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May 9, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, SW
Washington, DC 20554

**RE: Exparte Communication in IB Docket 98-172 and
CS Docket 99-250**

Dear Madam Secretary:

On Monday, May 6, the undersigned and members of IMCC participated on a conference call with Ms. Belinda Nixon, Mr. Richard Engelman, Mr. Ed Jacobs, Mr. Breck Blalock and Mr. Nathan Bohne - International Bureau; Mr. Trey Hanbury - Wireline Competition Bureau; Mr. Ron Netro - Wireless Telecommunications Bureau; Mr. Wayne McKee and Ms. Eloise Gore - Media Bureau; and Ms. Geraldine Matisse and Mr. Julius Knapp - Office of Engineering & Technology.

The IMCC members on the call were: Mr. Bob Palle and Mr. Cliff Fox, Blonder Tongue; Mr. David Curtin, TVMax; Mr. Gene Fry, Millinneaum Digital Media and Mr. Murray Grant, AML Wireless.

Our discussion related to IB Docket 98-172 and CS Docket 99-250. Attached are two electronic communications sent on April 11, 2002 to IMCC members and on April 25, 2002 to Ms. Belinda Nixon, which discuss the relevant issues and IMCC views. The questions addressed and the IMCC views were iterated and discussed on the conference call.

On the call, it was emphasized by IMCC members that without adequate and verifiable data and information regarding current users, the amount of spectrum used and related matters concerning

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radio spectrum which are the subject of the rulemakings, it is impossible to address issues fundamental to the questions and rulemakings.

It was also emphasized that for Private Cable Operators to compete with franchised cable, PCOs need a comparable amount of spectrum to provide a comparable number of programming channels and that the spectrum must be on no less a basis, co-primary basis, as present. Participants also discussed that if PCOs are required to serve in a spectrum allocation different than at present that all relocation costs, including cost of new equipment, labor and related costs, should be paid by the party or parties petitioning for the reallocation of spectrum. Call participants discussed "comparable replacement link" in the context of previous FCC rulemakings.

Among the ideas discussed was moving PCOs from 18.142-18.580 to 17.7 to 18.3 and opening the lower CARS band to PCO use.

No other topics were discussed or materials presented.

Sincerely yours,

A handwritten signature in black ink that reads "William J. Burhop". The signature is written in a cursive, slightly slanted style.

William J. Burhop
Executive Director

From: Bburhop@imcc-online.org
Sent: April 11, 2002 12:08 PM

To: IMCC BOD and Friends

From: Bill Burhop

Date: April 11, 2002

Re.: 12 and 18 GHz Microwave Transmission

At the IMCC Board of Directors meeting held on April 9, it was decided to communicate further with the FCC regarding PCO use of microwave transmission. To do so, IMCC needs to gather information from its members. This memorandum requests that information from you. Please reply not later than Monday, April 22, 2002.

Based on information available from FCC staff, our comments would be pertinent regarding the following questions and issues:

1. In the past 2 years, given the contraction in the number of PCOs and the number of units served, has PCO use of microwave transmission expanded or declined?
2. Given the decrease in the cost of head-end equipment, has the utilization of microwave transmission equipment declined?
3. Are there reasons to believe that microwave transmission by PCOs will expand or decline in the next 5 years?
4. It appears that the OpTel (TVMAX) and IMCC petition to the FCC requesting that PCOs be allowed to use the 12 GHz spectrum is in final consideration by the Commissioners. We have made it clear that granting this request is by no means a substitute for or a supplanting of PCO use in the 18 GHz area, it would only be a supplement to the 400 MHz currently used in the 18 GHz space.

FCC staff have requested additional information as follows:

- a. Can IMCC quantify how useful this supplement would be for PCOs? Where geographically would it be used? How many new links?
- b. How congested is the 12 GHz space already? Who are the primary users?
- c. If PCOs could use this space, would that require PCOs to acquire new equipment or retuning existing equipment? How expensive would that be?
- d. What are the primary reasons the access to 12 GHz is not an adequate substitute for the current use of the 400 MHz in the 18 GHz space?
- e. Are there other important factors that indicate how useful this spectrum would be for PCOs? Would any PCOs currently using the 18 GHz space relocate to the 12 GHz space?

5. Regarding 18 GHz, Hughes Networks Systems has petitioned the FCC to change the 18 GHz spectrum allocation that was adopted by the FCC in June of 2000. That allocation preserved PCO use of 18.142 through 18.580. Hughes

IMCC BOD & Friends

April 11, 2002, E-mail

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seeks the 280 MHz between 18.30 and 18.58. The FCC International Bureau staff is preparing a draft response for the Commissioners to consider.

An alternative has been proposed and IMCC's views are requested:

How meaningful would it be and what would the implications be if the FCC reallocated spectrum so that PCOs could use the space from 17.70 to 18.30? This suggestion would require PCOs to give up use of the 18.30 to 18.58.

a. Would this provide an adequate amount of spectrum for PCOs to continue to provide as many channels of video programming as are currently provided?

b. Would this require the acquisition of new equipment, is this equipment in production and at what cost?

c. If retuning of existing equipment is an option, what are the cost and other implications?

d. If PCOs were reallocated to this space, what implications would that have for other users of that space such as fixed service providers or franchised cable?

e. Would the addition of the space in 12 GHz be meaningful in this reallocation?

f. Other important factors.

It is my intention to gather your information and either submit it as formal comments or to have a meeting with FCC staff to discuss.

Your attention and assistance is appreciated.

Bill Burhop, IMCC
202 364 0882

From: bburhop@imcc-online.org
To: Belinda Nixon
Sent: Thursday, April 25, 2002 10:16 AM

Good Morning Belinda,

I have continued gathering information as you requested and here are some interim observations:

1. It is assumed that if PCOs vacate the currently assigned 438 MHz that the newly assigned spectrum would be on a primary basis.

2. It is also assumed that PCOs would be reimbursed for all relocation costs for hardware, labor and associated expenses.

3. Each conversation I have with PCOs or equipment manufacturers leads back to questions regarding spectrum usage. Unless current and accurate data are available, realistic determinations are impossible. It seems to us that the applicant for new or changed spectrum allocation has a responsibility to produce the data necessary for the FCC to make informed and prudent decisions. The data and other information includes the following:

>17.7 - 18.3 GHz--who are the current users, how many licenses/paths per user category, how many of those paths are actually being used and are not dormant, where are those paths geographically, are they primary/co-primary/etc. and so forth.

>Same regarding 12 GHZ, lower CARS band.

We will continue to gather information. Unfortunately, most of that will be anecdotal unless verifiable data are available. We do have information regarding equipment availability and the implications of swapping out because simply retuning existing equipment is not feasible.

Unless the data referenced are made available, an informed and detailed response to your inquiry will not be possible. However, I request the opportunity to discuss these matters and propose that you and your colleagues have a conference call as soon as possible with 3 PCOs and 2 equipment manufacturers.

Your views will be appreciated.

Best regards,
Bill Burhop