

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

Washington, D.C. 20554

In re Consolidated Application Of)
)
Echostar Communications Corporation,)
General Motors Corporation,)
Hughes Electronics Corporation,)
)
Transferors, and)
)
Echostar Communications Corporation,)
)
Transferee,)
)
For Authority to Transfer Control,)

GN Docket No. 01-348

To the Cable Services Bureau:

**COMMENTS OF THE
UNITED STATES INTERNET
INDUSTRY ASSOCIATION ("USIIA")**

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SUMMARY OF FILING

The US Internet Industry Association ("USIIA"), the leading national trade association of companies engaged in Internet commerce, content, and connectivity; submits on behalf of its members and the industry it serves these comments in response to the application for consolidated transfer of control from the transferors to the transferee, EchoStar Communications, Inc.

USIIA believes that the transfer of control of the licenses and assets associated with the acquisition of Hughes Electronics Division of the General Motors Corporation will have a beneficial effect on the national capability to deliver broadband Internet services to rural America, and direct benefits to consumers and the Internet Service Providers who serve them.

USIIA requests that the Federal Communications Commission act with all due speed to approve the application for consolidated transfer and approve the merger of these companies.

STATEMENT OF STANDING

USIIA is a national trade association of competitive companies engaged in Internet commerce, content and connectivity. Its 300 members constitute a cross-section of the Internet industry, providing consensus on policy issues that breach the competitive interests of any single member or segment of the industry.

USIIA members, through their annual dues and membership status, entrust the Association to represent their interests before regulatory and legislative bodies at the international, national and local levels. The Association's positions on issues represent a consensus of the opinions of its

members, expressed through the USIIA Public Policy Committee, membership in which is open to all members in good standing; and through its Board of Directors, elected from among the membership. As the appointed representative of its members charged with advancing their economic interests and assisting in achieving and maintaining their legal and competitive parity, USIIA has standing to file these comments.

USIIA has no financial interest in the outcome of the proceedings. The comments presented are based on a consensus of the best interests of the Internet industry and its members, and are not subject to change or withdrawal due to any contracts, agreements, competitive pressures, market valuations or corporate strategies.

STATEMENT OF FACTS AND BACKGROUND

On October 28, 2001, General Motors and EchoStar Communications Corp. signed an agreement to merge the Hughes Electronics Corporation and its subsidiary companies with EchoStar.

On November 1, 2001, FCC Chairman Michael K. Powell announced that W. Kenneth Ferree, chief of the Cable Services Bureau and future Media Bureau, will head the FCC delegation to the inter-agency team to review whether EchoStar Communications Corporation's proposed acquisition of General Motors' Hughes Electronics, which owns satellite television service DirecTV, is in the public interest.

As a step toward this acquisition, the companies jointly petitioned the Federal Communications Commission on December 3, 2001, to approve the transfer of control of licenses and authorizations held by Hughes Electronics Corporation (“Hughes”) and its subsidiaries and affiliates and by EchoStar Communications Corporation (“ECC”) and its subsidiaries and affiliates to EchoStar Communications Corporation, a Delaware corporation.

Hughes controls various space station, earth station, wireless and experimental licenses and Section 214 authorizations, including licenses and Section 214 authorizations held by PanAmSat Corporation and its wholly-owned subsidiaries. ECC controls various space station and earth station licenses, including licenses and authorizations held by EchoStar Satellite Corporation, EchoStar 110 Corporation, EchoStar North America Corporation and EchoStar VisionStar Corporation.

These comments are filed in CC Docket 01-348 in order to address issues inherent in the merger review process that will have significant impact on the Internet industry.

COMMENTS OF THE USIA

The issue is capacity, not competition. The new merged Echostar Communications would participate in the multi-channel television industry and in the Broadband Internet industry, but would hold substantial market share in neither. The combined 14.9 million subscribers of the new entity would represent less than 15 percent of the current US multi-channel television industry, which has over 100 million subscribers and is growing rapidly due to the introduction of high-speed data and digital television services. Likewise, the estimated 116,000 Broadband

Internet subscribers to the satellite service would represent less than two percent of the total market for residential and broadband services as of 2002. Echostar would not be in a position to dominate either industry, or to act in ways detrimental to the interests of consumers without facing the loss of subscribers to other competitors.

The issue is not whether the merged Echostar would stifle competition in the emerging markets for satellite distribution of television and Internet content. Rather, the question is whether any of the existing satellite companies in and of their own right will have the resources and capacity to offer consumers a choice in areas that can not otherwise be well or economically served by the cable or telephone industries. A combined satellite company has the best opportunity to provide competition to cable and other communications platforms. Without the ability to combine resources, it is unlikely that either company will in the foreseeable future have the capacity to provide service to these consumers.

The merger will have positive effects on the deployment of Broadband Internet services. At present, the competitive landscape for Broadband Internet services is divided between the cable companies and the telephone companies, with cable holding a two-to-one lead for deployment at present, but with the telephone industry expected to catch up rapidly as technological issues are resolved with DSL or more advanced fiber-optic services.

While both cable and DSL have strengths as a delivery mechanism for Broadband Internet, neither of these technologies are capable of easily or economically serving the extensive rural areas of the United States that together comprise more than 30 percent of the market for

Broadband. Telephone Broadband solutions are hampered by distance restrictions, and cable by the economics of delivery. Only wireless or satellite services have demonstrated the capability to deliver affordable, high-speed Internet access to the most remote rural areas, and only satellite has available sufficient spectrum bandwidth to achieve the goal of Broadband deployment nationwide in the immediate future.

Satellite services offer an opportunity to effectively compete with cable and telephone Broadband solutions in urban regions, stimulating competition. And they offer the ability to curb the negative impacts of the Digital Divide by reaching into geographic regions that can not be easily or affordably served by other platforms.

The merger represents a renewed Broadband opportunity for Internet Service Providers and their customers. The nation's 4,000-plus Internet Service Providers find themselves in a difficult position as the nation moves toward Broadband. Current policy has virtually excluded them from participation in cable Internet, with the exception of a small handful of selected partners required under the merger conditions of AT&T/TCI and AOL/Time Warner.

ISPs do have the ability to participate as active partners in the deployment of DSL, but this deployment has not been rapid or technologically easy to effect. Satellite services offer any ISP a low-cost alternative to deployment that also strengthens the customer relationship with rural customers and allows a reasonable return on investment. It affords a secondary channel for deployment that could be the difference between survival and extinction for service providers in this decade.

The acquisition of Hughes Electronics by Echostar Communications will create a stronger, more capable satellite company that is better able to compete, will have the resources to expand products and services, will reach rural areas better than any other existing platform, and will offer expanded choices to Internet Service Providers and their customers.

USIIA strongly recommends approval of the request for transfer of control.

Respectfully submitted,

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US Internet Industry Association