

September 26, 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 ("EchoStar"), Hughes Electronics Corporation and General Motors Corporation, Applicants in the above-referenced merger proceeding, submit this letter to report that Charles Ergen, Chairman and Chief Executive Officer of EchoStar, met with Chairman Michael K. Powell and Legal Advisor Susan Eid on September 25, 2002. In addition, representatives of the Applicants, including Charles Ergen and Eddy Hartenstein, Chairman and Chief Executive Officer of DIRECTV, Inc. ("DIRECTV"), met with Commissioner Kevin J. Martin and Legal Advisor Catherine Crutcher Bohigian on the same date.

At the meetings, the Applicants emphasized the extraordinary public benefits of the merger, including: local stations ("local-into-local") service delivered by satellite to all of the nation; truly competitive residential broadband service available for the first time to all Americans; a sorely needed restraint on rising cable prices; and the function of national DBS pricing as an engine to bring the benefits of increased competition against cable in urban areas to consumers living in rural areas.

Local Channels, All Americans. Each company alone cannot provide local-into-local service to more than a limited number of cities, while New EchoStar would be technologically able and economically motivated to extend local-into-local service throughout the nation. Today, neither EchoStar nor DIRECTV can satisfy demand for local stations in a majority of the country's Designated Market Areas ("DMA"s). In the eyes of the Commission, consumers in the last village are as important as those living in the most densely populated city. The Applicants' nationwide local-into-local plan would place all consumers on an equal footing no matter where they live and would bring real competition to cable throughout the United States.

Other spectrum benefits, including High Definition Television ("HDTV") and Near Video on Demand. Eliminating spectrum duplication will allow 12 or more HDTV

channels (jumpstarting at last the wide availability of HDTV), Near Video on Demand and nationwide distribution for many independent programmers. Alone, the Applicants could not replicate these tremendous spectrum efficiencies by technological improvements such as new modulation technologies. Such new technologies would have only a marginal effect on spectrum efficiency. Among other things, they could be introduced only incrementally – for a finite set of services with a limited number of subscribers. Otherwise, they would require a multi-billion dollar swap-out of boxes for each company’s entire subscriber base. While a swap-out of a significant number of boxes will make sense for the combined company because of the dramatic benefits the merger will produce, the much more limited benefit from adoption of a new technology would not justify the huge cost. The Applicants also discussed the likelihood of new entrants in the Multi-Channel Video Programming Distribution (“MVPD”) marketplace that will be able to take advantage of previously unavailable modulation and compression technologies without the burden of legacy set-top boxes that the Applicants must bear.

Broadband. Either company alone would not deploy residential broadband service by satellite, and only the combined company would find it in its interest to do so, because it will have both the efficiencies of scale that come with a combined DBS subscriber base and the spectrum and orbital resources needed to reach a critical mass of subscribers. EchoStar has had to abandon its residential broadband service, and Hughes would likely have to discontinue residential satellite broadband service in the absence of the merger. New EchoStar, on the other hand, will be able to provide nationwide residential broadband service by satellite at a target price of below \$40 a month for basic service, and offer consumers a video/broadband bundle that will compete with the cable bundle, which consists of video, high-speed Internet access and voice telephony.

Restraint on cable prices. The Commission has a choice between perpetuating an ineffective market with two weak DBS providers, neither of which has restrained effectively the still soaring cable prices, or allowing a vibrant market with a single, powerful DBS provider able to exert competitive pressure on large cable operators. As the cable industry consolidates into only a few large companies, the Commission must ask itself: what will better keep those giants in check, a single strong DBS company with room to grow, or two smaller DBS companies nearing the end of their growth potential? The Commission is uniquely positioned to look at the proposed EchoStar/Hughes merger through the broad lens of the public interest test, and make a decision based on what kind of telecommunications marketplace would best serve consumers. The Applicants have shown that introduction of local-into-local service has reduced or restrained cable rates by \$1.03 a month in the first year and \$1.57 a month in the second year in the cities in which it has been available – a concrete measure of the benefit to cable subscribers from expansion of local-into-local service, let alone from the introduction of new services that the merger will allow.

Competition against cable. EchoStar and DIRECTV compete against cable to a much greater extent than they do with one another. The best evidence of the limited extent of competition between the two companies is that a very low percentage of subscribers who leave one of the two DBS providers switch to the other. In turn, the best proof of that very low

diversion rate between the companies is a comparison of the two firms' subscriber lists. The Applicants have recently submitted detailed data on that comparison.

One nation, one rate card. Nationwide pricing for DBS services will ensure that consumers everywhere reap the benefit of MVPD competition in the most heavily populated areas, much as national pricing has done, for example, in the area of mobile phone services. National pricing for DBS has been, and will continue to be, driven by market forces – New EchoStar will charge the same price for the same service no matter where a subscriber lives, whether in a town of 5 or a city of 5 million.

Equally important, the Applicants have shown that only the merger can achieve the extraordinary benefits described above. The merger opponents have not been able to point convincingly to any other source visible on the horizon for universal local-into-local service, universal broadband service and effective restraints on cable prices. This means that, in evaluating this merger, the Commission is faced with a momentous decision. Failure to approve this merger would mean that neither local-into-local nor broadband service would become available to the entire nation for the foreseeable future, except possibly through massive government subsidy schemes of uncertain success, and that the resulting damage to consumers would be irreversible. Conversely, approval of the merger will produce consumer benefits that are uniquely within the Commission's competence to recognize and that could not be otherwise secured.

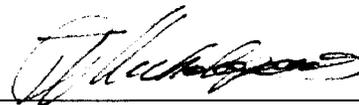
One copy of this *ex parte* notice is being filed electronically with the Commission. If you have questions concerning this meeting or this notice, please do not hesitate to contact the undersigned.

Respectfully submitted,



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Page 4

cc: Chairman Michael K. Powell
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