

01-348 ✓

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MEMORANDUM

FEB 15 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

TO: Office of the Secretary  
Federal Communications Commission

FROM: US Action

DOCKET FILE COPY ORIGINAL

DATE: February 15, 2002

RE: Comments re: CS Docket No. 01-348/EchoStar  
Communications Corporation, General Motors Corporation,  
and Hughes Electronics Corporation seek FCC consent for a  
proposed transfer of control.

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Please find enclosed is the original and 4 copies of comments filed by US  
Action organization, re: Docket No. 01-348. If you have any questions  
please contact Jeff Blum at (202) 624-1730.

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Before The  
Federal Communications Commission  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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*In the Matter of*

**EchoStar Communications Corporation,**  
**General Motors Corporation,**  
**And Hughes Electronics Corporation**

For Authority to Transfer Control  
\_\_\_\_\_

CS Docket No. 01-348

**REPLY COMMENTS OF US ACTION**

Jeff Blum  
Executive Director  
US Action  
1341 G Street, NW  
Suite 1000  
Washington, DC 20005  
(202) 624-1730

**February 15, 2002**



February 1, 2002

The Honorable John Ashcroft  
Attorney General of the United States  
Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

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**FEB 15 2002**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

The Honorable Michael Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, N.W.  
Washington, D.C. 20554

Dear General Ashcroft and Chairman Powell:

US Action is a national grassroots consumer organization representing three million people and 33 affiliated organizations. From health care and education to the environment and telecommunications, our organizations work on the state and national level to represent our members and advocate on behalf of consumers.

Many of our member organizations are in states with a large rural constituency who, until recently, were offered a choice of direct satellite television providers – EchoStar and DirecTV. Unfortunately, the proposed merger between these two large competitors would create a monopoly with serious economic ramifications for rural consumers. For this and other reasons stated below, US Action strongly opposes this merger.

These companies compete today through discounts, equipment and similar inducements. Such a merger will mean no choice for these consumers in services, quality, reliability or price. The consolidation of the satellite broadcast industry over the past few years has been harmful, but cannot compare to the consequences of this combination. Allowing just one company to control the entire market clearly flies in the face of our antitrust laws. Even in metropolitan areas of the country currently served by one cable provider, this merger would reduce the number of competitors from three to two.

EchoStar and others claim that their merger will give them the economic strength to compete head to head with cable. It is incredible to us that a monopolist would choose to compete with another monopoly. Rather, the more likely outcome would be for accommodation – to, in effect, divide up the market at consumer expense.

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We agree Attorney General Jay Nixon of Missouri, who is concerned with the reduction in competition in "emerging technologies such as broadband Internet." If allowed to proceed, this monopoly would more than chill competition for rural broadband services; it would eliminate any incentive to provide it. EchoStar's strategy is clear and simple: seize control of the satellite broadcast market for today's television services and then use that monopoly to control the growth and development of tomorrow's Internet delivery system. If the antitrust laws were meant to do anything, they were meant to stop this kind of anti-competitive, anti-consumer behavior.

According to the Federal Communications Commission, at least 11 million households in rural communities do not have access to cable. In other words, there are perhaps 40 million people who will be harmed if EchoStar is allowed to acquire DirecTV – 40 million people who will be faced with a single provider of multi-channel TV programming – EchoStar. The chairman of EchoStar is promising that he will create a national rate that is fair to consumers. Such a promise, in light of all the promises consumers have received from unregulated cable monopolists, is not sufficient and hardly reassuring. With no competition in rural areas, there will be no competitive pressure to reduce rates and improve services.

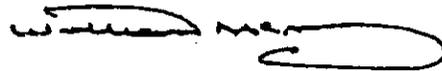
We heartily agree with former Federal Trade Commission Chairman Robert Pitofsky who testified before Congress that,

The aim of antitrust enforcement is to protect consumers from the abuses that follow from extreme concentration of market power. As proposed, the EchoStar-DirecTV merger certainly raises that threat, and consumers are left with CEO promises (and perhaps hard to enforce conduct remedies) to protect against abuses. (Committee on the Judiciary, House of Representatives, December 4, 2001.)

In other words, following an EchoStar-DirecTV merger, consumers will have no choice but to suffer excessive rates and lousy service.

On behalf of our three million members, we urge you to protect competition and consumers by opposing this merger.

Yours truly,

A handwritten signature in black ink, appearing to read "William McNary". The signature is fluid and cursive, with a large loop at the end.

William McNary  
President

Cc: The Honorable Patrick J. Leahy  
The Honorable Orrin G. Hatch  
The Honorable F. James Sensenbrenner, Jr.  
The Honorable John Conyers, Jr.  
The Honorable Charles James