

01-348

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# TRIAL MANAGEMENT ASSOCIATES

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A Division of TMA International Trusts

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OCT 24 2002  
Federal Communications Commission  
Office of the Secretary

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October 11, 2002

Mr Michael K Powell, Chairman - FCC  
All Commissioners  
445 12<sup>th</sup> street SW  
Washington, D.C 20554

Via fax: 202-418-0232

**RE. Hughes / Echostar Merger**

Dear Commissioners.

On February 27, 2002, you received written information from me regarding a serious criminal enterprise being operated by the cable industry. There has not been ONE single response to the letter you received. What makes that so outrageous is that the FCC is receiving money from the Criminal Enterprise.

The Criminal Enterprise [Racketeering Enterprise] is centered on the industry's advertising going back approximately 4 years whereby they have been advertising and telling consumers that their digital cable service produces digital picture and sound. The truth of the matter is that in the roughly 10,000 markets today where digital cable is advertised and sold, it's actually digital in about 9. The consumer is purchasing service [audio and video signals] to their television, Not to the cable companies' set-top box. The fact that the signals from the head to the set-top box are compressed digitally before being converted back to analog, prior to being transmitted to the TV, does not meet the requirements of the FTC Act, Lanham Act, State Consumer Protection Acts, Federal Consumer Protection Act, and, federal definition of digital transmission as found in Title 17 U.S.C., Sec 101, which said federal definition is "...non analog.". Except for the handful of markets that actually offer digital, the cable companies do not have the physical capability to deliver digital service.

It is a well established principal of law that you cannot advertise goods or services that you know you cannot deliver. Doing such is both a civil and criminal violation of law. Considering the FCC and franchisers' are receiving a cut of the ill-gotten gains from this illegal scheme, your sanctioning of the illegal conduct; and, your conflict of interest in the Hughes/EchoStar merger (Merger) raises serious ethical and legal questions that must be adjudicated. Your decision to reject the Merger is tainted and this issue must be put in the public record and investigated.

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The reason your recent action, and inaction regarding competition, must be investigated is there is an apparent mood at the FCC to endorse alleged digital cable service with the public, versus actual digital satellite service. The satellite companies can actually deliver both analog and digital service, whichever the consumer chooses. The digital is more expensive because the set-top box costs about \$500.00, however, it's real digital service that will drive a new digital televisions, both video and audio, inclusive of Dolby Digital 5.1 audio

The well kept, secret factor to all of this is the *Billions of Dollars* in taxes being collected by the cable companies, part and parcel to alleged digital cable service, which would not be available [paid by consumers] had the roughly 18 million US Digital Cable Subscribers purchased the same service from a satellite company. This is a very good motive for fraud, and an even better motive for Regulators to turn a blind eye to obvious illegal activity. The FCC is receiving proceeds from the Criminal Enterprise. This is unacceptable considering you have intentionally sanctioned the illegal activity being *Carried out* by the entire cable industry.

Unsuspecting consumers are purchasing Digital Televisions and Home Theater Systems thinking they have digital service. These new generation home electronic products are not cheap. They represent a major investment on the part of Consumers. Thousands of consumers are being defrauded daily, with your knowledge, and nod of approval. They believe they have digital service.

It is anti-competitive conduct to allow the cable companies to represent they can provide digital service when they know they cannot. We are talking about, but not limited to, antitrust violations, racketeering, and good old fraud. The FTC was given an opportunity to agree with your position in their jurisdiction over the deceptive trade practice aspect of this case; however, they have not taken your position. To do so would be the equivalent of legal suicide as they know it would come back on them in a civil proceeding. The civil monetary liability you have created as an accessory is enormous.

Your ongoing conduct in conjunction with the Cable Industry has tainted your decision yesterday regarding the Merger. There appears to be serious ethical violations and possible criminal violations. The civil liability is undeniable and there may be actionable claims available to the shareholders of both Hughes and EchoStar based on your conduct. Consumers' who have purchased alleged digital cable service have viable claims against you and the FCC. The joint and several liability is vast.

I have already contacted both Hughes and EchoStar to voice my opinion and offer evidence that goes toward these allegations. These two companies have not been treated fairly. Whether or not their merger should or should not have been approved is not the issue. The issue is the manner in which the process unfolded and the improper conduct of the FCC, and how it tainted the process. This merger request was not reviewed pursuant to a level playing field; hence the shareholders of the two companies have been damaged. I am shocked at your conduct.

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You should understand that your policy is **BAD GOVERNMENT**. It cannot, and will not, go untested. I have an obligation to the public in general to protect their investment and interest. Be advised that you have made a monumental mistake and that the full force of the law will be used to deal with your illegal conduct, inclusive of appropriate class action litigation if necessary. I will also demand Congressional Hearings on this matter. It is obvious you have a personal agenda, politically motivated ..that's not good. You are supposed to work for, and protect the taxpayers and their interest. You have ignored that obligation in this matter and you should be ashamed. This is a disgrace and embarrassment to the current administration.

We will be in touch as to our legal decisions and how they pertain to you in both your "official" and "individual capacity." It disturbs me to know that you have intentionally allowed this matter to fester to this point. The taxpayers deserve better. I'm very disappointed in you.

Yours truly,

A handwritten signature in cursive script that reads "Michael Lovern, Sr." with a large, sweeping flourish at the end.

Michael Lovern, Sr.  
President

Cc: Hughes Electronics & EchoStar Communications

September 7, 2002

The Honorable Michael K. Powell  
Chairman Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
BY THE SECRETARY

Dear Mr. Powell:

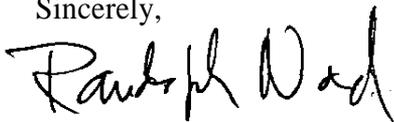
If there's one thing I know, it's that Americans love TV. That's why I'm writing today, to urge your support of the proposed merger between EchoStar and DirecTV satellite providers.

The increased satellite spectrum made available by this merger would eliminate over 500 channels of duplicate programming, and allow the option of broadband internet access to a much wider range of new subscribers. HD-TV, PPV, and video-on-demand are but a few of the other choices made available if this merger is approved. The best part, however, is that local channels would be available to consumers like me, where previously I would have to use an antenna or a supplemental cable subscription to receive my local news and weather.

Therefore, this merger would be a great leap forward in both technology and convenience. It would also be very good news for consumers who live in rural areas, like many of my friends, who can't be reached by traditional providers like cable and DSL.

These are but a few of the reasons why I believe this merger is in the public interest. I respectfully urge your speedy and favorable approval of the merger application.

Sincerely,



Randolph W. Nord  
12716 E. 9<sup>th</sup>  
Spokane, WA 99216



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OCT 24 2002

Dear Mr. Powell:

As you know, DIRECTV has been the leader in the pay-TV market. Their focus on high-quality programming, such as "The Ex" and "Star Trek: Voyager," and their use of satellite technology, has helped them stand out in a crowded market. However, the market has been changing rapidly. Many new entrants, such as Dish Network and EchoStar, have entered the market, and their programming choices are becoming increasingly competitive. This has led to a significant increase in the number of pay-TV subscribers, and it is expected that this trend will continue in the future. As a result, the market is becoming more competitive, and it is likely that the number of pay-TV subscribers will continue to grow.

The market is becoming more competitive, and it is likely that the number of pay-TV subscribers will continue to grow. This is due to the fact that many new entrants are offering high-quality programming at a lower price than the established players. As a result, consumers are being attracted to these new services, and the market is becoming more competitive. This is a good thing for consumers, as it means that they have more choices and are likely to get better value for their money.

The market is becoming more competitive, and it is likely that the number of pay-TV subscribers will continue to grow. This is due to the fact that many new entrants are offering high-quality programming at a lower price than the established players. As a result, consumers are being attracted to these new services, and the market is becoming more competitive. This is a good thing for consumers, as it means that they have more choices and are likely to get better value for their money.

October 10, 2002

Ms. Iane Mago  
Office of the General Counsel  
Federal Communications Commission  
445 12th Street SW  
Room 8C724  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Mago:

I wanted to convey my strong feelings on the EchoStar merger proposal in front of your office. The proposal to sell satellite slots to Cablevision to create a new entrant in the DBS market is flawed and **will** not create a strong new entrant into the DBS industry. The proposed undertaking is overly ambitious on the part of Cablevision and EchoStar realizes that it **will** pose no threat to their monopoly DBS position.

Cablevision has the weakest balance sheer in the cable industry. Moody's had to create a new classification to describe the near insolvent position that they currently sustain. Cablevision is not fully funded for their own business plan, let alone for the huge capital outlays necessary to successfully launch a competing service to EchoStar/GMH. How do you suppose that they are going to be able to compete against such a dominant market leader such as the combined DISH/GMH entity?

Please do not support this faulty proposition

Thank you for your consideration.

  
Campbell Gibson

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U.S. DEPARTMENT OF COMMERCE  
OFFICE OF THE SECRETARYJoseph F. Koziura  
**Member**Hon. Michael Powell, Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Dear Chairman Powell:

I am pleased that the Commission is moving forward to schedule hearings on the proposed merger of EchoStar and DIRECTV. A thorough and fair hearing, at which all the facts on both sides can be presented, is very much in the public interest.

As a strong supporter of the free market, I can see no reason to deny the merger. The health of the overall pay television industry will be improved by the existence of a strengthened company representing the satellite component of the industry. Such a company will be able to provide vigorous competition to the dominant cable component, the companies of which are otherwise virtual monopolies within the geographic areas in which they operate.

The merger would produce benefits for the entire country, and here in Ohio, the people would be favorably impacted in several ways:

- 1) Currently, Ohio satellite subscribers who **do** not live in the Cleveland, Columbus and Cincinnati television markets cannot receive their local television stations via satellite; after the merger, Ohioans in all twelve markets would be able to do so.
- 2) Wide swaths of our state, principally rural areas, do not have access to land-based broadband Internet access services such as DSL. The merger would make satellite-based broadband available to these areas.
- 3) The "one nation, one rate card" policy which the combined company will follow means that subscribers in all areas will be treated fairly.

EchoStar and DIRECTV have demonstrated by their past performance that they are innovative companies which provide a high level of service to their customers. They have been and continue to be pioneers in digital, interactive and high definition television programming.

This same innovative spirit will surely be seen in the area of high-speed Internet access, the expansion of which has important consequences for the economy.

These advantages seem to me to outweigh any narrowly construed reduction in competition in the area of direct broadcast satellite television itself, and I therefore urge the Commission to approve the merger.

Sincerely,  
  
Joseph F. Koziura  
State Representative  
District 61

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U.S. DEPARTMENT OF COMMERCE  
OFFICE OF THE SECRETARY

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**nyschp**

**New York State Council of Health-system Pharmacists**

435 New Kanner Road • Albany, NY 12205 • 518-456-8819 • Fax: 518-456-9319 • www.NYSCHP.org

August 23, 2002

The Honorable Michael K. Powell  
Chairman, Federal Communications Commission  
445-12<sup>th</sup> Street, S.W.  
Washington, D.C. 20544

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

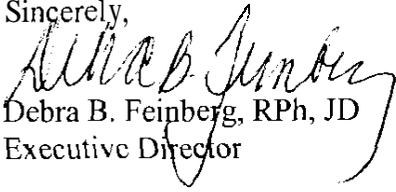
Dear Chairman Powell:

The pending merger between EchoStar Communications and Hughes Electronics would be a significant improvement in the provision of pay television in our country and throughout the State of New **York**. Although NYS contains large metropolitan areas, the state is large with many small towns and rural areas. The benefits of competition should be afforded to all consumers regardless of where they live. The proposed merger would enhance the services available to all residents of the State of New **York**. A nationwide pricing mechanism will help to ensure competitive prices.

The New York State Council of Health-system Pharmacists requests your support in the Echostar-Hughes merger.

Thank you for your time and attention

Sincerely,

  
Debra B. Feinberg, RPh, JD  
Executive Director

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STATE OF KANSAS

01-348

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BILL GRAVES, Governor  
State Capitol, 2nd Floor  
Topeka, Kansas 66612-1590

(785) 296-3232

1-800-748-4408

FAX (785) 296-7973

OFFICE OF THE GOVERNOR

August 22, 2002

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OCT 24 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. Michael K. Powell, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20544

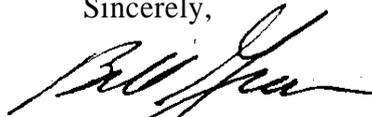
Dear Mr. Powell:

As you know, the FCC has been asked to review a proposed merger involving Echostar Communications Corporation and Hughes Electronics Corporation/DIRECTTV. I urge you to grant a prompt and fair review of this proposed merger.

The proposed merger could potentially result in enhanced services to rural areas of our state. For many Kansans, cable TV is not available and satellite-based pay television is the only option. Competition for these services could greatly benefit these citizens. Therefore, I ask you to evaluate the benefits of this proposed merger and develop a plan that insures competition while protecting those citizens who have no pay television alternatives.

Thank you for your consideration of this matter.

Sincerely,



BILL GRAVES  
Governor

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