

# Fish & Richardson p.c.

Frederick P. Fish  
1855-1930

W.K. Richardson  
1859-1951

1425 K Street, N.W.  
11th Floor  
Washington, DC 20005

Telephone  
202 783-5070

Facsimile  
202 783-2331

Web Site  
[www.fr.com](http://www.fr.com)

Edwin N. Lavergne  
(202) 626-6359  
[lavergne@fr.com](mailto:lavergne@fr.com)

March 4, 2004

## VIA ELECTRONIC FILING

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

~  
boston  
dallas  
delaware  
new york  
san diego  
silicon valley  
twin cities  
washington, dc

Re: **EX PARTE SUBMISSION**

WT Docket No. 03-66; 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:

Today, Monsignor Michael J. Dempsey of the Diocese of Brooklyn and president of the Catholic Television Network, David G. Moore of the Archdiocese of Los Angeles Education and Welfare Corporation and a board member of the National ITFS Association, Todd Gray counsel to the National ITFS Association, Jessica Brodey counsel to the Education Community, and the undersigned counsel to the Catholic Television Network, met with Commissioner Kevin J. Martin and his Legal Advisor on Spectrum and International Issues, Sam Feder regarding the above-referenced proceeding.

We discussed whether eligibility rules for holding Instructional Television Fixed Service ("ITFS") licenses should be modified so as to permit ITFS licenses to be held by for-profit entities. Currently, the rules require ITFS licensees to be accredited schools or other governmental or non-profit entities that provide services to accredited schools. We expressed the view that current eligibility rules for ITFS need to be retained and that open eligibility for ITFS licenses would result, over time, in the *de facto* reallocation of a substantial part of the ITFS band to a commercial service. We also expressed the view that decisions of ITFS licensees to sell their channels in many instances might not be wholly voluntary. Finally, we emphasized that providing educational institutions with access to small amounts of

Fish & Richardson p.c.

Letter to Marlene H. Dortch

March 4, 2004

Page 2

capacity as an educational set-aside on ITFS channels held by for-profit entities would be no substitute for ITFS spectrum licensed to and controlled by educators. In this regard, we pointed out that educators need to retain control for themselves how to best use ITFS spectrum, and share it with commercial operators, to meet their varied and changing educational needs.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, this summary of our presentation is being filed electronically. Should any questions arise concerning this matter, kindly contact the undersigned.

Respectfully submitted,

/s/ Edwin N. Lavergne

Edwin N. Lavergne  
Counsel to the Catholic Television  
Network

cc by email: Sam Feder