

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
EchoStar Communications Corporation,	)	CS Docket No. 01-348
General Motors Corporation, and Hughes	)	
Electronics Corporation Application for	)	
Authority to Transfer Control	)	

**COMMENTS OF  
WORLD SATELLITE NETWORK, INC.**

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## SUMMARY

On December 3, 2001, EchoStar Communications Corporation (“ECC”), including its subsidiaries and affiliates, and Hughes Electronics Corporation (“Hughes”), including its subsidiaries and affiliates, along with General Motors Corporation (collectively, the “Applicants”), submitted an application (CS Docket No. 01-348) to the Federal Communications Commission (“Commission”) requesting consent to the transfer of control of licenses and authorizations held by the Applicants. Both ECC and Hughes control numerous satellite resources, including nearly all of the Direct Broadcast Satellite (“DBS”) orbital locations and frequencies licensed for the United States, as well as extensive Ku band and Ka band resources. The Commission released a Public Notice on December 21, 2001 (DA 01-3005), requesting that interested parties submit comments no later than February 4, 2002.

WSNet, a satellite-based wholesale provider of digital video programming will be the only alternative Direct-to-Home (DTH) platform for U.S. consumers if the merger ECC and Hughes is approved. WSNet supports the Commission’s approval of the merger with the modifications described herein. A merger of ECC and Hughes will allow for DBS services to be an attractive alternative to the large cable television companies that dominate many of the more densely populated and larger metropolitan areas. This will stimulate competition and serve the public interest. At the same time, however, the proposed merger, without modification, would not benefit the smaller and rural markets and could be harmful to these communities. Therefore, in order to ensure competition, new and innovative services, and the highest standards of customer care in

the smaller and rural markets, the proposed merger should be modified, including, though not necessarily be limited to, providing WNet with permanent access to full-CONUS enhanced satellite facilities.

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**COMMENTS OF  
WORLD SATELLITE NETWORK, INC.**

**I. Introduction**

World Satellite Network, Inc. (“WSNet”) hereby submits these comments to the Federal Communications Commission (“Commission” or “FCC”) to encourage the Commission to approve, with modifications, a transaction by which the merger of EchoStar Communications Corporation (“ECC”) and Hughes Electronics Corporation (“Hughes”) may be facilitated, resulting in a newly structured company to be called EchoStar Communications Corporation (“New EchoStar”). It is WSNet’s position, however, that for such a transaction to attain the necessary regulatory approvals, the currently proposed transaction must be modified so as to ensure competition and quality services to the smaller and rural markets. These modifications should include, though not necessarily be limited to, providing WSNet with permanent access to enhanced satellite facilities so that rural consumers may be provided with a viable alternative to New EchoStar. The enhanced satellite facilities should be one or more of the orbital satellite

assets that would come under the control of New EchoStar should the merger be consummated.

WSNet is a satellite-based, wholesale provider of digital video programming. WSNet services small private cable and rural cable television companies nationwide competing in the multichannel video markets by offering a variety of programming services and technologies to these operators. WSNet operates the third, and newest, direct-to-home (DTH) television platform in the United States. Aside from ECC and DIRECTV, Inc. (“DIRECTV”), WSNet is the only other satellite facilities-based multichannel video programming distributor (“MVPD”) in operation today.<sup>1</sup>

Using the WSNet digital satellite platform, small cable operators can provide multichannel video service to households within their service area that are currently not reached by their wired facilities by installing a satellite dish on their subscriber’s home, allowing them to receive approximately 200 channels of video and music. In addition, small system operators (typically less than 500 homes passed) may upgrade their existing wired service with all-digital satellite channels and continue to provide local channels via their wired facilities.

WSNet’s satellite platform is also used to provide a unique, cost-effective, digital upgrade for smaller cable systems, particularly in rural areas. By taking advantage of WSNet’s all-digital satellite platform, small cable system operators, including Satellite Master Antenna Television (SMATV) operators, can upgrade their systems by replacing

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<sup>1</sup> It is noted that Dominion Video Satellite, Inc. (marketed as Sky Angel) was authorized by the Commission to provide DBS service in 1999 and presently offers only 19 video channels (of primarily religious programming) compared to the hundreds of channels provided by ECC, DIRECTV, and WSNet. R/L DBS Company, L.L.C. has also been authorized to construct a DBS system, but it has not yet launched a satellite or begun service. See *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Eighth Annual Report, FCC 01-389, at ¶ 55 (rel. Jan. 14, 2002) (“*Eighth Competition Report*”) and [www.skyangel.com](http://www.skyangel.com) (last viewed Jan. 25, 2002).

all of their analog cable channels (excluding local channels) with a digital format, dramatically expanding the number of channels offered. Each analog channel replaced can then be used to deliver ten to twelve digital channels. This means that systems with limited bandwidth (*i.e.*, 330 MHz) can move from offering 35 channels to over 200 channels, and still have bandwidth available to eventually support high speed data.

By taking advantage of Quadrature Amplitude Modulation (QAM) technology and an all-digital satellite delivery, the capital expense of upgrading existing plant can be significantly reduced. This eliminates a major barrier that rural cable companies have faced in trying to compete with Direct Broadcast Satellite (“DBS”) providers over the last six years. This enables WSNNet to deliver approximately 200 channels of high quality, digital video and audio programming to the customers of cable system operators at a fraction of the cost of traditional video delivery mechanisms.

Additionally, WSNNet continues to be a leading wholesale provider of analog television programming to private cable operators and wireless cable operators in the United States. As of December 31, 2001, WSNNet served approximately 1,200 operators who collectively served over 750,000 video subscribers.

If a merger of ECC and Hughes is approved and consummated, it should be in a modified form so that WSNNet is provided with permanent access to enhanced satellite facilities. The enhanced satellite facilities should be one or more of the orbital satellite assets that would come under the control of New EchoStar should the merger be consummated. Doing so will allow New EchoStar to vigorously compete against the large cable companies, while ensuring that the small and rural markets are not forgotten,

but are able to reap the benefits of competitive and locally oriented services provided by WSNNet.

## **II. The Merger Will Be Beneficial for Competition with the Large Cable Companies**

As ECC, General Motors Corporation, Hughes, and New EchoStar (“Applicants”) argue in their Consolidated Application for Authority to Transfer Control (“Merger Application”),<sup>2</sup> the proposed transaction, which will result in the combination of ECC’s and DirecTV’s DBS resources, will promote competition with the cable television companies.<sup>3</sup> Specifically, the merger will stimulate competition in the market for MVPD, which is heavily dominated by the large cable television companies. As of June, 2001, 78 percent of all MVPD subscribers received their services from franchised cable operators, while a mere 18 percent of all MVPD subscribers received their services from the DBS service companies.<sup>4</sup>

Of significant concern, however, is that only a very small number of cable companies share control of this 78 percent of the MVPD market. As of June, 2001, the two largest cable companies, AT&T Corp. (“AT&T”) and Time Warner, Inc. (“Time Warner”), held 31 percent of the MVPD market share, which equates to 39 percent of all cable television subscribers.<sup>5</sup> Also as of June, 2001, the seven largest cable companies, AT&T, Time Warner, Comcast Corporation (“Comcast”), Charter Communications, Inc., Cox Communications, Inc. (“Cox”), Adelphia Communications Corporation

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<sup>2</sup> Application of EchoStar Communications Corporation, General Motors Corporation, Hughes Electronics Corporation, Transferors, and EchoStar Communications Corporation, Transferee, For Authority to Transfer Control, CS Docket No. 01-348 (filed Dec. 3, 2001) (“Application”).

<sup>3</sup> *Id.* at 22-28.

<sup>4</sup> *Eighth Competition Report* at ¶¶ 5 and 8. All percentages provided in these comments are rounded to the nearest whole number.

<sup>5</sup> *Id.* at Table C-3 of Appendix C.



(“Adelphia”), and Cablevision Systems Corporation (“Cablevision”), possessed 66 percent of the MVPD market share, equating to 83 percent of all cable television subscribers.<sup>6</sup>

By comparing the present market share of the largest cable television companies to that of 1996, the results of the massive consolidation efforts in the cable industry since 1996 are evident. In 1996, the seven largest cable companies, TCI Communications, Inc., Time Warner, Continental/US West, Comcast, Cox, Cablevision, and Adelphia, possessed 64 percent of the MVPD market share, equating to 72 percent of all cable television subscribers.<sup>7</sup> Despite the tremendous progress of both ECC and DIRECTV in gaining MVPD market share over the last five years, the seven largest cable companies have actually increased their share of the MVPD market from 64 percent to 66 percent. Even more indicative of the effectiveness of the cable companies’ consolidation efforts is that in 1996 the seven largest cable companies counted 72 percent of all cable subscribers as their subscribers, whereas in 2001 that figure is dramatically higher at 83 percent.

From a competition viewpoint, the garnering of strength in the cable television industry might not be of such great concern, even if consolidated in the hands of only seven companies, *if all seven companies competed directly against each other in all markets nationwide*. This, however, is far from the case. Rather, not only did the large cable companies consolidate to become larger, they also systematically consolidated franchise assets surrounding large metropolitan areas through acquisitions and trades with

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<sup>6</sup> *Id.*

<sup>7</sup> *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Third Annual Report, FCC 96-496, at Tables at Appendix F (rel. Jan. 2, 1997) (“*Third Competition Report*”).

each other.<sup>8</sup> The net result of this activity is that presently it is rare to find more than one of the top cable television operators servicing a single large metropolitan area. This new strategy has rewarded the large cable companies with tremendous buying and pricing power, while removing the competitive pressures that ensure the highest standards of customer service.

This consolidation amongst the largest cable television companies is not benefiting the consumers of MVPD, for many consumers, being faced with increasing prices, are left without an attractive second option. The merger of ECC and DIRECTV, however, will bring many MVPD consumers in large metropolitan areas another attractive option. In fact, lawmakers have previously seen the potential for satellite services to compete directly with the cable operators.<sup>9</sup>

By combining the resources of ECC and DIRECTV, which will allow for the more efficient use of valuable geostationary orbital locations and DBS spectrum, New EchoStar would be able to significantly improve its competitive capabilities. These improved competitive capabilities would be most notable in two ways: more bandwidth for enhanced services and more local programming in large metropolitan areas.

The cable television companies have increasingly been bundling services, including cable, data, and Internet services, while the DBS service providers, with limited

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<sup>8</sup> See, e.g., *AT&T to Buy Cablevision Systems Franchise in Eastern Massachusetts*, Boston Globe (April 19, 2000) (discussing Cablevision selling franchises in Massachusetts so as to focus on the New York market and AT&T acquiring Massachusetts franchises so as to develop a regional cluster, providing AT&T with 80 percent of the Massachusetts market).

<sup>9</sup> It was noted by Congress that “[s]atellite is no longer primarily a rural service, but an attractive alternative to other providers of multichannel video programming; in particular, cable television” and “...satellite can provide direct competition with the cable industry....” *Committee Reports: Intellectual Property and Communications Omnibus Reform Act of 1999*, H.R. Conf. Rep. No. 106-464, at 91 (1999); see also *In re Application of TEMPO SATELLITE, INC. for Construction Permit for New Direct Broadcast System*, 7 FCC Rcd. 2728, at 2730 (Rel. May 1, 1992) (the FCC stating that “[w]e have long anticipated that the DBS service, along with other multichannel video technologies, will provide an effective, competitive alternative to cable television.”).

spectrum and technological constraints, have not been able to offer such services as readily in an economically efficient manner. New EchoStar, should a merger be approved, will have more spectrum available, allowing for the provision of new and innovative services that will enable New EchoStar to better compete with the cable television companies.

The Applicants argue in their Merger Application that, through the consolidation of the orbital and spectrum resources of ECC and DIRECTV, the combined company of New EchoStar will be able to provide more local programming in the larger metropolitan areas.<sup>10</sup> Until recently, ECC offered four to five local stations in 36 metropolitan areas and DIRECTV offered four to five local stations in 41 metropolitan areas, 35 of which are overlapping.<sup>11</sup> As of January 1, 2002, however, ECC and DIRECTV have carried many more local stations in the larger markets in order to comply with the carriage requirements of the Satellite Home Viewer Improvement Act of 1999.<sup>12</sup> The Applicants estimate that New EchoStar will be able to provide local broadcasting to 100 or more metropolitan areas. If, in fact, New EchoStar will be able to provide comprehensive local programming in up to 100 metropolitan areas, this would substantially enable New EchoStar to more rigorously compete with the large cable television companies.

New EchoStar will be able to provide greater competition to the cable television companies in many of the larger metropolitan areas, as compared to the current circumstances where ECC and DIRECTV are inefficiently expending resources to

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<sup>10</sup> Application at 4, 28-29, and Attachment B: Joint Engineering Statement in Support of Transfer of Control Application (“Engineering Statement”) at 9.

<sup>11</sup> *Id.*

<sup>12</sup> 47 U.S.C. § 338 (2001); *see also In the Matter of: Implementation of the Satellite Home Viewer Improvement Act of 1999; Broadcast Signal Carriage Issues; Retransmission Consent Issues*, 16 FCC Rcd 1918 (rel. Nov. 30, 2000).

compete not only against the large cable television companies, but also against each other. Thus, through combining the resources of ECC and DIRECTV, in many metropolitan areas where there may now be just one attractive MVPD option, a large cable television company, the presence of New EchoStar will bring the public the benefits of competition, including more local programming, new and innovative services, competitive pricing, and higher standards of customer care.

**III. The Merger, as Currently Structured, Will Also Have Adverse Effects Unless it is Modified**

Despite the significant benefits that a merger between ECC and DIRECTV would bring to the public, there are undesirable consequences that this merger would create, most notably a negative impact on the smaller and rural markets, as well as the excessive consolidation of orbital location and spectrum resources.

**A. Local Broadcasting, Especially in the Small and Rural Markets, Will not Benefit from the Proposed Merger**

Although it is clear that New EchoStar would be an excellent source of competition against the cable companies in the larger metropolitan areas, it is equally clear that New EchoStar would not bring the same benefits to the smaller and rural markets. New EchoStar might be able to bring more comprehensive local programming to as many as 100 larger metropolitan areas, but there may still be many local stations that will not be offered in those large metropolitan areas. Furthermore, the small and rural markets beyond the larger metropolitan areas will certainly not be able expect the inclusion of local stations by New EchoStar as much if not all of its capacity will be dedicated to including as many local channels as possible in the larger metropolitan areas.

Currently there are about 1,560 non-digital television broadcast stations in the United States.<sup>13</sup> Within the top 40 Designated Market Areas (“DMA”) there are 442 network stations, and within the top 100 DMAs there are 973 stations.<sup>14</sup> Based on the Applicants’ proposal to expand local programming service into the top 100 DMAs, New EchoStar would need to carry 973 total stations. This is an additional 594 new channels on top of the 379 local channels currently transmitted by ECC.<sup>15</sup> This is more capacity than DIRECTV currently has with its existing satellite base. There are three solutions to this problem that New EchoStar could pursue.

First, New EchoStar could significantly expand its existing satellite capacity by launching new satellites transmitting on its licensed DBS frequencies with spot-beam technology. This would allow EchoStar to add more channels over the limited frequencies by directing certain stations into specific footprints, thereby gaining additional capacity and increasing the number of local stations provided in each DMA.

Second, New EchoStar could fight, as ECC and DIRECTV have done in the past, any must-carry legislation in court, with the hope of overturning the requirements. A successful fight would, by minimizing or eradicating the must-carry requirements, significantly reduce the need for introducing new satellites into orbit.

Third, New EchoStar could push the limits on the interpretation of the must-carry regulations in DMAs with large footprints. One approach is to carry a national Public Broadcasting Service (“PBS”) channel (as ECC and DIRECTV now do), eliminating the need to carry the 422 local PBS stations that support many local communities. If they

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<sup>13</sup> Warren Communications News; Television & Cable Fact Book (2001).

<sup>14</sup> *Id.*

<sup>15</sup> Lyngmark Satellite, [www.lyngsat.com](http://www.lyngsat.com) (last viewed Feb. 3, 2002).

chose to carry a national PBS feed in the DMA, they could then choose not to broadcast the 243 local PBS stations that cover multiple cities in 179 DMAs.<sup>16</sup>

This approach could be expanded with the network broadcast stations as well. For example, in the Phoenix DMA, ECC currently broadcasts four networks (ABC, CBS, NBC, and FOX) that originate from Phoenix, Arizona. ECC does not carry the secondary NBC affiliate (KNAZ-TV) in Flagstaff, even though it falls within the Phoenix DMA, because ECC is already carrying Phoenix's NBC affiliate, KPNX-TV. Another example is in the Denver DMA, where there are six secondary major network stations in addition to the main Denver affiliates. For example, while ECC carries Denver's ABC affiliate, KMGH-TV, it does not carry the other ABC affiliates within the Denver DMA, such as K57CR from Rifle, Colorado, KNFR out of Rawlins, Wyoming, or K36AF from New Castle, Colorado.

The second and third approach would not serve the public interest. If these secondary networks are not carried, 293 different stations could be adversely affected and consumers in their communities would have to depend on regional news versus local news. The legislative requirements for comprehensive must-carry implementation need to be strictly enforced. If this means that New EchoStar would provide local programming service to fewer than the top 100 DMAs, then that is a business decision it must make. But to allow New EchoStar to loosely interpret the must-carry rules or a failure to enforce them would significantly affect many small local broadcasters, which would not be reaching the viewers in their local communities.

Even if after the merger New EchoStar is able to successfully meet the comprehensive must-carry requirements in the top 100 DMAs, the fact still remains that

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<sup>16</sup> Television & Cable Fact Book (2001).

over 14 million households in rural America will not get the chance to see 587 local stations (38 percent of all broadcast stations) located outside the top 100 DMAs.<sup>17</sup> The potential impact to these small stations and their communities could be devastating. Many of the states outside the top 100 DMAs are, for example, subject to severe weather. Key tornado states like Kansas, Texas, Oklahoma, and Nebraska, along with winter storm states such as North and South Dakota, Montana, Wyoming, and Idaho, in addition to hurricane prone states such as Florida, Alabama, Mississippi, Louisiana, and the Carolinas are all subject to losing access to the local emergency broadcast network. Many households in these areas have poor off-air reception and rely on their local cable companies to carry their local broadcasting stations. Since New EchoStar would not carry these stations, it is critical as a condition to this merger, that local cable operators be supported in delivering a comprehensive digital satellite service in conjunction with their local channels. The local cable operators must have access to all the same programming that would be provided by New EchoStar, along with the ability to compete both by providing service via their existing wired services and, if it is too expensive to reach a remote home, with a satellite dish.

Also, although cable television—through both the large and the small local companies—has expanded greatly throughout the United States, there are still many rural areas that do not even have cable television or acceptable over-the-air broadcast reception. In these extreme rural areas DBS has provided broadcasting that would otherwise be unavailable. Presently in these rural areas the consumers have two choices—ECC and DIRECTV—but with the merger, only one would remain: New EchoStar. In these areas too, for the reasons stated above, it is important that the

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<sup>17</sup> *Id.*

Commission, through modifying the merger, support the expansion of small cable operators and alternative providers of MVDP into these extreme rural markets.

By supporting an alternative to a single DBS company, the Commission will ensure that pricing will be fair, the standard for customer service will be high, and these isolated rural markets will have access to new and innovative services. The Applicants contend that rural markets will not be adversely affected by higher prices through the implementation of a national pricing system.<sup>18</sup> However, the pricing that is established through competition in the urban markets, although competitive, may not necessarily be appropriate for rural markets, as the costs of services in urban areas tend, in general, to be higher than in rural areas. An attractive alternative to DBS in the rural markets will further assure that those consumers are being offered competitive prices relative to their unique markets.

While the Applicants claim that their nationwide pricing would be very competitive for rural areas, it should be noted that in markets outside the top 100 DMAs, consumers, in many cases, will have to pay a second operator, the local cable company, for access to local channels. The merger of ECC and Hughes is likely to cause the cost to access these local channels (which account for 50 percent of the U.S. consumers' viewing choice) to significantly increase. Local cable operators will be forced to raise rates for lifeline services in order to compensate for subscribers lost to aggressive pricing by New EchoStar.

With traditionally higher buy rates for premium channels and pay-per-view movies in more affluent urban markets, an aggressive entry price may be justified. This

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<sup>18</sup> Application at 34.



is the type of competition with urban cable companies that should be fostered. However, in rural markets, where premium and pay-per-view buy rates are significantly lower, New EchoStar may actually be subsidizing these markets with profits from their urban consumers. To help local cable operators compete against New EchoStar in such an environment and thereby ensure rural consumers retain access to local channels, the Commission should modify the proposed merger by providing WSNNet with permanent access to one or more of New EchoStar's orbital satellite assets.

Customer service will also be held to a higher standard if there is an attractive competitor to DBS in the rural markets. Should the merger be approved, New EchoStar is likely to focus its customer service resources on its urban and suburban consumers in the densely populated regions and larger metropolitan areas. In these highly competitive markets, it will be critical that New EchoStar provide the highest levels of technical support and general customer service so as to be able to compete with the larger cable companies. On the other hand, the incentive to provide the highest levels of technical support and general customer service in the rural markets is much less, because, if the merger occurs, there will only be one option in some rural communities. Even if the technical support and general customer service is not of a high standard, the service is still likely to be subscribed to as that particular service may be better than having nothing at all. This concern can be mitigated if the Commission conditions the merger so as to support the development of attractive alternatives in the rural markets.

Furthermore, if the Commission were to establish conditions on the merger that would foster competition in the rural markets, the development and introduction of new and innovative services to the rural areas would be stimulated.

**B. There Will Be Excessive Consolidation of Satellite Spectrum**

There are currently three companies that provide digital video, satellite-based services in the United States. The two largest, ECC and DIRECTV, operate utilizing high-powered DBS satellites and the third, WSNNet, operates using medium-powered Ku band satellites. If the merger, as it is currently structured, is completed, then the combined entity of New EchoStar will control 100 percent of all three of the U.S. high-powered DBS, full-CONUS orbital locations. In addition, New EchoStar will also control more than 55 percent of the only two remaining useable high-powered DBS semi-CONUS orbital locations. In short, the merged company will control virtually all of the U.S. high-powered DBS satellite assets (over 130 high-powered DBS transmitters). Additionally, the merger will bring together substantial satellite assets in other frequency bands. Clearly, the merged company will be a daunting giant with vast competitive weapons at its disposal.

This continues a trend of satellite consolidation since 1996. Initially there were going to be six other potential DBS providers (both high-powered and medium-powered), including Primestar, United States Satellite Broadcasting Company, Inc., Alphastar, AskyB (a joint venture between MCI/Worldcom and News Corporation), Dominion Video Satellite, Inc., and Continental Satellite Corporation. In a continued effort to consolidate spectrum, both EchoStar and DIRECTV have either acquired or obtained the rights to control virtually all of the U.S. high-powered orbital locations.

The U.S. medium-powered Ku band orbital capacity is also undergoing the same type of consolidation. There are currently 35 satellites operating from the 33 orbital locations that are currently approved for use, not including the DARS radio satellites.

Details are provided in the table attached hereto as Exhibit 1. There are currently four companies that control the U.S. orbital locations: Hughes; Loral Skynet; SES Americom, and ECC. Telesat controls the Canadian orbital locations. After the merger, New EchoStar would control 16 different satellites and have operational control over 13 orbital locations. New EchoStar's combined capacity of both medium- and high-powered Ku band frequencies could create difficulties for both programmers and alternative providers, since many are now dependent on Hughes' PanAmAat as their current provider. Also, New EchoStar would control many other satellite assets, such as Ka band orbital locations. Attached hereto as Exhibit 2 is a table indicating the vast array of satellites assets that New EchoStar would control.

WSNet has not been able to, and is still unable to, find any commercially viable high-powered DBS capacity in the U.S. While high-powered DBS is the much preferred technology, WSNet must compete utilizing 17 leased medium-powered Ku band transponders operated from two different satellites. These medium-powered transponders can only provide service to WSNet and its customers through a 34-36 inch receive dish, an antenna twice the size of the 18 inch dish of EchoStar and DIRECTV, impacting the overall consumer appeal and cost-effectiveness of any solution than an independent operator can provide.

A merged ECC and DIRECTV would dominate the U.S. high-powered DBS market. With such a dramatic change in the DBS market, it would be critical for WSNet to have access to orbital locations, such as those providing DBS services, necessary for it to operate as a viable competitor to New EchoStar. Rather than seek access to any of the many DBS orbital resources that would be controlled by New EchoStar, WSNet sought

out the only possible high-powered alternative in existence in North America by recently filing with the FCC for landing rights from two Canadian high-powered DBS satellites.<sup>19</sup> It should be noted, however, that gaining access to the Canadian satellites and providing service with them to the United States remains uncertain, particularly in light of the fact that the Commission recently filed comments with the International Telecommunications Union raising concerns about the Canadian DBS orbital locations. It is, therefore, imperative that the transaction proposed by ECC and Hughes be modified to provide WSNNet with the use of full-CONUS orbital resources comparable to the Canadian DBS orbital locations and frequencies.

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<sup>19</sup> WSNNet filed a transmit/receive earth station application with the FCC for orbital locations 82 and 91 degrees W.L. on November 21, 2001, and a receive only earth station application for the same orbital locations on January 11, 2002.

## **Conclusion**

The Commission should approve a merger between EchoStar and DIRECTV, but with the addition of some modifications that would afford WSNet permanent access to enhanced satellite facilities. This accommodation should be accomplished in a way that does not materially diminish New EchoStar's ability to compete aggressively with the large cable television companies. WSNet is confident that through a combination of a merged New EchoStar competing with the large cable television companies and the Commission making permanent access to enhanced satellite facilities available to WSNet, the public interest will be best served.

Respectfully submitted,

**World Satellite Network, Inc.**

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February 4, 2002

## **EXHIBIT 1**

### **Ku Band Orbital Locations**

### Ku Band Orbital Locations\*

Orbital Location	Power	Licensee	Satellites	Number of Satellites
61.5°W	High	EchoStar	Echostar 3	1
72.0°W	Medium	SES Americom	AMC 6	1
74.0°W	Medium	Hughes / PanAmSat	SBS 6	1
79.0°W	Medium	SES Americom	AMC 5, SatCom C1	2
81.0°W	Medium	SES Americom	SatCom K2	1
82.0°W	High	Telesat (Canada)	Not In Service	0
83.0°W	Medium	EchoStar	Not In Service	0
85.0°W	Medium	SES Americom, XM Radio	AMC 2, XM Roll	2
87.0°W	Medium	SES Americom	AMC 3	1
89.0°W	Medium	Loral Skynet	Telstar 4	1
91.0°W	High	Hughes / PanAmSat, Telesat	Galaxy 11, Nimiq 1	2
93.0°W	Medium	Loral Skynet	Telstar 6	1
95.0°W	Medium	Hughes / PanAmSat	Galaxy 3R	1
97.0°W	Medium	Loral Skynet	Telstar 5	1
99.0°W	Medium	Hughes / PanAmSat	Galaxy 4R	1
101.0°W	High	DirectTV (U.S.), SES Americom	Directv 1R/2/3, AMC 4	4
103.0°W	Medium	SES Americom	AMC 1	1
105.0°W	Medium	SES Americom	G-Star 4	1
107.3°W	Medium	Telesat	Anik F1	1
109.2°W	Medium	SatMex (Mexico)	Not In Service	0
110.0°W	High	DirectTV / EchoStar	Echostar 5, Direct 1	2
111.1°W	Medium	Telesat	Anik E2	1
113.0°W	Medium	Loral Skynet, SatMex	Solidaridad 2	1
115.0°W	Medium	XM Radio	XM Rock	1
116.8°W	Medium	Loral Skynet, SatMex	SatMex 5	1
118.7°W	Medium	Telesat	Anik E1	1
119.0°W	High	DirectTV / EchoStar	Echostar 4/6, DirecTV 6	3
121.0°W	Medium	EchoStar	Not In Service	0
123.0°W	Medium	Hughes / PanAmSat	Galaxy 10R	1
129.0°W	Medium	Loral Skynet	Telestar 7	1
148.0°W	High	EchoStar	Echostar 1	1
155.5°W	Medium	Hughes / PanAmSat	PAS 5	1
175.0°W	High	EchoStar	Not In Service	0

33 Slots

37

\* This table was developed based on [www.lyngsat.com](http://www.lyngsat.com), [www.echostar.com](http://www.echostar.com), [www.directv.com](http://www.directv.com), [www.panamsat.com](http://www.panamsat.com), and FCC orders.

**EXHIBIT 2**

**Orbital Locations  
Controlled by EchoStar and Hughes**



**Orbital Locations  
Controlled by EchoStar and Hughes\***

<b>Orbital Location</b>	<b>Frequeny</b>	<b>Owner or Licensee</b>
45.0 W.L.	Ka band	Hughes / PanAmSat
49.0 W.L.	Ka band	Hughes / PanAmSat
58.0 W.L.	Ka band	Hughes / PanAmSat
61.5 W.L.	Ku band (DBS)	EchoStar
74.0 W.L.	Ku band	Hughes / PanAmSat
83.0 W.L.	Ku and Ka band	EchoStar
91.0 W.L.	Ku	Hughes / PanAmSat
95.0 W.L.	Ku band	Hughes/ PanAmSat
99.0 W.L.	Ku band and Ka band	Hughes / PanAmSat
101.0 W.L.	Ku band (DBS) and Ka band	Hughes / DIRECTV and PanAmSat
103.0 W.L.	Ka band	Hughes / PanAmSat
110.0 W.L.	Ku band (DBS)	DIRECTV and EchoStar
113.0 W.L.	Ka band	Visionstar – 90% controlled by EchoStar
119.0 W.L.	Ku band (DBS)	Hughes / DIRECTV and EchoStar
121.0 W.L.	Ku band and Ka band	EchoStar
123.0 W.L.	Ku band	Hughes / PanAmSat
131.0 W.L.	Ka band	Hughes / PanAmSat
133.0 W.L.	Ka band	Hughes / PanAmSat
148.0 W.L.	Ku band (DBS)	EchoStar
155.0 W.L.	Ku band	Hughes / PanAmSat
175.0 W.L.	Ku band (DBS)	EchoStar

\* This table was developed based on [www.lyngsat.com](http://www.lyngsat.com), [www.echostar.com](http://www.echostar.com), [www.directv.com](http://www.directv.com), [www.panamsat.com](http://www.panamsat.com), and FCC orders.

## Certificate of Service

### CS Docket No. 01-348

I, Jared Abbruzzese, hereby certify that a copy of the comments by World Satellite Network, Inc. was either sent by electronic mail or by first class United States mail, postage prepaid (as indicated by \*), on this 4<sup>th</sup> day of February, 2002, to the following:

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