

Center for Digital Democracy
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December 12, 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:

We respectfully submit this article from *Variety* that, in our view, is another example of how the FCC has failed to effectively investigate the myriad issues involved in the proposed transfer.

News Corp. has a history of engaging in anti-competitive and anti-public interest behavior throughout its global television holdings. Whether its kicking off the BBC to please the Chinese government, using its EPG to favor its own content, or—in this case—potentially jettisoning competitors to make way for its own programming services.

Vivendi/Universal has significant market power, hence its ability (during the merger review period!) to save its channel. Pity other programmers once News Corp. is approved to run Hughes Electronics. Chairman Powell and his colleagues approving this transaction are leaving a legacy to the American public that undermines real competition and programming diversity.

Sincerely,

Jeffrey A. Chester
Executive Director

cc- Catherine Bohigian, Johanna Shelton, Jordan Goldstein, Stacy Fuller, Jon Cody, Barbara Esbin

Variety

Posted: Thurs., Dec. 11, 2003, 10:00pm PT

Suit threat keeps Trio on DirecTV

Loss of sat slot would've been net's potential death blow

By JOHN DEMPSEY

NEW YORK -- The threat of a lawsuit by the Universal TV Group appears to have saved U's Trio, the pop-culture cable network, from getting axed by DirecTV on Jan. 1.

DirecTV has deleted the credit crawl which had told subscribers that they might lose the service because Trio's contract supposedly expires on Dec. 31 (*Daily Variety*, Dec. 10). The crawl had been running across the bottom on Trio's dial position, channel 315, since Dec. 2.

Universal was preparing to ask the courts for an injunction preventing DirecTV from engineering the removal of Trio. U would have argued that DirecTV was illegally interpreting a clause in the carriage contract by falsely claiming that it could drop Trio at the end of the year.

DirecTV's motivation for dropping Trio, according to the proposed legal action, is that the satcaster wants to start shedding the more obscure cable networks in order to clear channel space for program services being planned by News Corp.'s Fox Cable Group. News Corp. has bought a controlling stake in DirecTV and is awaiting regulatory approval, which could come within the next month.

A spokesman for DirecTV pooh-poohed any such intentions, saying, "We've taken down the credit crawl as of Dec. 11, and discussions are under way" for the company to continue carrying Trio.

"These are positive steps," the spokesman added, bringing great relief to Trio, as the loss of its slot on DirecTV would've cost it more than half of its 19 million subscribers, a potential death blow to the network.