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343 Cass Ave.
Woonsocket, RI 02895
August 20, 2002

Michael K. Powell, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20544

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Federal Communications Commission
Office of the Secretary

Dear Mr. Powell,

I am writing concerning the proposed merger of EchoStar and Hughes (aka DISH Network and DirecTV), the two national satellite-TV providers. I have read the information on these companies' merger advocacy Web site, and they do present a cogent argument in favor of supporting this merger. Their argument, however, is based upon only two benefits, both of which can be provided in other ways.

First, EchoStar/Hughes argues that by combining their satellite assets, they can provide local TV station coverage to all US households, whereas the duplicate content they deliver today prevents either provider from accomplishing this goal. An alternative method of accomplishing nearly the same goal, however, is to allow satellite providers to deliver signals from out-of-DMA stations. For instance, a subscriber in Rhode Island could receive a package of "local" stations from New York, Boston, or even Los Angeles. Because most "local" station content is in fact network or syndicated programming, this solution is perfectly acceptable to me as a consumer, and I believe to most other consumers. In fact, I would *prefer* this solution to being locked into the Providence locals I receive today. As it stands (or under the merger), I need a more expensive dish to receive signals from the two satellites needed to receive both national and "local" Providence programming. Furthermore, some of my Providence stations do a poor job handling program conflicts (sporting events that run over their allotted times, for instance). In a true free market economy, I should be able to select the "local" channels I receive. Instead, today we consumers are treated as commodities, **and** prevented from purchasing the programming we want because of arbitrary rules designed to protect local broadcasters. This system is an inefficient holdover from decades past, and should be done away with. As far as I am concerned, the only valid argument in favor of delivering truly local content is that this would enable local TV news shows to be delivered to appropriate areas. I see no reason, however, that this benefit could not be provided by devoting some bandwidth to a small number of local news channels, which would carry local news broadcasts in a staggered fashion. This bandwidth might be acquired from a reduction in the number of local stations camed—an acceptable sacrifice, if rules artificially protecting local broadcasters are relaxed. This arrangement would require changes to the way local TV news centers operate, but the result would, in my view, better fit the realities of early 21st century satellite technology than the enforced delivery of 24/7 "local" programming via satellite.

The second merger benefit touted by EchoStar/Hughes is in delivery of broadband Internet access. In my view, this benefit is potentially greater than that of local channel delivery (at least, compared to changing the rules restricting delivery of non-local content to satellite subscribers). Nonetheless, I don't believe the benefit is compelling enough to justify

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the creation of a new monopoly. It's true that land-based broadband Internet access is not yet available to large numbers of consumers: however, the deployment of DSL and cable is continuing, albeit not at the breakneck pace of a couple of years ago. The vast majority of Americans will have access to these technologies soon—probably sooner than the merged EchoStar/Hughes could enable new satellite-based broadband access technologies. What's more, the land line is an inherently superior method of providing Internet access because it doesn't suffer from the half-second round-trip latency associated with geosynchronous satellite data transmission. Furthermore, I'm skeptical that the combined company could free up enough bandwidth through a merger to provide more than a token amount of bandwidth, when split across any significant number of subscribers. In addition, there are already existing companies that deliver broadband Internet access via satellite. Thus, although the bandwidth that the combined EchoStar/Hughes could devote to broadband Internet access could be slightly beneficial, I do not believe it is critical to the future of broadband Internet access in the United States. Incidentally, I am the author of a book entitled *Broadband Internet Connections: A User's Guide to DSL and Cable* (Addison-Wesley, 2002), which includes a chapter devoted to satellite, land-based radio, and other exotic forms of broadband Internet access. Thus, I speak with somewhat greater knowledge than most on this topic.

On the down side of the merger is the fact that it creates something between a monopoly and a duopoly. It's true that the merged company would compete with cable TV operators, but cable TV still lacks 100% penetration, so for some people, only the merged company would be an option for reception of anything but local TV stations. Even in areas in which cable TV is available, the merger would effectively reduce competition from three carriers to two. Cable TV service has a notoriously poor reputation, so many consumers don't consider it a viable alternative to satellite, even when cable is available. In such an environment, it's far better to have competition between two satellite providers, thus promoting innovation and maintaining pressure to keep prices low, than to reduce the level of competition.

In sum, although a merger between EchoStar and Hughes would provide benefits in terms of more efficient use of bandwidth, and hence in delivery of more local programming and broadband Internet access, it's my opinion that these benefits are outweighed by the loss of competition the merger would cause. A better course of action is to eliminate, or at least loosen, rules restricting delivery of "local" content from outside of a DMA via satellite systems. This action would increase competition between local network affiliates, rather than reduce it between satellite TV companies. Thus, I urge you not to approve this merger but to instead change the rules governing local TV station delivery. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Roderick W. Smith". The signature is fluid and cursive, written over a white background.

Dr. Roderick W. Smith