

*FILED VIA ECFS*

May 24, 2004

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

Re: *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* – WT Docket No. 03-66 -- **NOTICE OF EX PARTE PRESENTATION**

Dear Ms. Dortch:

On Friday, May 21, 2004, I met on behalf of the Wireless Communications Association International, Inc. ("WCA") with John B. Muleta, Chief of the Wireless Telecommunications Bureau, and David Furth, Uzoma Onyeije and John Schauble of the Bureau staff regarding the *Notice of Proposed Rulemaking* ("NPRM") in the referenced proceeding.

The participants in the meeting discussed the issues associated with expanding the 2500-2690 MHz band and taking spectrum from incumbent licensees to provide spectrum for the relocation of MDS channels 1 and 2 from 2150-2162 MHz and to provide spectrum to be auctioned by the Commission. WCA expressed its continuing concerns regarding any approach that strips spectrum from existing licensees to be reauctioned to promote new entrants. As an example, WCA raised the situation of WATCH TV Company, which is utilizing all of the MDS/ITFS spectrum in a highly-efficient manner and would suffer a significant loss of capacity were spectrum taken from it and its ITFS affiliates.

WCA also expressed concern over the implications of reduced channel bandwidth on the ability of licensees to operate non-synchronized technologies on adjacent channel groups because of the diminution of spectrum available for guardband.

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In addition, WCA noted that any integration of MDS channels 1 and 2 into an expanded 2.5 GHz band would require a transition of the market in issue to the new bandplan. WCA expressed concern that this inadvertently would effectively force existing multichannel video programming distributors to transition (despite the “MVPD opt-out” included in the Coalition Proposal) in order to retain the use of MDS channels 1 and 2. WCA urged the Commission to identify an alternative that avoids penalizing those system operators.

WCA also expressed concern that any relocation of MDS channels 1 and 2 provide for full compensation of all costs associated with relocation, including the costs associated with clearing Broadcast Auxiliary Service (“BAS”) licensees of BAS channel A10. WCA urged the Commission to assure that such clearing occur promptly, so that MDS licensees are not delayed in relocating.

WCA also addressed its continuing opposition to the imposition of any date certain by which transitions would have to be completed. However, WCA expressed agreement with the staff that it would be fair for the Commission to re-examine industry progress towards transition in several years and to impose additional requirements if warranted by the facts at that time.

During the course of the meeting, WCA reiterated its view that any performance requirement should avoid taking a “snapshot” of performance at the time of renewal, and instead examine usage during the term of the license. WCA noted that because a licensee who had made extensive use of its spectrum during the license term might be involved in a transition at the time of renewal and thus not be using its spectrum at that moment in time, it would be unfair to examine only usage at the time of renewal. Indeed, such an approach might delay transitions, as licensees would be reluctant to commence the process until after renewal applications are granted based on continued provision of existing, albeit perhaps obsolete, services over the spectrum.

The participants also discussed the transition planning process and the benefits of regional planning. WCA expressed its support for regional planning, provided that it does not become an unwieldy process that delays transitions or provides remote licensees with leverage to frustrate deployments. WCA noted that the Coalition Proposal embraces the concept of regional planning, albeit with regions based on radio propagation and existing service areas.

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Pursuant to Section 1.1206(b)(2), this notice is being filed electronically with the Commission via the Electronic Comment Filing System for inclusion in the public record of the above-reference proceeding. Should you have any questions regarding this summary, please contact the undersigned.

Respectfully submitted,

/s/ Paul J. Sinderbrand

Paul J. Sinderbrand

Counsel to the Wireless Communications  
Association International, Inc.