

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7643
WWW.SWIDLAW.COM

ELIOT J. GREENWALD
DIRECT DIAL (202) 424-7809
EJGREENWALD@SWIDLAW.COM

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
(212) 973-0111 FAX (212) 891-9598

July 9, 2003

VIA ELECTRONIC SUBMISSION

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **NOTICE OF EX PARTE MEETING**
WT Docket No. 03-66
RM-10586
Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to
Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and
Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands

Dear Ms. Dortch:

On July 8, 2003, on behalf of TNT Technologies, LLC dba Clearwave ("Clearwave"), I had an *ex parte* meeting with Samuel Feder, Legal Advisor to Commissioner Kevin J. Martin, regarding the above-referenced docket.

Clearwave is a lessee of Multichannel Multipoint Distribution Service ("MMDS") spectrum in the 2500-2690 MHz band. It is Clearwave's intent to utilize the spectrum to bring broadband services to rural areas and less densely populated urban areas. However, the freeze on the filing and processing of applications for new or modified MMDS facilities has made it impossible for Clearwave to implement its business plan.

At the *ex parte* meeting, I discussed Clearwave's support for the "Petition for Reconsideration" filed by the Wireless Communications Association International, Inc. ("WCA") on April 7, 2003, requesting that the freeze be limited to applications for new or modified Instructional Television Fixed Service ("ITFS") stations located outside existing protected service areas ("PSAs"). In other words, Clearwave is asking the Commission to limit the freeze to those applicants seeking to serve ITFS "white space." I explained that as a result of current use of the spectrum, rule revisions are necessary in order to provide broadband service utilizing the 2500-2690 MHz band to many urban areas. However, because of lighter spectrum use in rural areas and less densely populated urban areas, it is possible to provide broadband service to a number of rural areas now, even without the rule changes that are needed by the

industry as a whole. Because Clearwave and other similarly situated companies are in a position to bring broadband service to a number of rural areas that currently have no broadband service of any type or have at most one provider of broadband service, it is in the public interest for the Commission to lift the freeze so that those who live and work in rural areas may receive broadband service without delay.

Very truly yours,

/s/

Eliot J. Greenwald

cc: Samuel Feder