



PUBLIC NOTICE

Federal Communications Commission
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MEDIA BUREAU ACTION

GENERAL MOTORS CORPORATION, HUGHES ELECTRONICS CORPORATION, AND THE NEWS CORPORATION LIMITED SEEK APPROVAL TO TRANSFER CONTROL OF FCC AUTHORIZATIONS AND LICENSES HELD BY HUGHES ELECTRONICS CORPORATION TO THE NEWS CORPORATION LIMITED

MB Docket No. 03-124

Comments Due: June 16, 2003
Reply Comments Due: July 1, 2003

On May 2, 2003, General Motors Corporation ("GM"), Hughes Electronics Corporation ("Hughes") and The News Corporation Limited ("News Corp.") (collectively, "Applicants") submitted a joint application to the Commission seeking consent to transfer control of various Commission licenses and authorizations, including direct broadcast satellite ("DBS")¹ and fixed satellite space station, earth station, and terrestrial wireless authorizations held by Hughes and its wholly- or majority-owned subsidiaries to News Corp. ("Application").² The proposed transaction involves the split-off of Hughes from GM, wherein Hughes will become a separate and independent company, followed by a series of transactions where News Corp., through its majority-held subsidiary, Fox Entertainment Group, will acquire a 34% interest in Hughes. The remaining 66% interest in Hughes will be held by three GM employee benefit trusts (managed by an independent trustee), which combined will hold an approximately 20% interest in Hughes, and by the general public, which will hold an approximately 46% interest in Hughes.

If approved, the proposed transaction will permit News Corp. to hold the single largest block of shares in Hughes, thus providing News Corp. with a *de facto* controlling interest over Hughes and its subsidiaries, including DIRECTV Holdings, LLC, a wholly-owned subsidiary of Hughes which provides DBS service in the United States, as well as Hughes Network Services, Inc., a facilities-based provider of very small aperture terminal ("VSAT") network systems, and PanAmSat Corporation, a global facilities-based provider of geostationary-satellite orbit fixed satellite services. As described in the Application, if the proposed transaction is closed, Rupert Murdoch, chairman and chief executive officer of News Corp.,

¹ DBS is the acronym used in the United States to describe the domestic implementation of the satellite service known internationally as the broadcasting satellite service ("BSS"). See 47 C.F.R. § 25.201.

² See *General Motors Corporation and Hughes Electronics Corporation, Transferors, and The News Corporation Limited, Transferee, Consolidated Application For Authority to Transfer Control*, filed May 2, 2003.

will become chairman of Hughes, and Chase Carey, News Corp.'s former co-chief operating officer, will become president and chief executive officer of Hughes. Eddy Hartenstein, currently Hughes' corporate senior executive vice president, will be named vice chairman of Hughes. Hughes' board of directors will consist of 11 directors, six of whom will be independent directors.

Hughes, a Delaware corporation, is a wholly owned subsidiary of GM, also a Delaware corporation. Hughes holds a number of Commission licenses and authorizations directly or through its wholly- or majority-owned subsidiaries.³ Hughes' wholly-owned subsidiaries include DIRECTV Holdings, LLC, the parent company of DIRECTV Enterprises, LLC and United States Satellite Broadcasting Company, Inc., both Commission DBS licensees. Hughes Network Systems, Inc. is also a wholly-owned subsidiary of Hughes and holds a number of authorizations for transmit/receive earth stations and VSAT networks for use of frequencies in the C and Ku-bands, as well as authorizations for the construction, launch and operation of the Ka-band SPACEWAY Satellite System. Hughes also indirectly holds an approximately 81% economic and voting interest in PanAmSat Corporation, a publicly traded Delaware corporation and the corporate parent of PanAmSat Licensee Corp., a Commission licensee that holds authorizations to operate fixed satellite service systems using the C and Ku-bands, as well as authorizations for numerous earth stations which are licensed to transmit and receive frequencies in the C and Ku-bands.

News Corp. is a corporation formed under the laws of South Australia with securities that are publicly traded on both the New York Stock Exchange and the Australian Stock Exchange. Shareholders holding a greater than 10% interest in News Corp. are K. Rupert Murdoch, a U.S. citizen and chief executive of News Corp., who directly and indirectly controls an approximately 16% equity and 30% voting interest in News Corp., and Liberty Media Corporation ("Liberty"), a Delaware corporation, which holds preferred limited voting ordinary shares representing approximately 17.6% of the shares of News Corp. but with no voting rights except in limited instances. Liberty holds interests in domestic and international video programming, interactive technology services, and communications businesses in the United States, Europe, Latin America, and Asia.⁴ Among its holdings are majority ownership interests in Starz Encore Group LLC (100%) and Liberty Satellite and Technology, Inc. (86%), and minority interests in a number of other programming companies. Liberty also holds a controlling interest in Astrolink International LLC, and the largest plurality interest in Wildblue Communications, Inc., both Commission licensees authorized to construct, launch and operate satellites using frequencies in the Ka-band.

News Corp. holds its U.S. programming interests through its Fox Entertainment Group, Inc. subsidiary, a Delaware corporation, in which News Corp. currently holds an approximately 80.6%

³ A complete list of licenses and authorizations held by Hughes and subject to this transfer of control Application is set forth in Attachment A.

⁴ On May 12, 2003, EchoStar Satellite Corporation ("EchoStar") filed a Petition to Require Additional Information requesting that the Commission require the Applicants to submit information concerning the planned involvement of Liberty in the financing of the proposed purchase by News Corp. in Hughes. See EchoStar Petition to Require Additional Information, filed May 12, 2003 ("*EchoStar Petition*") at 2-5. EchoStar also requests the Commission to require Applicants to provide expert testimony in support of their key economic assertions, including information about assertions concerning the relevant product and geographic markets and the Applicants' market power in these markets. *Id.* at 5-6. On May 13, 2003, in response to a request from Commission Staff, the Applicants filed a Declaration of Lawrence A. Jacobs, Executive Vice President and Deputy Counsel to News Corp., to expand and reiterate on Liberty's interest in News Corp. and the proposed transaction. See Letter to Marlene H. Dortch, Secretary, Federal Communications Commission from William M. Wiltshire, Counsel for News Corp., dated May 13, 2003, forwarding the Declaration of Lawrence A. Jacobs ("*News Corp. Declaration*"). Both the *EchoStar Petition* and the *News Corp. Declaration* will be placed in this docket and made part of the record of this proceeding. We note that we did not request Applicants to file additional economic data or testimony in advance of putting the Application on Public Notice. All participants in this proceeding will have an opportunity to submit expert economic testimony during the course of this proceeding.

ownership and 97% voting interest. The Fox Entertainment Group, Inc. is principally engaged in the development, production and distribution of television broadcasting and cable network programming. Its programming interests include FOX Broadcasting Company, Fox Television Stations, Twentieth Century Fox Film, Twentieth Century Fox Television, Fox News Channel, and Fox Cable Networks. News Corp. indirectly holds interests in a number of direct-to-home ("DTH") subscription services, all of which operate outside the United States, including a 36.2% indirect interest in British Sky Broadcasting, which operates in the United Kingdom and Ireland. In addition, News Corp. holds an approximately 42.9% interest in Gemstar-TV Guide International, Inc., which among other things, produces an electronic program guide for on-screen navigation of program offerings. News Corp. also holds an approximately 79% equity interest in NDS Group plc, a supplier of conditional access systems that provide secure solutions for pay television systems.

The Applicants claim that approval of the proposed transaction will create direct and tangible public interest benefits without producing any public interest harms in any relevant market. Overall, they claim that the transaction will benefit consumers by enabling Hughes to reach its full potential as a leader in providing multichannel video programming distribution services by combining the Hughes distribution assets with News Corp.'s resources, expertise in entering new markets and track record of innovation. Specific claimed benefits include increasing the availability of local-into-local broadcast television service into as many markets as possible; increasing the amount of high definition television; working aggressively to ensure that broadband services are available to as many American consumers as possible; enhancing Hughes' ability to undertake significant risks and costs of developing and deploying new products and services; and bringing News Corp.'s commitment to diversity and equal opportunity to Hughes. Further, the Applicants state that the proposed transaction will increase operating efficiencies at Hughes by drawing upon News Corp.'s DTH experience and rationalizing the use of facilities across the two companies and will create economies of scope and scale that will help drive down costs and reduce the risks of innovation. In addition, by introducing new or enhanced capabilities to the DIRECTV platform, News Corp. claims that the proposed acquisition will increase customer satisfaction and as a result achieve greater subscriber growth and lower churn. The Applicants state that the proposed transaction will improve Hughes' capital structure and enable it to access the equity markets to obtain financing necessary to underwrite investment in and deployment of new services and technologies. Finally, the Applicants state that the proposed transaction will have no anti-competitive effects in any relevant market. Nevertheless, they offer to be bound by enforceable program access commitments for so long as the Commission's program access requirements applicable to cable operators and vertically integrated programming vendors remain in effect.

EX PARTE STATUS OF THIS PROCEEDING

Because this proceeding involves broad public policy issues, the proceeding will be treated as "permit but disclose" for purposes of the Commission's *ex parte* rules. See generally 47 C.F.R. §§ 1.1200-1.1216. Should circumstances warrant, this proceeding or any related proceeding may be designated as restricted. As a "permit but disclose" proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.⁵

Parties making oral *ex parte* presentations are directed to the Commission's statement re-emphasizing the public's responsibility in permit-but-disclose proceedings and are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the

⁵ An *ex parte* presentation is any communication (spoken or written) directed to the merits or outcome of a proceeding made to a Commissioner, a Commissioner's assistant, or other decision-making staff member, that, if written, is not served on other parties to the proceeding or, if oral, is made without an opportunity for all parties to be present. See 47 C.F.R. § 1.1201.

subjects discussed.⁶ More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in Section 1.1206 (b) as well. We urge parties to use ECFS to file *ex parte* submissions. See "General Information" section below.

GENERAL INFORMATION

The application for transfer of control of the licenses and authorizations referenced herein has, upon initial review, been accepted for filing. The Commission reserves the right to return this application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules, regulations, or policies.

Final action will not be taken on this application earlier than 31 days following the date of this Notice. Interested parties may file comments as indicated above, and are encouraged to file comments using ECFS. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties submitting paper filings must file an original and four (4) copies of all pleadings, in accordance with Section 1.51(c) of the Commission's Rules, 47 C.F.R. § 1.51(c), with the Commission's Secretary, Marlene H. Dortch, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554. All filings sent to the Commission by overnight delivery, e.g. Federal Express, must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D.C. 20023. All hand-delivered or messenger-delivered filings must be delivered to the Commission's filing location in downtown Washington D.C.: 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002-4913.⁷ The filing hours at this facility are 8:00 a.m. to 7:00 p.m. Parties submitting paper filings must also send six (6) paper copies of their filing to Linda Senecal, Industry Analysis Division, Media Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 2-C438, Washington, D.C. 20554, and one electronic copy via e-mail of any paper filing or *ex parte* submission to Linda.Senecal@fcc.gov.

In addition, parties must serve the following with either one electronic copy via e-mail or two paper copies of each pleading or *ex parte* submission: (1) Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or email at qualexint@aol.com; (2) Marcia Glauberman, Media Bureau, 445 12th Street, S.W., Room 2-C264, Washington, D.C. 20554, Marcia.Glauberman@fcc.gov; (3) Barbara Esbin, Media Bureau, 445 12th Street, S.W., Room 3-C458, Washington, D.C. 20554, Barbara.Esbin@fcc.gov; (4) Douglas Webbink, International Bureau, 445 12th Street, S.W., Room 6-C730, Washington, D.C. 20554, Douglas.Webbink@fcc.gov; and (5) JoAnn Lucanik, International Bureau, 445 12th Street, S.W., Room 6-A660, Washington, D.C. 20554, JoAnn.Lucanik@fcc.gov; (6) Simon Wilkie, Office of Plans and Policy, 445 12th Street, S.W., Room 7-C452, Washington, D.C. 20554, Simon.Wilkie@fcc.gov; (7) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554,

⁶ See *Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings*, Public Notice, FCC 00-358, 15 FCC Red 19945 (2000).

⁷ See *FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence*, Public Notice, DA 01-2919 (rel. Dec. 14, 2001).

James.Bird@fcc.gov; (8) Neil Dellar, Office of General Counsel, 445 12th Street, S.W., Room 8-C818, Washington, D.C. 20554, Neil.Dellar@fcc.gov; and (9) Tracy Waldon, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-A144, Washington, D.C. 20554, Tracy.Waldon@fcc.gov.

Alternate formats of this public notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 voice, (202) 418-7365 TTY, or send an e-mail to access@fcc.gov.

For further information, contact Marcia Glauberman (202) 418-7046 or Linda Senecal (202) 418-7044, of the Media Bureau. Press inquiries should be directed to Michelle Russo (202) 418-2358 of the Media Bureau. TTY: (202) 418-7172 or (888) 835-5322.

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ATTACHMENT A

File No. **SAT-T/C-20030502-00083** is the Lead File number for the space station series of applications. The complete list of File Numbers follows:

Satellite Space Stations:

File Number	Licensee/Call Signs
SAT-T/C-20030502-00083	DIRECTV Enterprises, LLC <i>Call Sign(s):</i> DBS8402; S2369; DBS8402; DBS8402; S2430; S2417; DBS8804
SAT-T/C-20030502-00084	Hughes Network Systems, Inc. <i>Call Sign(s):</i> S2132; S2133; S2185; S2187; S2188; S2190; S2191
SAT-T/C-20030502-00085	PanAmSat Licensee Corporation <i>Call Sign(s):</i> S2368; PAS-2R; PAS-4; CS91004; PAS-6; PAS-8; S2359; PAS-9; S2229; S2380; S2382; S2131; S2128; S2381; S2377; GAL V; GAL VIII(i); S2146; S2378; S2253; S2422; SBS-6; KS39
SAT-T/C-20030502-00086	USSB II, Inc. <i>Call Sign(s):</i> DBS8107; DBS8107

File No. **SES-T/C-20030502-00582** is the Lead File number for the earth station series of applications. The complete list of File Numbers follows:

Satellite Earth Stations:

File Number	Licensee/Call Signs
SES-T/C-20030502-00582	Hughes Network Systems, Inc. <i>Call Sign(s):</i> E000166; E030007; E880787; E880788; E880789; E881110; E881111; E881112; E890426; E890427; E890428; E890628; E890629; E890630; E891001; E891002; E900192; E900682; E940455; E940460; E950471; E950472; E950473; E970067; E990170 (VSAT Transmit/Receive)
SES-T/C-20030502-00583	Hughes Network Systems Limited <i>Call Sign(s):</i> E000362; E010187; E020195; E020205; E020206; E020207; E020208 (Transmit/Receive)
SES-T/C-20030502-00584	Hughes Network Systems, Inc. <i>Call Sign(s):</i> E020241; E020242; E030004; E030005; E030006; E880970; E881109; E890627; E900013; E910612; E940478; SES-STA-20021101-01942 (Transmit/Receive)
SES-T/C-20030502-00585	USSB II, Inc. <i>Call Sign(s):</i> E930437 (Receive Only)
SES-T/C-20030502-00586	USSB II, Inc. <i>Call Sign(s):</i> E930485 (Transmit Only)
SES-T/C-20030502-00587	California Broadcast Center, LLC <i>Call Sign(s):</i> E010237; E020091 (Transmit/Receive)
SES-T/C-20030502-00588	PanAmSat Licensee Corporation <i>Call Sign(s):</i> E010334; E970080 (Receive Only)
SES-T/C-20030502-00589	PanAmSat Licensee Corporation <i>Call Sign(s):</i> E950067; E970051 (Transmit Only)

SES-T/C-20030502-00590 PanAmSat Licensee Corporation
Call Sign(s): E000048; E000049; E000063; E000274; E000363; E000364;
E000488; E010019; E010112; E010113; E010131; E010133; E020309;
E030012; E4132; E7465; E881286; E881304; E890530; E900089; E920340;
E920377; E930088; E940333; E940368; E940532; E950267; E950307;
E950502; E950508; E970352; E970391; E970392; E980460; E980467;
E980501; E980502; E980503; E990024; E990091; E990092; E990093;
E990214; E990223; E990224; E990323; E990334; E990363; E990364;
E990365; E990433; KA244; KA245; KA391; KA450; KA71
(Transmit/Receive)

SES-T/C-20030502-00591 PanAmSat Licensee Corporation
Call Sign(s): E010118; E010280; E990055 (Temporary Transmit/Receive)

SES-T/C-20030502-00592 PanAmSat Licensee Corporation
Call Sign(s): E2178; E3943; E860175; E900621; E900757; KL92 (Common
Carrier Transmit/Receive)

SES-T/C-20030505-00601 DIRECTV Enterprises, LLC
Call Sign(s): E950423; E950424; E980170; E980341 (Receive Only)

SES-T/C-20030505-00602 DIRECTV Enterprises, LLC
Call Sign(s): E930229; E930304 (Transmit Only)

SES-T/C-20030505-00603 DIRECTV Enterprises, LLC
Call Sign(s): E010129; E010130; E020172; E930191; E950349; E980285;
E980338; E980340; E980473; E990159 (Transmit/Receive)

SES-T/C-20030505-00604 DIRECTV Enterprises, LLC
Call Sign(s): E990545 (Temporary Transmit/Receive)

SES-T/C-20030505-00605 DIRECTV Latin America, LLC (D-I-P)
Call Sign(s): E990232 (Transmit/Receive)

SES-T/C-20030505-00606 Hughes Communications Satellite Services, Inc.
Call Sign(s): E960001; E970079; E970094 (Receive Only)

SES-T/C-20030505-00607 Hughes Network Systems, Inc.
Call Sign(s): E861092; E873438 (Temporary Transmit/Receive)

File No. 0001293908 is the Lead File number for the wireless radio series of applications. The complete list of File Numbers follows:

Wireless Licenses:

File Number	Licensee/File Nos.
0001293908	DIRECTV, Inc. <i>Call Sign(s):</i> WPTZ691 (IG)
0001289894	Hughes Electronics Corporation <i>Call Sign(s):</i> WNEU9099 (MG)
0001293921	Hughes Network Systems, Inc. <i>Call Sign(s):</i> WPVW320 (IG)