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Before The
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of:	)	
Amendment of the U.S. Table of Frequency Allocations to Designate the 2500-2520/2670-2690 MHz Frequency Bands for the Mobile-Satellite Service	)	RM-9911

00-258

To: The Commission

OPPOSITION TO PETITION FOR RECONSIDERATION

Network for Instructional TV, Inc. ("NITV"), the licensee of twenty-three (23) Instructional Television Fixed Service ("ITFS") stations in communities throughout the United States, including stations on the ITFS A- and G-Groups directly affected by this proceeding,[1] hereby submits its Opposition to the Petition for Reconsideration filed by the Satellite Industry Association ("SIA" and "SIA Petition") challenging the FCC's well-founded decision not to allocate 2500 – 2520 MHz and 2670-2690 MHz bands for the Mobile Satellite Service ("MSS").[2]

NITV is a "not-for-profit" learning and technology corporation established in 1979 to address the educational technology needs of underserved, undertaught and minority K-12

[1] NITV holds the following ITFS licenses: WLX-951, Anderson, IN; WLX-787, Baltimore, MD; WND-252, Bloomington, IN; WLX-278, Champaign, IL; WHR-883, Ft. Worth, TX; WFD-456, Indianapolis, IN; WHR-523, Kansas City, MO; WHR-514, Milwaukee, WI; WHR-513, New Orleans, LA; WHR-520, New York, NY; WLX-490, Nolanville, TX; WHR-525, Pittsburgh, PA; WHR-515, Portland, OR; WLX-291 and WLX-292, Saginaw, MI; WLX-874, San Antonio, TX; WLX-759, St. Louis, MO; WHR-518, Tampa, FL; WLX-486, West-Waco, TX; and WHR-461, Washington, D.C. Additionally, NITV's local educational affiliates hold WHR-790, Miami, FL (Southern Florida Instructional TV, Inc.), WNC-804 (Atlanta Educational Services, Inc.) and WHR-525 (Delaware Valley Educational Television Network, Inc.).

[2] *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems*, ET Docket No. 00-258, *Petition for Rulemaking of the Cellular Telecommunications Industry Association Concerning Implementation of WRC-2000: Review of Spectrum and Regulatory Requirements for IMT-2000*, RM-9920, *Amendment of the U.S. Table of Frequency Allocations to Designate the 2500-2520/2670-2690 MHz Frequency Bands for the Mobile-Satellite Service* (Notice of Proposed Rule Making and Order), RM-9911, released January 5, 2001, at paragraph 73 ("*NPRM and Order*").

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children in inner city and rural areas, and the faculty who serve them. NITV accomplishes its mission primarily through utilization of its ITFS capacity. Through such utilization, NITV has forged relationships with fifty-seven (57) local school districts in twenty-two (22) cities in thirteen (13) states and the District of Columbia. Collectively, these local NITV educational affiliates serve about 1 million students and teachers in more than 1,400 classrooms daily.

NITV is able to provide its educational services because of the financial and technical support provided by the commercial fixed wireless operators with whom it has forged business relationships pursuant to the FCC's ITFS leasing rules. These relationships are the lifeblood of existing educational services provided over the ITFS channels, and have created a unique opportunity for NITV and other ITFS licensees to roll out educational broadband services to numerous U.S. schools located not only in areas currently served by incumbent DSL and cable companies but also in areas where capital-intensive expansions of DSL and cable lines are economically infeasible. Given these business relationships, MSS sharing on the 2500 – 2520 MHz and 2670-2690 MHz bands would not only interfere with NITV's use of the A- and G-Groups, but also would denigrate and potentially terminate NITV's agreements with commercial fixed wireless operators in every community where NITV holds an ITFS license.

SIA's Petition provides no basis whatsoever for overturning of the Commission's decision not to add an MSS allocation at 2500 – 2520 MHz and 2670-2690 MHz. SIA argues that the Commission erred in concluding that sharing between existing terrestrial fixed ITFS and Multipoint Distribution Service ("MDS") systems ("ITFS/MDS systems") and mobile satellite systems "would present substantial technical challenges."[3] However, despite being the proponent of such sharing, SIA's petitions have lacked current, independent evidence upon which the Commission could conclude that sharing is feasible. Even putting aside evidence

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[3] *Id.*; SIA Petition at 2.

demonstrating that sharing between MSS and ITFS/MDS systems is likely to be *in*feasible, SIA has submitted no substantiation for its request that the Commission take the drastic step of allocating mobile satellite-based services on the same frequencies that fixed services are currently being provided.[4]

SIA is plainly incorrect in arguing that the "economics of MMDS/ITFS dictate that the service be deployed only in more densely populated areas."[5] The unique value of ITFS and commercial fixed wireless services provided on the 2.1 and 2.5 GHz bands is that these services can economically extend broadband services to rural and underserved areas where cable and DSL cannot reach. Accordingly, SIA's claim that "geographic separation of MSS and ITFS/MDS users should significantly alleviate any potential interference between the services," is preposterous.[6]

SIA misleadingly cites an outdated and obsolete third party study that did not specifically consider the characteristics of two-way ITFS/MDS systems to show that MSS *spacecraft* will not interfere with fixed services.[7] Obviously, the mobile services aspect of MSS also must be considered. Given SIA's claims that allocation of 2500 – 2520 MHz and 2670-2690 MHz to MSS will permit satellite IMT-2000 services, it seems clear that the reams of data demonstrating that IMT-2000 services cannot share the 2.5 GHz band with ITFS/MDS systems apply here.[8]

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[4] *See In the Matter of Redesignation of the 17.7 – 19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7 – 20.2 GHz and 27.5 – 30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3 – 17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use*, 15 FCC Rcd 13430 (2000), at paragraph 17 (operating terrestrial wireless and mobile satellite services in the same band on a co-channel basis "not feasible").

[5] SIA Petition at 6.

[6] *Id.*

[7] SIA Petition at 6-7.

[8] FCC Staff Report Issued by the Office of Engineering and Technology, Mass Media Bureau, Wireless Telecommunications Bureau, and International Bureau, "Spectrum Study of the 2500 – 2690 MHz Band: The Potential for Accommodating Third Generation Mobile Systems," Interim Report, ET Docket No. 00-232, DA 00-

SIA also is misguided in claiming that a Telecommunications Industry Association working group study ("TIA study") that evaluates sharing between MSS and *point-to-point* Common Carrier and Private Operational-Fixed services is a demonstration of the feasibility of MSS sharing with ITFS/MDS systems.[9] ITFS/MDS systems involve *point-to-multipoint* downstream operations and, increasingly, upstream operations originating from multitudinous points. These systems are vastly more complex than the point-to-point facilities reviewed by TIA. It is self-evident that the TIA study simply is not relevant to sharing between MSS and ITFS/MDS systems.

Finally, NITV notes that MSS has provided little support for its claims that current MSS allocations are insufficient. The FCC requires information on services currently offered, current and projected demand and growth rates for those services, market studies evaluating projected demand and other relevant data in order to make a spectrum allocation decision.[10] SIA has submitted none of this information, merely claiming that all of the spectrum currently allocated for MSS is close to being assigned.[11]

2583, released November 15, 2000, at 42 ("*FCC Interim Report*"); George W. Harter, MSI, "Feasibility Study on Spectrum Sharing between Fixed Terrestrial Wireless Services and proposed Third Generation Mobile Services in the 2500-2690 MHz Bands," October, 2000 (Appendix 5.2 to *FCC Interim Report*) at A-74; George W. Harter, MSI, "Interference to 3G Systems from ITFS/MDS Systems Sharing the Same Frequencies," attached as Appendix A to Comments of The Wireless Communications Association International, Inc., ET Docket No. 00-258, February 22, 2001, at 3.

[9] SIA Petition at 6, citing "Criteria and Methodology to Assess Interference Between Systems in the Fixed Service and the Mobile-Satellite Service in the Band 2165-2200 MHz," *TIA/EIA Telecommunications Systems Bulletin* (TSB86), October 1999. At page 7, for example, the cited study describes the terrestrial systems being evaluated as "fixed service point-to-point systems."

[10] *NPRM and Order* at paragraph 20.

[11] SIA Petition at 3. Indeed, the only fact presented by SIA is that the World Radiocommunication Conference ("WRC") has suggested 2500 – 2520 MHz and 2670-2690 MHz as the bands for the satellite component of 3G services. This is plainly wrong since WRC did not resolve that issue.

Accordingly, the Petition for Reconsideration filed by SIA must be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Yvette Graves, with the law firm of Rini, Coran & Lancellotta, P.C., do hereby certify that the foregoing "Opposition to Petition for Reconsideration" was mailed postage pre-paid first-class mail on March 22, 2001.

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