

8/18/02

**Comments to the FCC on proposed Echostar & Hughes Merger**  
CS Docket Number 01-348

Dear Sirs:

I would like to point out a few obvious flaws in the proposed DBS merger and the high likelihood that it will harm the consumer.

**1. It will create an anti-competitive monopoly in DBS satellite providers.**

Last time I looked, establishing a monopoly in anything harms competition and the consumer ultimately suffers. A monopoly traditionally results in higher prices, lower quality, and fewer choices for the consumer.

**2. False promise to provide local TV to all DMAs.**

They claim the merged company, which roughly doubles (2x) their DBS transponder capacity will be able service all the locals nationwide. But, what they do not mention is **HOW** they intend to accomplish this feat. To merge the DBS broadcast formats they must replace all the receivers of at least one of the company's current subscribers. I estimate this number to be around 10 million minimum. Last time I looked, one does not build 10 million receivers overnight. Even if they replace receivers on a regional basis, that still leaves them duplicating the national feeds until they complete a nationwide transition.

I expect a nationwide receiver swap to take at least two years and to be complete in 2005 or 2006. By then the HDTV transition will be nearly complete and the merged company will be stuck with an **inferior** transmission medium. Over the air local (H)DTV transmissions will be far superior\* to anything we can get via existing DBS technology.

\*An added factor, is that the OTA reception footprint of (H)DTV far exceeds that of an acceptable NTSC transmission. The (H)DTV OTA footprint can also be increased significantly by the usage of a relatively cheap directional antenna.

**3. Increased capacity provides better service.**

This is a false promise. Echostar is just now deploying an add-on 8PSK decoder card for it's 6000 model HDTV receiver. The merger at best, yields a

two- (2) fold increase in capacity. But, there are better ways to improve usable bandwidth over their current ten-year-old technology.

- a. Use more advanced modulation techniques like 8PSK or 16PSK for all transponders and receivers.
- b. Use more advanced compression techniques, like Mpeg-4 or VPx.

Using both techniques, one should be able to expand existing capacity by at least ten fold. That far exceeds the mergers proposed doubling of capacity. The only thing this requires is a receiver swap, of which they are already, committed too completing. (See point 2).

#### **4. Able to provide nationwide broadband Internet connections.**

This is yet another false promise. Directv/Hughes already owns a nationwide DSL (DirectvInternet) and satellite (Spaceway) Internet services. Thus the public gains nothing. Add in their recent actions, that Echostar tried to kill a company it partnered with to provide Satellite Internet access (Starband). Echostar's actions, withholding payments and current subscriber lists, subsequently forced Starband to seek the protection of bankruptcy court. With a track record like that, I would say their **credibility** on this issue is **less than ZERO** .

In summary, I see no advantages in this merger for the consumer. By the time they complete the merger and successfully deploy combined receiver technology. The threshold of acceptable service will have progressed out of reach of their capabilities.

I recommend that the FCC,

- a. Block the merger. If necessary, establish a deployment schedule for new receiver technology. So that both DBS providers can fairly compete while upgrading technology.

Or

- b. Force the merged company to give up one or more CONUS DBS satellite slots to a new, worthier DBS provider. One that can focus on low cost, high quality nationwide feeds, and leave reception of locals to the newly transitioned (H)DTV broadcast stations.

Sincerely,

Tim Keating