

Testimony of

The Honorable Patrick Leahy

March 6, 2002

Chairman Kohl and Senator DeWine, once again you have been a great credit to this committee and the Senate and offered a superb service to the public in the way you have worked together to help organize this hearing.

Bringing full satellite service to Rural America and helping to bridge the digital divide have been high priorities of mine for many years, and those goals are foremost to me as I evaluate the benefits and shortcomings of this proposed merger. I have also advocated the benefits for rural communities that local network broadcasting, offering local weather reports, local emergency news and local public interest programming, can provide throughout America.

Senator Hatch and I addressed those goals in March 1998 when we introduced and later won the committee's approval of a bill to allow local-into-local television via satellite.

I worked with Senator Burns and with Republican Leader Lott and many others to enact a program to provide a federal loan guarantees on up to \$1.25 billion in loans to finance the delivery of local-into-local television, and high-speed Internet access, to Rural America. That was in 1999 and 2000.

I have also worked with others to help companies which offered promising approaches to providing local-into-local TV service -- companies that include EchoStar, Capitol Broadcasting of North Carolina, and Northpoint, which hopes to offer such service using terrestrial antennas. I worked on a provision, which is now law, directing the FCC to give Northpoint an opportunity to demonstrate the viability of that technology.

As a conferee on the Farm Bill I am now working to include mandatory funding to cover any federal risks in implementing that federal loan guarantee program. I strongly believe in and have worked for both rural access to full satellite service and for robust competition to improve rates and service in the cable and satellite industries.

I have congratulated Charlie Ergen for his role in the industry, telling the Senate: "I want to point out that the leaders of the satellite industry - such as Charlie Ergen of EchoStar who is known for his creative and innovative ideas - want to provide this local [TV] service."

Now EchoStar and DirecTV have a plan on the table, and satellites in orbit, to cover all 210 markets with local TV and broadband access.

The crucial question is this: If not this proposal to bring full satellite service to rural areas and to help bridge the digital divide, then what? Rural America cannot accept "no service," or "maybe some possible service in 10 years," as the answer. If you look at the market for rural local-into-local television, or rural high-speed Internet access, in much of rural America there is no service - neither cable, nor satellite, offers it.

In much of Vermont and in many other states, rural residents have no opportunity to receive local TV stations or high-speed broadband access. Charlie Ergen calls this a "no-opoly" - and he is right. Just as with rural electric service, or rural telephone service, someone has to be first. Competition requires competitors.

It is easy for me to make this point about being first, because I remember when Vermont families first received electric service, and first received telephone service. People would walk through their homes and turn the light switches on and off, just for the fun of it.

A solution to local electric and telephone monopolies back then was to foster more competition. That is why I hope all senators will join in supporting full funding for the loan guarantee program for local-into-local television service which could be offered by competitors of EchoStar and DirecTV - which is a provision in the Farm Bill that soon will be back before the Senate.

In addition, as Gene Kimmelman will point out, we should support efforts, as I have done over the last three years, to permit other companies such as NorthPoint to compete with EchoStar and DirecTV.

From another standpoint, if you look at urban markets, the merged company could effectively compete, as he points out, with local cable monopolies.

I know that some argue that EchoStar has the capacity to offer local-into-local TV to all the market areas today, without the merger with DirecTV. Indeed, I have done everything possible to promote local-into-local television since 1997 - including work on two major bills with Senator Hatch and one with Senator Burns, which are now law.

But Congress normally does not try to mandate what risks and investments that companies should make. I admit that Congress has created an entire system that rewards a willingness to take risks and to be creative, and to be first. If a company invents a new computer innovation, and patents that invention, our society rewards the developer for being first.

When local-into-local service TV service and Internet access come to all rural markets, they will be a boon to Rural America and they likely will encourage competition. That is a crucial goal and a key test in evaluating this merger.

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