

August 12, 2002

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

**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, Hughes Electronics Corporation and General Motors Corporation, Applicants in the above-referenced merger proceeding, submit this letter to report that representatives of the Applicants met with Bryan Tramont of Commissioner Abernathy's office on August 9, 2002. The issues discussed during the meeting are reflected in the attached presentation materials.

One copy of this *ex parte* notice is being filed electronically with the Commission. If you have questions concerning this notice, please do not hesitate to contact the undersigned.

Respectfully submitted,

  
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Corporation and General Motors  
Corporation*

*Counsel for EchoStar Communications  
Corporation*

Attachment  
cc (w/ att.): Bryan Tramont  
Marcia Glauberman  
Linda Senecal  
Qualex International

**Presentation to the  
Federal Communications Commission**

*August 2002*

**ECHOSTAR**

**HUGHES**

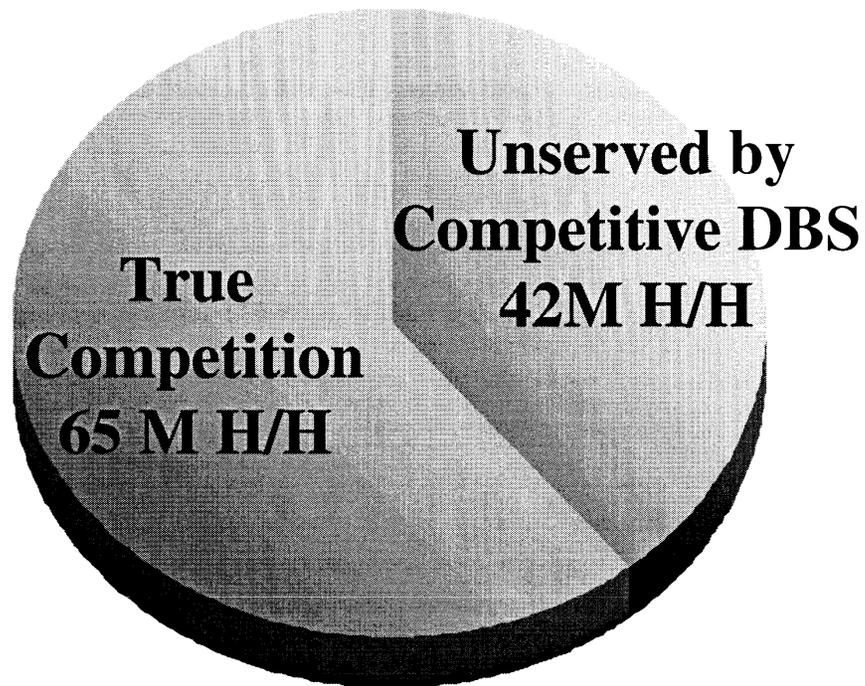
## **Reasons for the Merger**

- **Free Up Scarce Spectrum, Allowing “Local-into-Local” Satellite Service to All DMAs, 12 High Definition Channels, Near Video on Demand and Other Services**
- **Allow the First True Residential Broadband Service by Satellite**
- **Create Effective Competition with Dominant Cable Providers – Curb Soaring Cable Rates**
- **Result in Consumer Benefits Significantly Greater than \$1 Billion a Year**

**Only Accomplished via a Successful Merger**

# True Competition to Cable

**Before Merger**



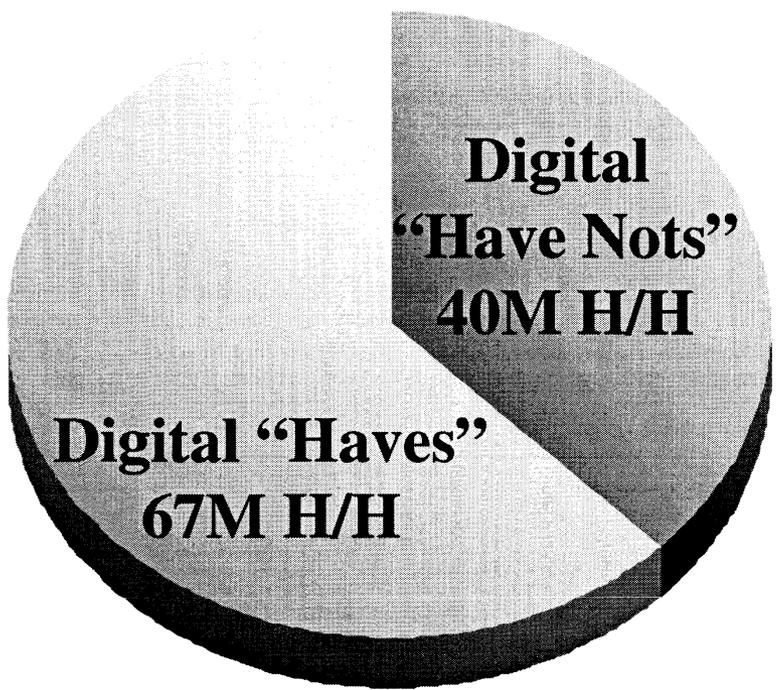
**After Merger**



***Full Local Service in all 210 Markets***

# Bridging the Digital Divide

**Before Merger**



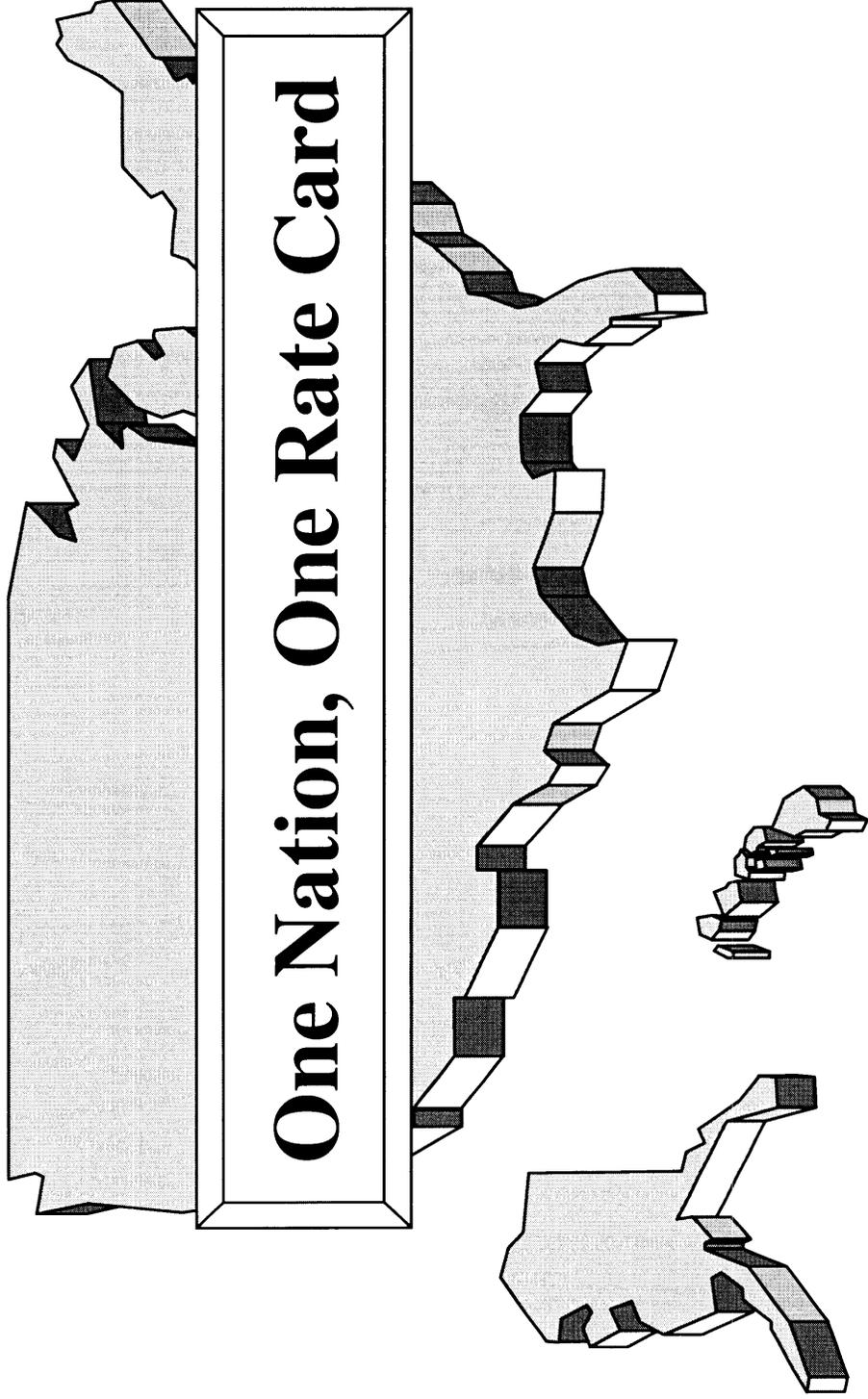
**After Merger**



***High Speed Broadband in all 210 Markets***

Source: FCC 8th Annual Report, "Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming", Jan. 14, 2002  
The Buxton Company, "Broadband Deployment", Jan. 2002

# National Pricing



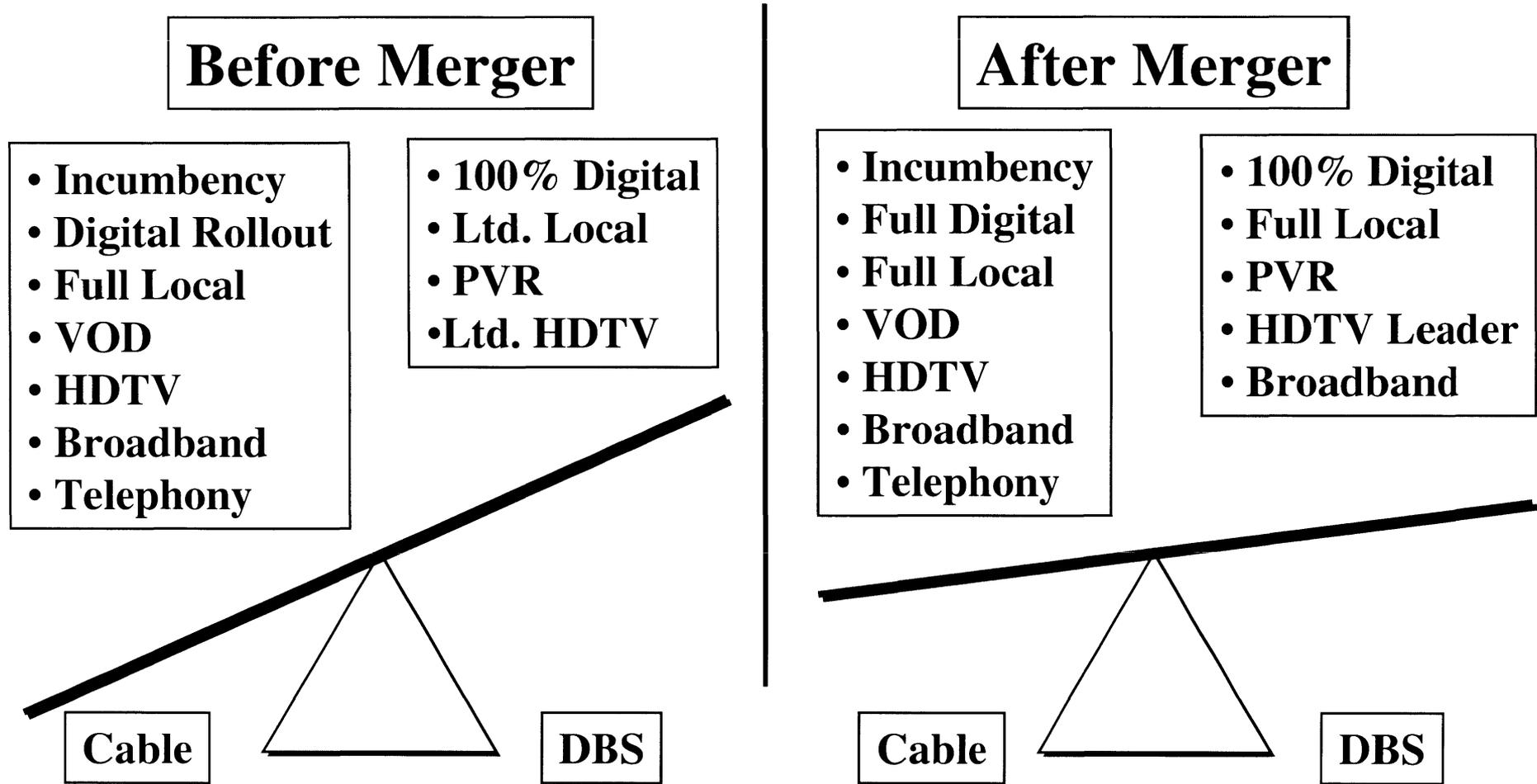
*For a Town of 5 People or a City of 5 Million...*

## Proceedings to Date

- We have provided a vast amount of legal, engineering and economic information in support of the merger:
  - Filings in the Merger Application Proceeding
  - Filings in the New EchoStar 1 Satellite Proceeding
  - Interrogatory Responses and Document Productions
  - Series of Seven In-Person Briefings/Meetings
  - Merger Simulation Model, Synergies Model, Local-Into-Local Models, Broadband Models

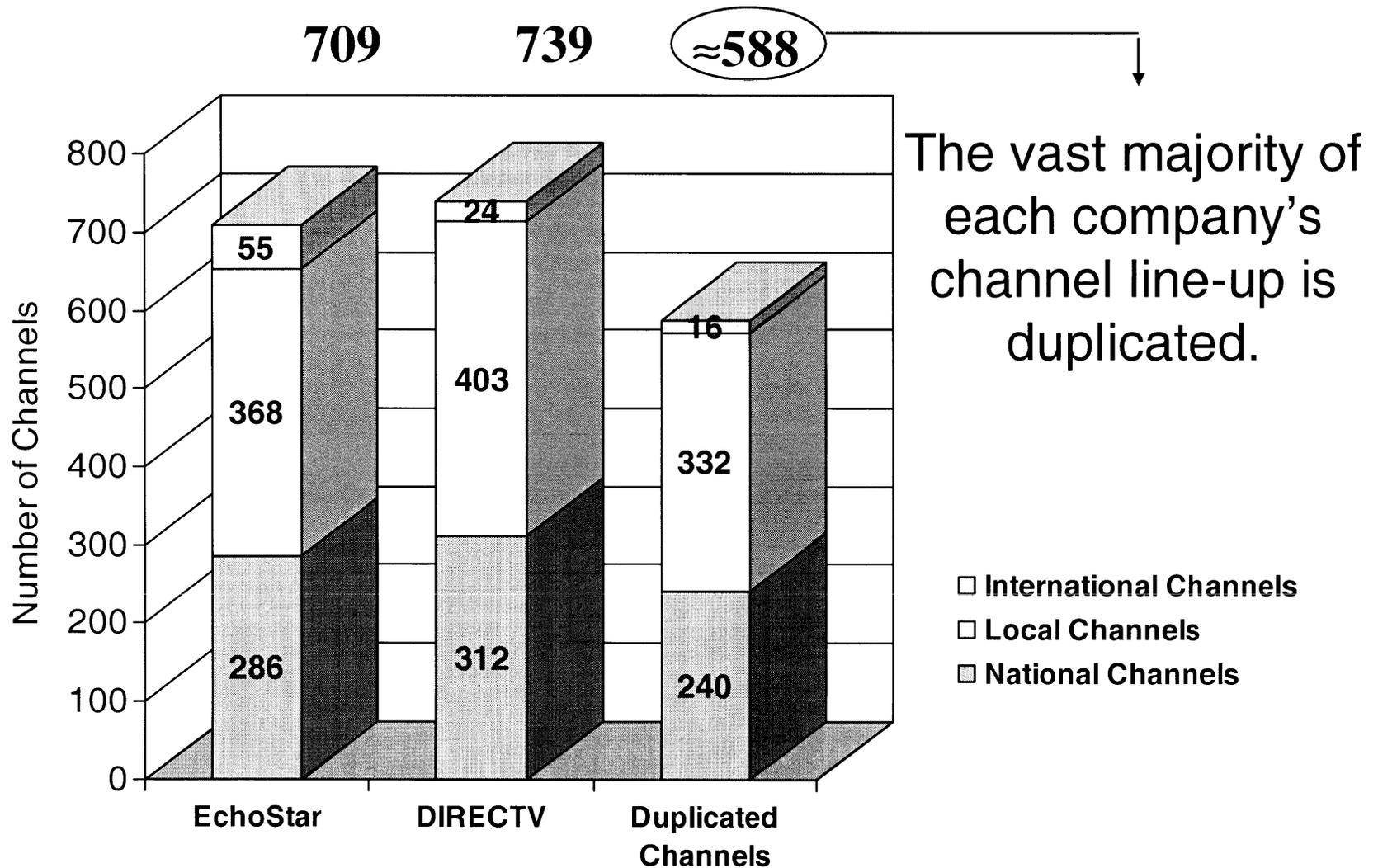
# Why We Need the Merger

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



# Spectrum Reclamation

*Duplication wastes valuable, limited spectrum.*



## Local-Into-Local /Models/Benefits

We have shown that:

- Each company alone would not serve more than a limited number of DMAs.
- New EchoStar would find it in its interest to serve, and would serve, all 210 DMAs.
- Introduction of local-into-local service in the few DMAs that enjoy it today has restrained cable rates by
  - \$1.03 in the first year
  - \$1.57 in the second year

# Broadband

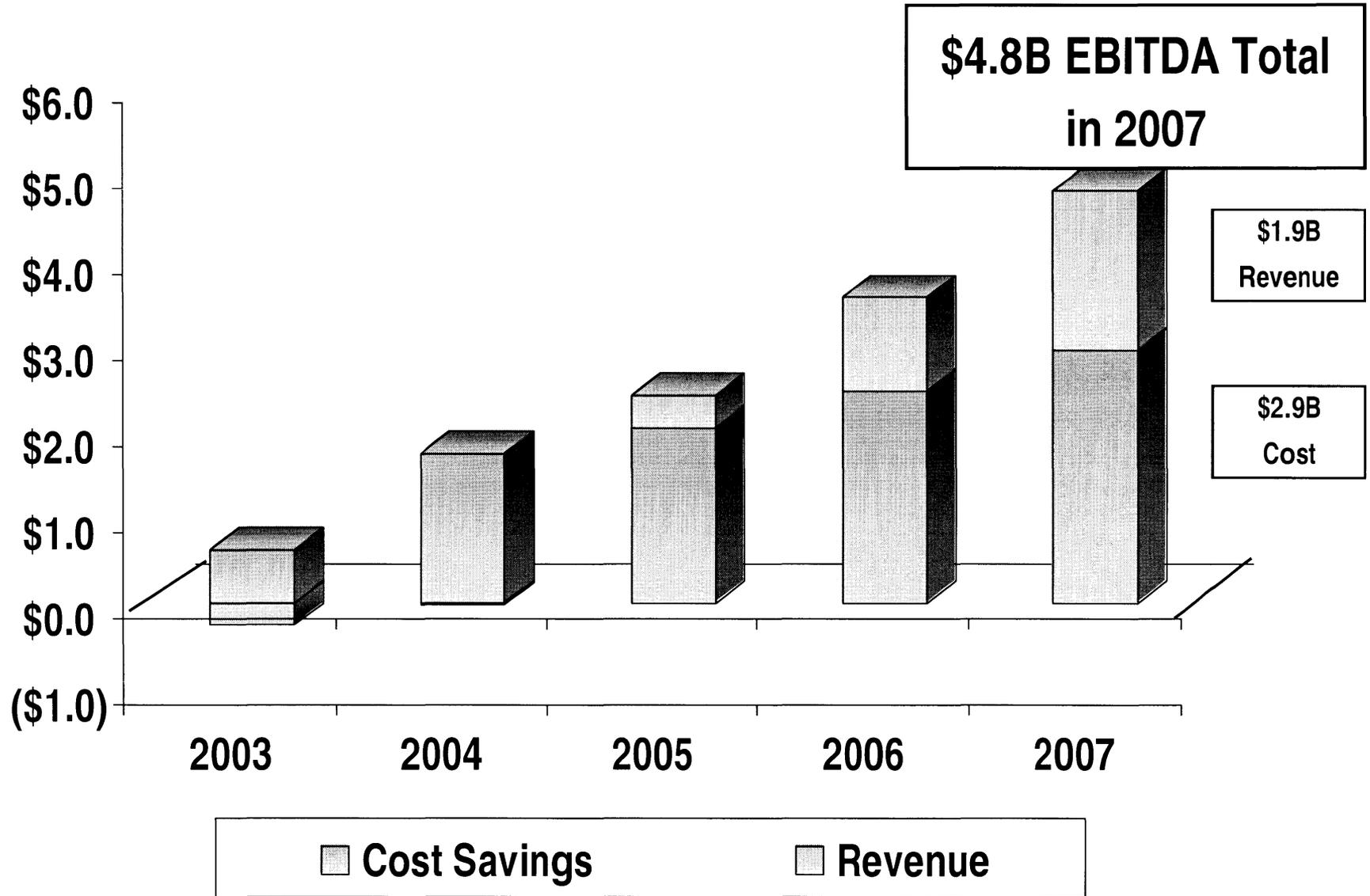
- Merger provides spectrum and critical mass to reach 5 million residential subscribers in 5 years after launch
- Price and service competitive with terrestrial broadband
- Rapid ramp-up:
  - Reduces CPE costs
  - Utilizes satellite capacity and lowers per-subscriber space segment costs
  - Achieves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

## **Broadband Models**

We have shown that:

- Each company alone would not provide nationwide residential broadband.
- New EchoStar would find it in its interest to do so.

# Synergies (\$B)



# Competitive Effects (Economists)

- The churn data show that cable providers are each firm's closest competitors
- Simulation analysis predicts that the merger will lead to lower prices and consumer welfare benefits of significantly more than \$1 billion per year
  - Local-into-local expansion and marginal cost savings alone will achieve consumer benefits of more than \$1 billion per year
  - Expansion of services, including HDTV, Broadband and VOD will improve consumer welfare by an additional \$700 million per year
  - Expected response of cable to these expanded services would further increase consumer welfare benefits by an amount that is difficult to quantify
- Price discrimination would continue to be implausible
- Coordination between New EchoStar and cable providers nearly impossible

# Opposition Filings/Arguments

## *NRTC/Pegasus*

- Currently in litigation with DIRECTV
  - NRTC/Pegasus seek to use the merger proceeding to their strategic advantage in the litigation
  - NRTC/Pegasus continue to charge customers \$3 more than DIRECTV and EchoStar in their areas
- Falsely assert that merger would create a “monopoly”
  - Cable is the primary competitor
  - Cable serves the overwhelming majority of the US
  - One Nation, One Rate Card

# Opposition Filings/Arguments

## *NRTC/Pegasus*

- Incorrectly assert that merger not needed for expansion of local broadcast channels
  - “Super Satellite” proposals neither technically nor economically feasible
  - Current capacity and economic resources of individual companies limited
  - Only merged entity would be able to serve all 210 DMAs
- Incorrectly assert merger would harm satellite broadband competition
  - Merger will create the first true broadband alternative to DSL and cable
  - One Nation, One Rate Card

# Opposition Filings/Arguments

## *NRTC/Pegasus*

- Incorrectly allege that merger would harm consumers
  - Merger will result in lower prices
  - Over \$1 billion a year in consumer welfare benefits
- Incorrectly exaggerate number of non-cable homes
  - NRTC/Pegasus present flawed data
  - In any event, non-cable homes are not concentrated in rural or sparsely populated states
- Incorrectly assert that merger will result in harmful vertical integration
  - Post-merger Vivendi will have < 5% equity interest
  - No strategy exists to acquire programmers

# Opposition Filings/Arguments

## NAB

- Unclear why NAB opposes merger when hundreds of television stations will benefit from expansion of local-into-local to all 210 DMAs
- Majority of arguments duplicative of NRTC/Pegasus and addressed above
- Incorrectly asserts programmers will face lower retransmission fees
  - Programmers protected by must carry
  - Cable competition provides bargaining power
  - No evidence of higher fees in DMAs served by only one DBS provider

# Opposition Filings/Arguments

## NAB

- Incorrectly alleges that merger will harm video programming diversity
  - Merger will increase available capacity allowing more diverse programming
  - Cable will remain the primary consumer and driver of programming
- Incorrectly alleges that Applicants cannot be trusted
  - DIRECTV, Hughes and EchoStar have a history of integrity and meeting promises made
  - FCC has the power to enforce its orders

## **Conclusion**

- **Free Up Scarce Spectrum, Allowing “Local-into-Local” Satellite Service to All DMAs, 12 High Definition Channels, Near Video on Demand Service and Other Services by Satellite**
- **Create Effective Competition with Dominant Cable Providers – Curb Soaring Cable Rates**
- **Produce Real, Multi-Billion Dollar Efficiencies**
- **Result in Consumer Benefits Significantly Greater than \$1 Billion a Year**