer market, a monopoly will result if the companies merge into one.

A. While some have commented that as cable television offers digital programming, therefore cable is competitive choice. This is not true! Cable television is often regulated by state, county, city and other local regulations where fees and services are mandated. Including fees for small Home Owners Associations. I personally cancelled my Cable Television Service with ADELPHIA in November 1999 due to poor service. Their analog service is very poor and their digital service is very expensive. The digital and analog services are more expensive than either Hughes or ECC.

Cable is not as reliable as Satellite Service. Cable requires mile after mile of physical connections with AC power continuously applied to network amplifiers and splitters. A power outage 5 miles from a residence will stop all cable programming as will a damaged line from a tree or other accident. Such outages can last for a few hours, to a few days.

For satellite service, only an occasional storm disrupts service and historically, such disruptions last for no more than 5 to 10 minutes. Should a satellite fail, there are additional satellites to provide services. Cable systems are not redundant.

When considering cable as a competitive force to satellite broadcast, an appropriate analogy would be to look at the transportation industry. While both airlines and trains take people and good over long distances, they are not viewed as competing technologies. Airlines compete with other airlines and trains as a method of transportation typically compete with buses. However all provide long distance transportation. In other words, the providing of a similar service should not be confused with offering a competitive service.

B. Currently Hughes and ECC market their services differently.

Hughes sells only programming services. Hughes does not sell any equipment and leaves such sales to internet retailers, mass market retailers and will not sell equipment to any consumer. In addition Hughes does not require any contractual commitments. Service plans are month to month.

On the other hand, ECC through the DISH network, sells equipment directly and requires a contractual commitment in some cases. This is an actual note from the DISH Network web page, <http://www.dishnetwork.com/content/promotions/FreeSatelliteSys/index.shtml> on January 5, 2002.

"DISH Network is the simplest, most convenient way to bring 100% digital quality TV to your home. Just agree to a monthly programming package of \$21.99 or higher for one year, and we'll give you a complete state-of-the-art satellite TV system--a \$199 Value--as well as a free professional installation--another \$199 value-absolutely free!"

In all likelihood, a merger would eliminate a choice of how a consumer chooses to obtain satellite equipment and under what conditions they would purchase service packages.

II. ELIMINATION OF EITHER ECC OR HUGHES SYSTEMS WILL COST CONSUMERS MONEY FOR NEW EQUIPMENT.

In Attachment B of the application; "Joint Engineering Statement in Support of Transfer of Control Application", the applicants assert that the systems use different transmission methods and an equipment choice will have to be made as the consumer boxes are not compatible with the other's service (i.e. ECC vs. Hughes).

While the engineering statement claims that there will be a seamless transition at no-cost to consumer, it is doubtful this will occur in practice. As the engineering statement references set top boxes with Hard Drives and HDTV reception capability, such boxes cost consumers as much as \$799.

When Directv began providing local service on the 119 degree satellite in 2000, they did not provide new set top boxes and dishes at no cost. There was typically a minimum cost of \$49 to go from a non-plus receiver to a PLUS receiver. However, Directv would not provide boxes with wireless remotes (i.e. UHF) or Dolby Digital connections at that price. They would not replace a box with a similar manufacturers box which could impact a home network of entertainment equipment would still use one common remote control system. In my case, they would not exchange my SONY box with another SONY box with dolby digital or UHF remote capability. Hughes told me to contact SONY and deal direct with them. As this cost may be small compared to a Hughes vs. ECC transition, history shows there is always a cost to a consumer.

Furthermore, in November 1999, my Directv set top box cost \$399 since it had advanced features. With new HDTV boxes costing \$799, it is doubtful that the new Echostar will change out tens of thousands or more of such boxes at their expense. Including, providing identical manufacturers boxes for Intra-System Connectivity.

If the FCC chooses to allow such a transfer of licenses, the Commissioners must mandate that no current subscriber shall be financially impacted to

receive the same manufacturer's equipment and similar features. Including installation costs

While I do acknowledge that there will be some savings of satellite bandwidth and cost savings of ground based control centers, such benefits will not be passed on to the current 15 million subscribers referenced in the application. Many of the 15 million current subscribers will be faced with service issues, equipment changes, and in all likelihood increased monthly service costs.

I encourage the FCC to NOT APPROVE these license transfers. ECC and Hughes will be free to find other means to build their businesses attract investors or transfer licenses to other parties which will not result in a monopoly of home satellite broadcasting.

Thank you,

Steven C. Shapiro