

April 2, 2002

Via Electronic Filing System and First Class Mail

William F. Caton
Acting Secretary
Federal Communications Commission
Office of the Secretary
445-12th Street, SW
Washington, DC 20554

Re: Ex Parte Notice; CS Docket Number 01-348

Dear Mr. Caton:

On behalf of over 3,000 members of the Association for Competitive Technology (ACT), I am writing in support of the EchoStar/DirectTV merger. Among ACT members are Information Technology (IT) businesses and professionals whose software and services make broadband internet access come to life. ACT members have developed telemedicine solutions, streaming media products, and distance learning programs. These are precisely the types of solutions that would benefit rural U.S. households and businesses who today have no access to high-speed Internet connections.

I. There is a lack of broadband deployment in rural areas

Existing rural businesses could greatly expand their market reach with internet-enabled e-commerce, and emerging technology businesses have incredible potential to create jobs and new business opportunities in rural areas. Web-based services such as application service providers and personal information management could be operated from rural areas, whose quality-of-life and low facilities costs are already attractive to new business development. All that's lacking is an affordable, high-speed, two-way connection to the Internet.

America's rural areas are underinvested and underserved by cable and DSL providers of broadband Internet access. According to an April 2000 report issued by the National Telecommunications and Information Administration and Rural Utilities Service, the primary reason for slower deployment in rural areas is economic. In other words, the cost to serve a customer with wired access increases with the distance between customers. Less than 5% of towns with populations of 10,000 or less have cable modem service; the same is true for DSL. There is at least one subscriber to

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broadband in only 19% of the most sparsely populated zip codes in the U.S.

II. Satellite broadband service requires massive new investments

ACT has always favored preserving and enhancing incentives to invest in new technology facilities, and the satellite industry is badly in need of new investment. Aside from all the hype about satellite Internet access, the technology currently in orbit cannot deliver affordable two-way broadband service. The current generation of satellites was designed for broadcast television— not for internet access. Even the leading satellite internet service, StarBand, warns its customers not to use satellite service for internet hosting, for sharing large files, or for Macintosh or Linux computers.

In order to provide affordable, quality two-way broadband service to rural areas, new satellites are essential. Currently, the cost of launching a new satellite designed for two-way broadband is about two billion dollars. It is simply not cost-effective for separate satellite broadcast companies to make duplicate investments to serve a limited customer base. What's more likely is that a combined EchoStar/DirectTV entity will have the financial strength and market coverage to make this investment feasible.

III. Most arguments made in opposition are unfounded and ignore the reality of rural broadband deployment

Upon reviewing comments opposing the merger, it is clear that a number of the entities are forsaking broadband deployment in order to protect their own interests. Of the complaints that cite concerns about broadband Internet access, none reveal an understanding of the massive new investment needed to enable widespread two-way broadband with satellites. For example, the American Cable Association (“ACA”) argues that the merger will slow rural broadband deployment. It is disingenuous for ACA to make this claim given that greater cable broadband deployment in this geographic area is a physical impossibility.

Similarly, the argument advanced by the National Consumers League; The National Grange of the Order of Patrons of Husbandry; Organizations Concerned with Rural Education Merger that a "duopoly" would also harm consumers and could stall the provision of broadband Internet services to millions of rural Americans has little merit. The only way to advance broadband in rural areas is through satellite service. The only way to deploy quality two-way broadband is by launching new satellites with advanced technology. For the reasons ACT states above, this is not likely to happen in the absence of the merger. Further, these groups fail to grasp that a duopoly already exists in markets served by the two companies seeking to merge for pay television. However, for satellite broadband, there is a “no-opoly” because there is no company with market power.

Most opponents of the merger fear diminished competition, revealing a narrow perspective that is out of touch with today's reality. True competition and consumer choice occurs when businesses invest and innovate with competing technologies—not when two providers divide limited spectrum to provide just two choices of technology-limited services.

IV. Conclusion

There is little doubt that the demand for broadband exists in rural areas. This demand is not limited to end user customers. Thousands of IT companies stand ready to help rural businesses benefit from broadband Internet access, both as buyers and sellers of products and services enabled by broadband access. I ask that you approve this merger and let the real promise of the Internet be fulfilled for businesses and consumers everywhere in America.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Zuck". The signature is written in a cursive, flowing style.

Jonathan Zuck
President