

The Honorable Michael K. Powell

Chairman

Federal Communications Commission

445 12th Street, S.W.

Washington, D.C. 20554

Dear Chairman Powell:

I would like to reply to the Joint Opposition and Reply Comments filed with FCC on 5/30/02 by Steptoe & Johnson LLP on behalf of Echostar. In particular, I would like to comment on the following statement made in the said document: "...the increased spectrum efficiencies obtained through a merger of EchoStar and DIRECTV would greatly enhance the programming alternatives for ethnic constituencies. Specifically, the proposed merger would facilitate new and improved niche programming, including more ethnic and foreign language programming, providing audiences with expanded viewing opportunities."

I do not believe in Echostar's promise that the additional spectrum (allegedly made available as a result of the merger) will indeed lead to "enhanced" programming alternatives.

Mr. Chairman, please weigh Echostar's past practices against the promises of future benefits. As illustrated by the example of TV Polonia, Echostar's current practice is to limit viewers' choices by demanding exclusive rights to broadcast certain ethnic channels. There is no indication that the additional available spectrum would change this predatory business practice.

For several years Echostar's ethnic programming included the Polish public TV channel, TV Polonia. Through very heavy advertisement in Polish-American media, Echostar lured tens of thousands of customers who in most cases installed Echostar's equipment just to receive TV Polonia. On May 2, 2002, without even a day notice to its customers, Echostar abruptly stopped broadcasting TV Polonia. Dissatisfaction of TV Polonia customers was immense - this is well illustrated by thousands of angry letters, e-mails, phone calls received by the Polish Daily News published in New York City. To this day Echostar has not provided any meaningful explanation for discontinuing TV Polonia, and responses to any customer inquiries have been very general, fact-free public statements.

However, public statements by TV Polonia's U.S. sales agent, Spanski Enterprises Inc., indicate that Echostar demanded exclusive rights for broadcast of TV Polonia in USA. If the TV Polonia sales agent agreed to Echostar's anticompetitive demands then hundreds of thousands of Polish speaking viewers living in large cities, who must use cable TV, would have no access to Polish public TV.

In response to the TV Polonia sales agent's denial of Echostar's request for exclusivity, Echostar chose to betray its ethnic customers, drop TV Polonia over night and replace it with third rate Polish speaking channels whose programming quality does not even come close to the Polish public channel, TV Polonia (it's analogous to replacing PBS with the Home Shopping Network channel - both are in English but satisfy quite different needs). Any comments and requests for resuming the broadcast of TV Polonia are completely ignored by Echostar's management. It seems that in Echostar's struggle for dominance customer needs are truly secondary.

Mr. Chairman, Echostar is already displaying strong anti-competitive behaviors by striving to reduce customer choices by trying to monopolize ethnic channels. The merger will further reduce our choice of satellite TV access providers. The combination of these trends can only hurt consumers. I am very much afraid that if the merger goes through then due to its newly gained dominance of the DBS market the new Echostar will be in a position to apply its anti-competitive practices on a much larger scale. As a result, just like with TV Polonia, this time the new Echostar will demand exclusive rights for broadcasting the mainstream American channels, so channels such as HBO, PBS, Showtime or CNN, would be accessible exclusively to Echostar customers or would be accessible solely to customers of other access providers. Either way, we the consumers would loose.

Mr. Chairman, please oppose the merger unless Echostar alters its anti-competitive practices.

Sincerely,

Darek Smyk

57 Shannon Hill Rd.

Basking Ridge,

NJ 07920

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