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December 11, 2003

Via Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St, SW
Washington, DC 20554

Re: Proposed Transfer of Control to News Corp of Hughes Electronics from GM, Docket No. 03-124

Dear Ms. Dortch:

On December 10, 2003, I met with FCC Commissioner Michael Copps and his legal aide Jordan Goldstein. I urged the Commissioner to reject the proposed transfer and presented them this document.

Respectfully,

Jeffrey Chester

Copy to J. Goldstein and Barbara Esbin

Ten Reasons Why the FCC Should Deny the Transfer of Control of News Corp./Hughes Electronics

1. The deal will increase media consolidation across the entire television market. News Corp./Fox already has an extensive stake in broadcasting and cable programming. New FCC rules will permit even further expansion by News Corp/Fox into TV broadcasting market, as well any multicast must-carry policy.

2. DirecTV will not compete with cable in terms of pricing and programming choice. News Corp. will not jeopardize its major investments in terrestrial broadcasting and two dozen-plus cable programming networks by drawing off significant cable subscribers to DirecTV.
3. News Corp. will monopolize otherwise abundant channel capacity of DirecTV, favoring its own programming. Only those with market power (retransmission consent/must-carry) will gain access.
4. New, emerging, and underserved groups now left out of TV market—including channels actually majority-owned by persons of color—will not have effective bargaining power to gain distribution. Only Fox favorites will succeed.
5. Subscriber prices for multichannel services in both cable and DirecTV will increase, since News Corp. and MSOs will likely form a non-aggression-pact-like alliance. Instead of a restraint on monthly rates, approving this deal will mean FCC approves a new round of rate hikes.
6. News Corp./Fox corporate “character” is questionable. The 600-member National Association of Network Affiliates—in its filings to the Commission—has charged that *only* Fox among the major networks has demanded that its affiliates turn over to them their new digital spectrum. If true, such a policy violates the letter of the Communications Act. See also recent filing in this docket by Victory LLC as another example of Fox’s behavior.
7. The “proposed” FCC staff conditions, as reported by the news media, are inadequate safeguards. News Corp.’s control over the channel capacity and related distribution services is the real core of Fox’s power. Limiting the potential for News Corp. to unfairly raise rates for its programming services on cable platforms does nothing substantive to address the major and numerous harms of this transfer.
8. News Corp. will be the only MVPD entrant controlling both a set-top box software and electronic program guide company. Fox/Hughes has already announced it will use both NDS and Gemstar on DirecTV. These digital tentacles will thwart competition.
9. There are serious corporate governance issues with this transfer. In the post-Enron/Worldcom era, the FCC is negligent in not requiring “independent directors” who can protect the public.
10. Innovation will be harmed, as News Corp. insists that programmers play by its rules.