

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 DIGITAL TV ONE

WH-TV, Inc., d/b/a Digital TV One (“Digital TV One”) hereby submits its initial comments in response to the Wireless Telecommunications Bureau’s request for input regarding the White Paper submitted by the Wireless Communications Association International, Inc. (“WCA”), the National ITFS Association (“NIA”) and the Catholic Television Network (“CTN”).¹ For the reasons set forth below, Digital TV One supports the WCA-NIA-CTN proposal for revisions to the Commission’s rules applicable to the Multipoint Distribution Service (“MDS”) and the Instructional Television Fixed Service (“ITFS”), as modified by the First Supplement filed by WCA, NIA and CTN on November 14, 2002.

Digital TV One owns and operates a wireless cable multichannel video programming distribution system that serves the area in and around San Juan, Puerto Rico. Over the past two years, Digital TV One has invested several million dollars in converting its analog system to digital technology. As a result of that investment, Digital TV One is today providing over 100 channels of video and audio programming to subscribers. Digital TV One appreciates that it is in a unique position, since most

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).

multichannel video programming distributors utilize analog technology and can migrate their existing program offerings to the proposed middle band segment through application of digital technology without reducing the amount of programming they offer to their subscribers. However, because Digital TV One already has digitized its service and is already utilizing more than the seven 6 MHz channels that WCA, NIA and CTN have proposed for the middle band segment, the transition system proposed in Appendix B to the White Paper could have forced Digital TV One, in the event of a transition, to reduce the number of channels it offers to the public. In Digital TV One's view, such a reduction in programming would be untenable, as it would place Digital TV One in such an inferior position against its competition in the San Juan marketplace that Digital TV One's offering would not be viable.

In response to the filing of the White Paper, representatives of Digital TV One brought these concerns to the attention of WCA, NIA and CTN and sought to assure that operators of digital multichannel video program distribution systems are not prejudiced by the new bandplan and the proposed transition scheme. The result of the resulting discussions has been the decision by WCA, NIA and CTN to revise their proposal to allow the handful of multichannel video programming distributors that, like Digital TV One, have converted to digital technology, to voluntarily opt-out of any transition to the new bandplan.² Digital TV One applauds WCA, NIA and CTN for recognizing that their initial proposal could have severe adverse consequences for the few operators who have invested substantial amounts in digitizing their services, and for amending their proposal to assure that those adverse consequences are avoided.

² See "First Supplement to 'A Proposal for Revising the MDS and ITFS Regulatory Regime,'" RM-10586, at 4-5 (filed Nov. 14, 2002).

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 promote the use of those bands for high-speed broadband distribution to fixed, portable and mobile users, while at the same time being sensitive to the concerns of existing digital system operators. The proposals advanced in the White Paper, as modified by the First Supplement, are well-conceived, represent fair compromises among competing interests and are supported by a strong consensus within the industry. Therefore, Digital TV One 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 and First Supplement.

Respectfully submitted,

WH-TV, Inc. d/b/a DIGITAL TV ONE

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