

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Proposal by the Wireless Communications)
Association International, Inc., the National)
ITFS Association and the Catholic Television) RM 10586
Network for Revising the MDS and ITFS)
Regulatory Regime)

To: Chief, Wireless Telecommunications Bureau

COMMENTS OF CNI WIRELESS, INC.

In response to the Wireless Telecommunications Bureau's request,¹ CNI Wireless, Inc. ("CNI") hereby submits these brief comments in support of the proposals advanced on October 7, 2002 in a White Paper submitted by the Wireless Communications Association International, Inc. ("WCA"), the National ITFS Association ("NIA") and the Catholic Television Network ("CTN") proposing revisions to the Commission's rules applicable to the Multipoint Distribution Service ("MDS") and the Instructional Television Fixed Service ("ITFS").

CNI owns and operates a small wireless cable system that serves approximately 2,000 subscribers in rural Kentucky. It holds the MDS Basic Trading Authorizations for BTAs B098 (Corbin, KY) and B423 (Somerset, KY), is the licensee of MDS stations WMX332 (Parkers Lake, KY), KNSC827 (Parkers Lake, KY), KNSC828 (Parkers Lake, KY), KNSC419 (Somerset, KY), KNSC420 (Somerset, KY), KNSC419A (Williamsburg, KY), KNSC420A (Williamsburg, KY), is the licensee of commercial ITFS stations WMX674 (Parkers Lake, KY) and

¹ "Wireless Telecommunications Bureau Seeks Comment On Proposal To Revise Multichannel Multipoint Distribution Service And The Instructional Television Fixed Service Rules," *Public Notice*, DA 02-2732A, RM-10586 (rel. Oct. 17, 2002).

WMX680 (Parkers Lake, KY) and leases capacity on ITFS stations WND282 (Parkers Lake, KY), WND283 (Parkers Lake, KY) and WND366 (Parkers Lake, KY). Based on its 10 years of experience as a multichannel video programming distributor (“MVPD”), CNI agrees with the fundamental premise underlying the WCA/NIA/CTN proposal – that it is essential for the Commission to adopt rules and policies for MDS and ITFS that promote the evolution of MDS and ITFS towards their highest and best use as data distribution services.

CNI recognizes that the rules and policies proposed in the White Paper are primarily designed to promote the deployment of the next generation of broadband technology, and impose certain inconveniences on those MVPDs who desire to continue to operate wireless cable systems following the transition of their markets pursuant to Appendix B of the White Paper. However, it is clear that if the MDS/ITFS band is ever to develop as a viable spectrum home for fixed, portable and mobile broadband services, the Commission must impose strict limits on the use of the Lower Band Segment and the Upper Band Segment by the type of high-power, high-site facilities used by most MVPDs today. The White Paper makes a compelling case that those high-power, high-site facilities pose a substantial threat of interference to next generation broadband systems that must be addressed in the new rules. The proposals advanced by WCA, NIA and CTN in Appendix B for addressing the transition of MVPD systems to the new bandplan and only exempting those that have significant penetration rates represent a fair balance of the competing interests. Although CNI will likely not be entitled to “opt-out” of a transition under the pending proposal, CNI

nonetheless appreciates that if all video operators are grandfathered, there will be substantial interference to broadband service providers and the MDS/ITFS bands are unlikely to develop.

In conclusion, WCA, NIA and CTN are to be applauded for their extraordinary efforts to develop a regulatory regime for the MDS and ITFS bands that will, for the first time, actually promote the use of those bands for high-speed broadband distribution to fixed, portable and mobile users. The proposals advanced in the White Paper are well-conceived, represent fair compromises among competing interests and are supported by a strong consensus within the industry. Therefore, CNI urges the Commission to quickly issue a Notice of Proposed Rulemaking proposing to adopt the new rules and policies advanced by WCA, NIA and CTN in their White Paper.

Respectfully submitted,

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