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600 14TH STREET, NW, SUITE 800  
WASHINGTON, D.C. 20005-2004  
TELEPHONE (202) 783-8400 • FACSIMILE (202) 783-4211

MIAMI  
OVERLAND PARK  
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TAMPA  
ZURICH

Henry M. Rivera  
202-639-5601  
hrivera@shb.com

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**HAND DELIVERED**

Hon. Michael K. Powell  
Chairman  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: ET Docket No. 00-258

Dear Mr. Chairman:

I write on behalf of the Catholic Television Network ("CTN"). CTN joins with others in the education community, with the Wireless Communications Association and representatives on Capitol Hill calling for the Commission to promptly remove the 2500-2690 MHz band from consideration for possible reallocation for third generation ("3G") mobile services.

The FCC has studied the MDS and ITFS spectrum intensely for more than a year. The Commission staff issued an *Interim Report* in November 2000, a *Notice of Proposed Rulemaking* in January 2001 and a *Final Report* in March 2001. A comprehensive record now exists. The *Final Report* found that the "MDS industry has invested several billion dollars to develop the band for broadband fixed wireless data systems . . . [that] will provide a significant opportunity for further competition with cable and digital subscriber line (DSL) services . . . and deliver broadband services to rural areas."<sup>1</sup> It concluded that sharing the band between MDS/ITFS and 3G services was not technically possible,<sup>2</sup> and that there was "no readily identifiable alternative frequency band that could accommodate a substantial relocation of the incumbent operations in the 2500-2690 band."<sup>3</sup> Furthermore, the *Final Report* states that if any attempt were made to divide the band among wireless broadband and mobile 3G services, "delivery of fixed wireless

<sup>1</sup> Final Report at 13.

<sup>2</sup> *Id.* at 92-93.

<sup>3</sup> *Id.* at iii.

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broadband services to the public and educational users would be delayed and, in rural areas or smaller markets, may never be realized.”<sup>4</sup>

Furthermore, the overwhelming majority of the wireless carriers commenting in this proceeding advocate the use of spectrum other than the 2500-2690 MHz band for mobile 3G. Verizon Wireless is the only exception. Despite the fact that Verizon strongly prefers reallocating spectrum other than the 2.5 band for 3G, Verizon is out of step with the rest of the industry and objects to the efforts by the MDS/ITFS community to have the 2500-2690 MHz band removed from consideration. While Verizon does not dispute the fundamental conclusions of the *Final Report* regarding the use of the 2500-2690 MHz band for broadband, and fails to present any alternative spectrum for accommodating broadband MDS/ITFS usage, it nonetheless would have the Commission hold the 2500-2690 MHz band hostage out of concern that the 1755-1850 MHz band cannot be reclaimed from government use. To accept Verizon’s position is to take counsel of one company’s misguided fears and penalize the entire education community and wireless broadband industry.

In assessing Verizon’s position, the Commission must ask itself if any amount of further delay is going to change the *Final Report*’s recognition that the 2500-2690 MHz band is poised to meet the most pressing communications need in this country – the need for more extensive broadband deployment. Residential broadband services are not widely available, in large part because Verizon’s local exchange affiliate, other ILECs and the cable industry have chosen not to construct the necessary infrastructure. In those areas where residential broadband exists, there are usually only one, and at best two, providers. Significantly, the recent wave of residential broadband price increases (many on the order of 25% or more) imposed by Verizon’s DSL affiliate, other ILECs and the cable industry speaks volumes about the need for another broadband competitor.

Consumers across the country are being harmed by the regulatory uncertainty about MDS/ITFS broadband services. As reiterated just yesterday in testimony before the U.S. Senate Subcommittee on Communications by the Chairman and CEO of Nucentrix Broadband Networks, system operators in many markets have been forced to delay the deployment of broadband wireless systems pending the outcome of this proceeding, as the investment community is simply unwilling to provide essential funding until the Commission provides definitive guidance on the future of the 2500-2690 MHz band. Similarly, several vendors have been forced to slow development of new generations of 2500-2690 MHz broadband technology until the Commission acts. And, while businesses have been struggling to survive, America’s children have been denied access to new technologies and broadband networks as envisioned by the FCC’s ITFS/MDS policies. Equally disturbing, the educational community has been forced to divert scarce financial resources to fight a regulatory battle in Washington to save spectrum that is not, by the FCC’s own reports, a viable option for 3G services. Removing the 2500-2690 MHz band from further consideration in this proceeding will lift the cloud of uncertainty and

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<sup>4</sup> *Id.* at 92-93.

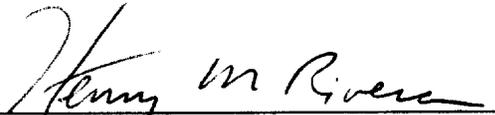
unleash a compelling competitive alternative to the ILEC-DSL and cable duopoly. The biggest winners will be America's children and America's consumers.

The Commission has all the information it needs to conclude, right now, that the 2.5 band is unsuitable for 3G services. Such a conclusion does not mean 3G will not be deployed, even if the 1.7 GHz band is not available for 3G. What Verizon conveniently ignores is that to the extent additional spectrum is needed for 3G (and just yesterday, Leap Wireless in testimony before the U.S. Senate questioned whether it is), there is additional spectrum available at 700 MHz, the 1910-1930 MHz unlicensed PCS band, the 2110-2150 MHz band and even in the 1990-2025/2165-2200 MHz bands that the Cellular Telecommunications & Internet Association wants reallocated for 3G and at least one incumbent satellite interest wants to use for its own terrestrial 3G services. Removing the 2500-2690 MHz band from consideration hardly precludes the identification of substantial additional spectrum for 3G services.

Time is of the essence for the broadband wireless industry and America's children. As CTN's President, Monsignor Dempsey, noted in his testimony before the House last week, "A single school year is a very long time in the life of a student." It is now time for the Commission to lift the cloud of uncertainty over the 2.5 GHz band, and in the process spur the broadband deployment that the Commission, Congress and the American public so clearly want.

Respectfully,

THE CATHOLIC TELEVISION NETWORK

By   
Henry M. Rivera  
Its Attorney

cc: Hon. Gloria Tristani  
Hon. Kathleen Q. Abernathy  
Hon. Michael J. Copps  
Hon. Kevin J. Martin  
Peter A. Tenhula  
Adam Krinsky  
Bryan Tramont  
Lauren Van Wazer  
Office of the Secretary (for inclusion in Docket No. 00-258)