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July 11, 2002

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW – Room TW-A325
Washington, D.C. 20554

REDACTED -- FOR PUBLIC INSPECTION

Re: Ex Parte Notice – Consolidated Application of EchoStar Communications Corporation, General Motors Corporation and Hughes Electronics Corporation for Authority to Transfer Control, CS Docket No. 01-348

Dear Ms. Dortch:

In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. §1.1206, EchoStar Communications Corporation ("EchoStar"), Hughes Electronics Corporation ("Hughes") and General Motors Corporation ("GM"), Applicants in the above-referenced merger proceeding, submit this letter to report that representatives of the Applicants met with members of the Commission staff on July 10, 2002. Representatives of the Applicants present at the meeting included Charles Ergen, David Moskowitz, Jason Kiser and David Goodfriend of EchoStar, Eddie Hartenstien, Larry Hunter, Larry Chapman, Merrill Spiegel of DIRECTV, Inc. ("DIRECTV")/Hughes, William Slowey of GM, and outside counsel for the Applicants. FCC staff members who attended the meeting included Ken Ferree, Barbara Esbin and Marcia Glauberman of the Media Bureau; Jim Bird, Neil Dellar, Harry Wingo, Joel Rabinovitz and C. Anthony Bush of the Office of the General Counsel; David Sappington and Donald Stockdale of the Office of Plans and Policy; Rodney Small of the Office of Engineering and Technology; and Tom Tycz, Doug Webbink, JoAnn Lucanik and Marilyn Simon of the International Bureau.

The Applicants made a presentation to the Commission staff addressing issues set forth in the attached written materials. The meeting was focused on the difficulties associated with pursuing a joint operating agreement ("JOA"), which caused the Applicants to favor the proposed merger of EchoStar and Hughes over such an approach. Specifically, Mr. Ergen described the technical differences between the EchoStar and DIRECTV direct broadcast satellite ("DBS") system architectures that effectively preclude the implementation of any type of JOA to share spectrum and orbital resources in an effort to compete more effectively with incumbent cable operators. Mr. Ergen also outlined the numerous operational risks and control-related difficulties associated with a JOA, even if the technical differences could be overcome.

Mr. Ergen highlighted piracy countermeasures and broadband deployment as two of the numerous areas in which a JOA would be unworkable. In each case, as in all other areas examined by the Applicants, the costs and complexities associated with a JOA far exceed the few benefits derived from such an approach. On the other hand, the proposed merger will create new DBS capacity and programming by eliminating the duplicative use of limited DBS spectrum, increase competition in the multi-channel programming video distribution ("MPVD") market by enabling DBS to compete more effectively with cable, and provide the scale necessary for the implementation of ubiquitous, affordable satellite-based broadband services, as well as other advanced services for consumers.

The Applicants note that their showing with respect to the unacceptability of a JOA handily satisfies, and indeed exceeds, the standard that the Commission has applied in prior merger proceedings with respect to JOA issues. For example, in both the *AT&T/MediaOne* and *AOL/Time Warner* proceedings, the Commission stated that it was "not persuaded that the proposed merger [wa]s the only means to assure [all of the benefits of the merger]," but that the proposed merger would accelerate the achievement of such benefits and thus serve the public interest.[1] In addition, the various difficulties hampering joint venture attempts cited by the Commission in those cases (high degree of risk, changing and complex technology, more than one product involved, etc.) are also present here.[2] The Applicants have demonstrated that in the circumstances of the proposed merger of EchoStar and Hughes, a multitude of technical and operational obstacles would most likely preclude the implementation of a JOA altogether. Moreover, even if these difficulties could be overcome, a JOA would produce only a small fraction of the synergies and other benefits associated with the proposed merger.

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[1] *See Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from MediaOne Group, Inc., Transferor, to AT&T Corp., Transferee*, 15 FCC Rcd. 9816, 9886 (2000); *Id.* at 9890-91; *see also In the Matter of Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations by Time Warner, Inc. and America Online, Inc. Transferors, to AOL Time Warner, Inc., Transferee*, 16 FCC Rcd. 6547, 66776-77 (2001); *Id.* at 6677.

[2] *See generally id.*

An original and one copy of this *ex parte* notice (and two copies of the attachments) are being filed with the Commission. If you have questions concerning this notice, please do not hesitate to contact the undersigned.

Respectfully submitted,

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Attachment
cc (w/ att.):

Ken Ferree
Barbara Esbin
Marcia Glauberman
Jim Bird
Neil Dellar
Harry Wingo
Joel Rabinovitz
C. Anthony Bush
David Sappington
Donald Stockdale
Rodney Small
Tom Tycz
Doug Webbink
JoAnn Lucanik
Marilyn Simon
Qualex International

ECHOSTAR

HUGHES

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July 10, 2002

Agenda

- Prior Meeting Re-Cap
- Joint Operating Agreement
  - Picking the Standard
  - Analyzing the Scenarios
  - Control and Stability
  - Piracy
  - Broadband

Reasons for the Merger

- Creating New DBS Capacity and Output
- Intensify Competition with Cable
- Generate Benefits for Consumers

Only Accomplished via a Successful Merger

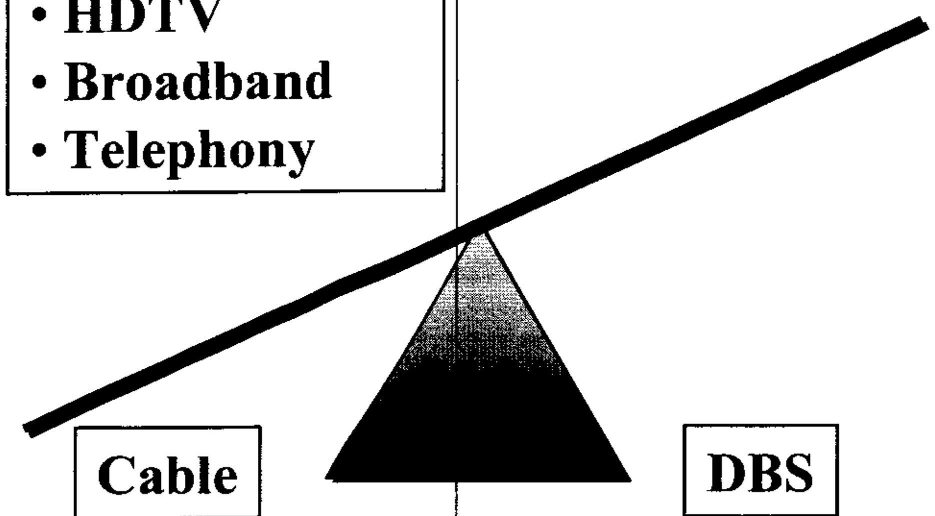
Meeting 1: The Non-Merger World

Without the merger, DBS will be unable to match cable's capacity and services, causing MVPD competition to lessen.

Before Merger

- Incumbency
- Digital Rollout
- Full Local
- VOD
- HDTV
- Broadband
- Telephony

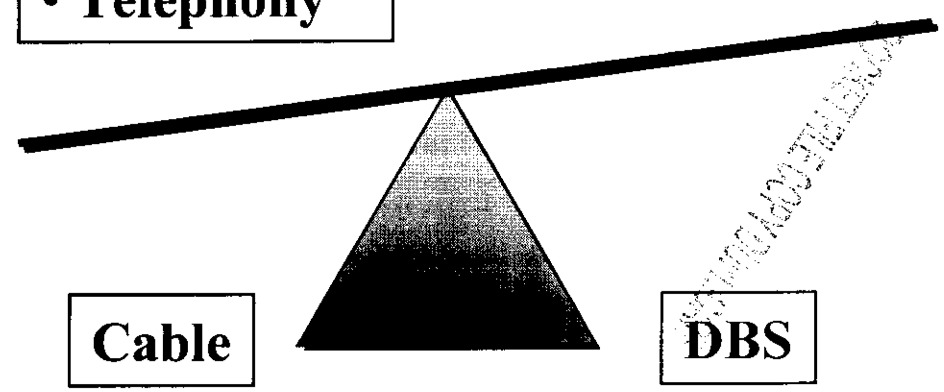
- 100% Digital
- Ltd. Local
- PVR
- Ltd. HDTV



After Merger

- Incumbency
- Full Digital
- Full Local
- VOD
- HDTV
- Broadband
- Telephony

- 100% Digital
- Full Local
- PVR
- HDTV Leader
- Incr. Content
- Broadband



Meeting 2: Spectrum

Duplication wastes valuable, limited spectrum.

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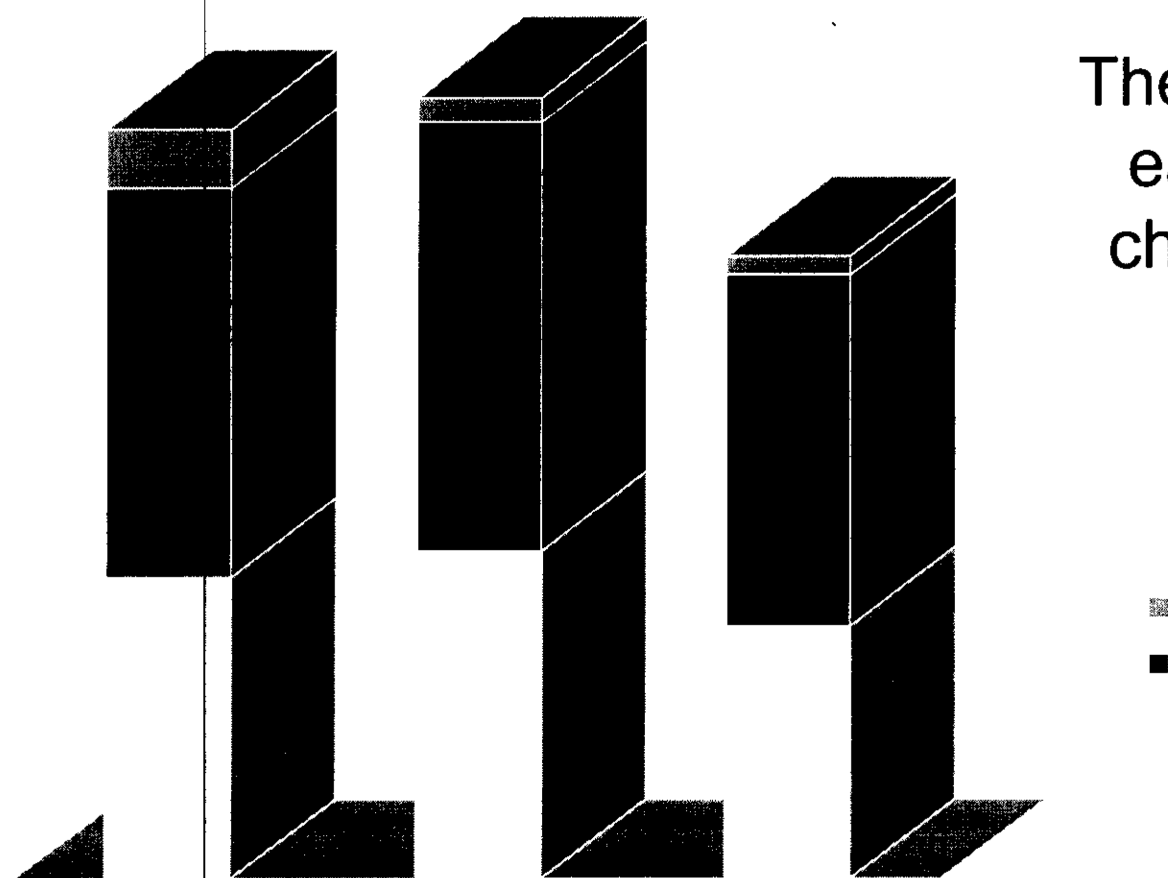

The vast majority of each company's channel line-up is duplicated.

Meeting 3: Transition

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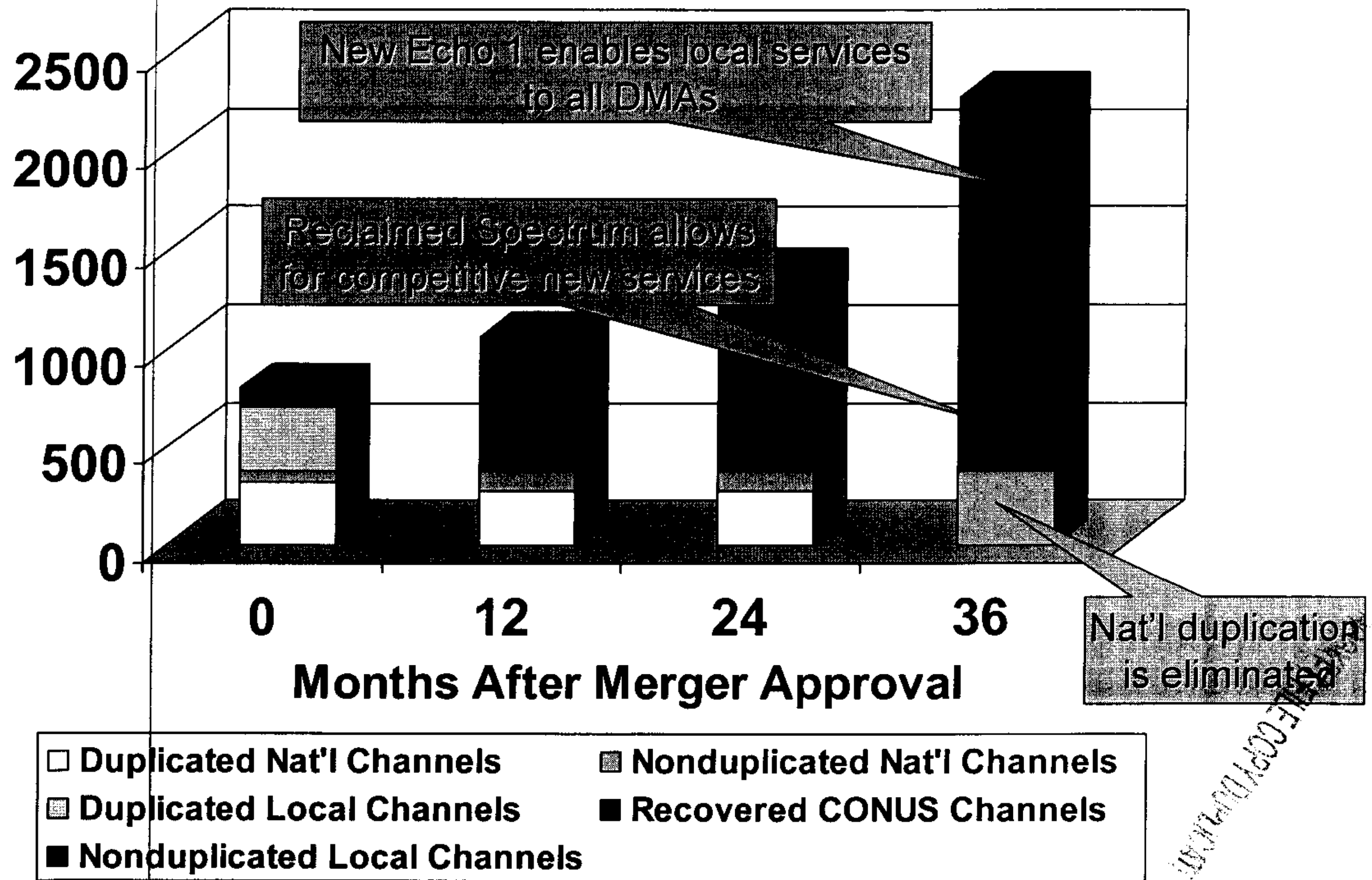

Meeting 4: Broadband

- Merger provides spectrum and critical mass to reach 5 million subscribers in 5 years after launch
- Price and service competitive with terrestrial broadband
- Rapid ramp-up:
  - Reduces CPE costs
  - Utilizes satellite capacity and lowers per-subscriber space costs
  - Achieves efficient installation, billing, and customer service operations

Meeting 5: Synergies

Total Synergies

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Value Creation

EBITDA Timing

$4.8 B by 2007

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Timely Execution

Subscribers (M)

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Beneficial to Consumers

36M Consumers get more choice, better products & competitive prices

JOA: Beta vs. VHS

Dish Network & DIRECTV Are Not Compatible

Channel Capacity (1)

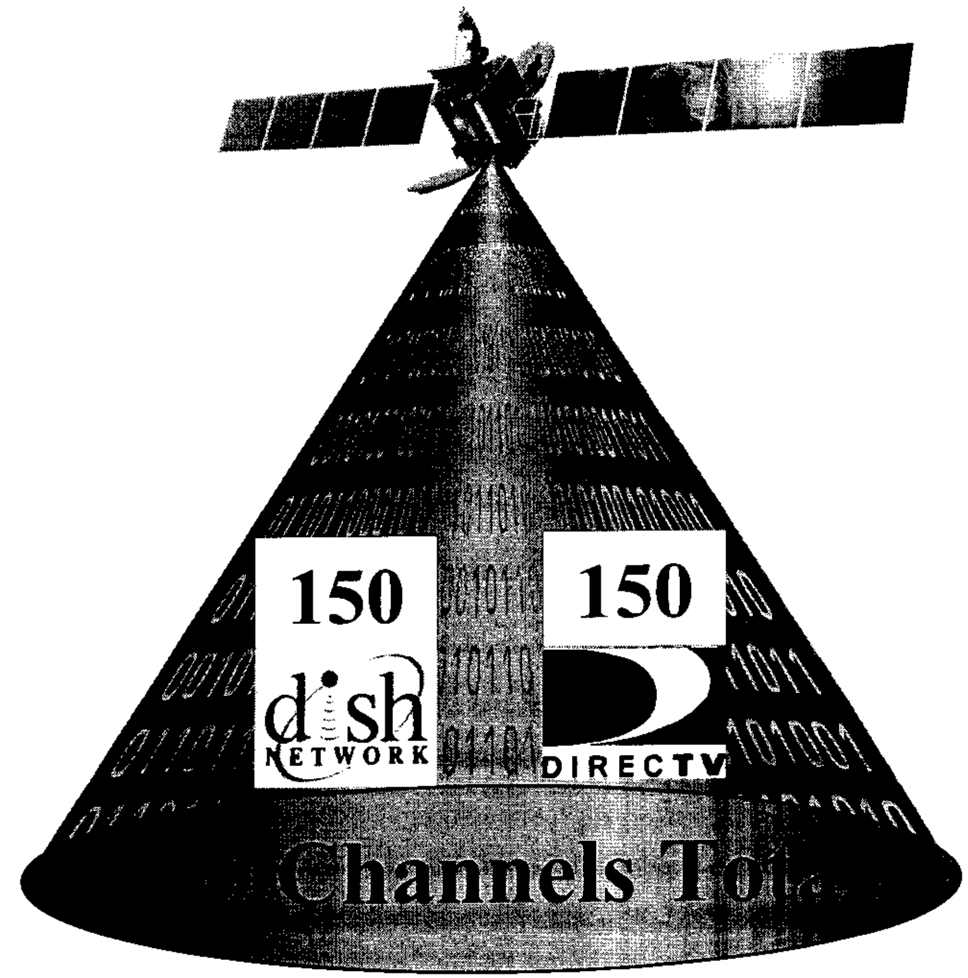
300 (DVB) dish NETWORK

or

300 (DTV) DIRECTV

or

150 Channels of each

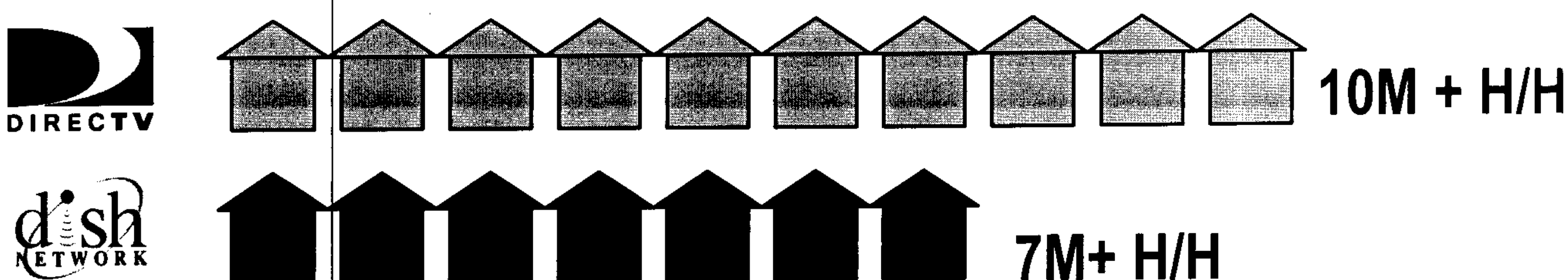


(1) Potential video capacity for one full CONUS slot

JOA: Pick a Color

Who takes the risk?

	119º W.L.	110 º W.L.	101 º W.L.
DTV Channels	**100**	**N/A**	**300**
DVB Channels	**200**	**300**	**N/A**
Total Channels (1)	**300**	**300**	**300**



(1) Potential video capacity for one full CONUS slot

JOA: Analyzing the Scenarios

Option 1:
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Option 2:
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JOA: Analyzing the Scenarios

Option 3: Merger

Conclusion

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JOA: Control and Stability

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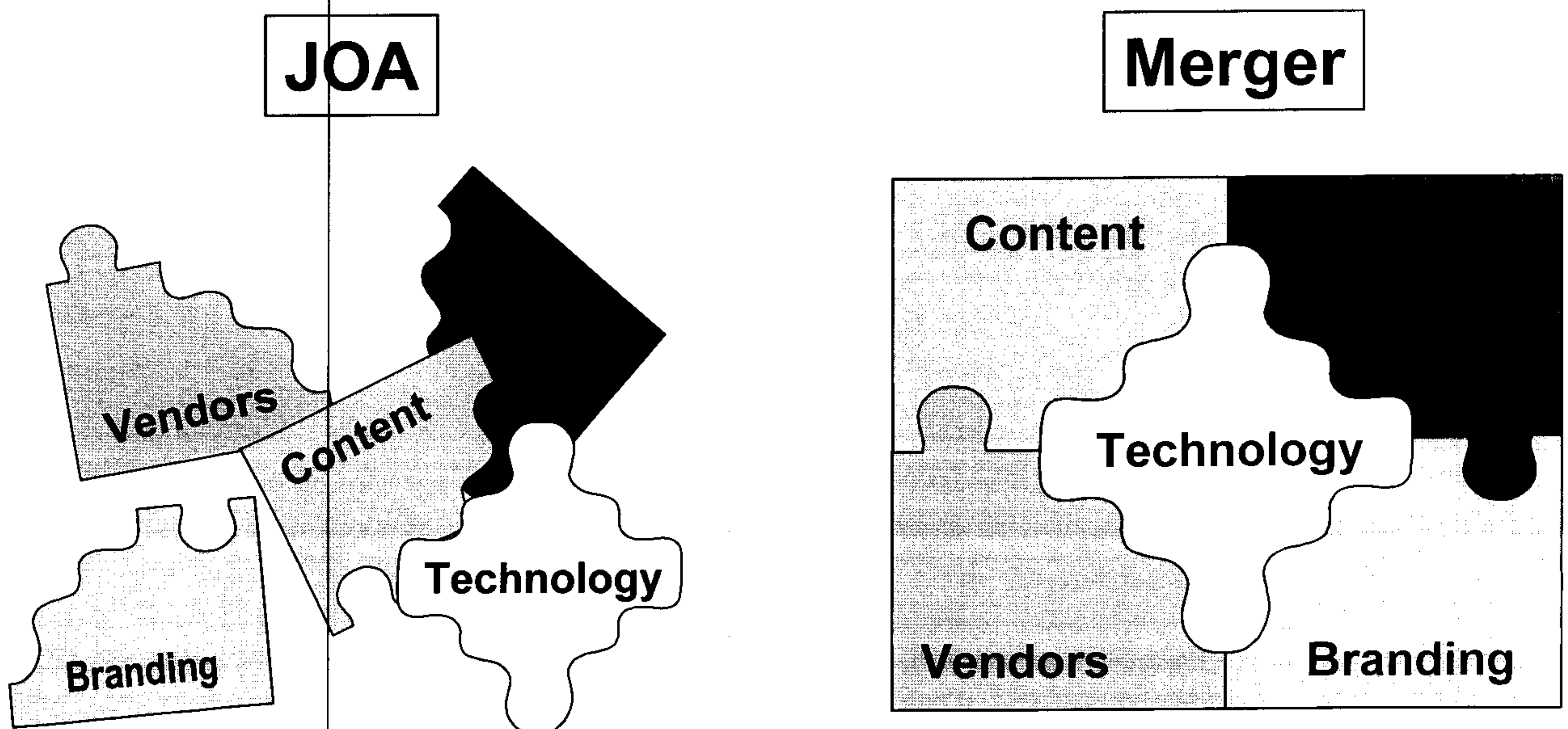
JOA: Control & Stability

Managing a JOA would be impractical operationally



JOA: Piracy Issues

- Box swap creates significant advance in anti-piracy benefits

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- Economic benefits:

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JOA: Broadband

- Satellite broadband requires a multi-billion dollar investment in satellites and SAC

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JOA: Broadband

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JOA: Broadband

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JOA Cannot Reach 5 Million Customers Needed for Scale

Summary

Reasons for the Merger

- Creating New DBS Capacity and Output
- Intensify Competition with Cable
- Generate Benefits for Consumers

Only Accomplished via a Successful Merger

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HUGHES