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May 27, 2004

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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands – IB Docket No. 02-364

NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

Yesterday, the undersigned met on behalf of the Wireless Communications Association International, Inc. ("WCA") with Jennifer Manner and Stacy Fuller, Legal Advisors to Commissioner Kathleen Q. Abernathy, regarding the *Notice of Proposed Rulemaking* ("NPRM") in the above-referenced proceedings.

WCA expressed its strong opposition to the adoption of any bandplan in WT Docket No. 03-66 that would create new Multipoint Distribution Service ("MDS") channels to be auctioned. WCA reiterated its position that the *NPRM* in that proceeding failed to provide the notice and opportunity to comment required by Section 553 of the Administrative Procedures Act, and noted that Paragraph 54, while seeking comment on how the spectrum should be allocated among various band segments, did not place licensees, system operators or the public on notice that the Commission was contemplating taking spectrum from existing licensees to create new MDS channels that would then be auctioned. WCA noted that a reduction in the bandwidth of channels would have an adverse impact operational impact, particularly in situations where non-synchronized technologies are utilized on adjacent channel groups. WCA also stressed that there are systems in operation today that were utilizing the entire band in a highly efficient manner and would have to reduce services to the public if spectrum were taken to be auctioned.

Marlene H. Dortch

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WCA also expressed its willingness to explore possible bandplans that would incorporate MDS channels 1 and 2, provided that the Commission's technical and operational rules allowed those channels to be used in a full and effective manner and provided that accommodations were made for multichannel video programming distributors that opt-out of the transition to the new bandplan. WCA emphasized that if the bandplan were to extend into the 2490-2500 MHz band and were any MDS or Instructional Television Fixed Service ("ITFS") channel to be placed adjacent to the Mobile Satellite Service ("MSS"), the Commission must provide for the same 2 MHz separation between the MSS Ancillary Terrestrial Component ("ATC") that currently exists, must continue to require that ATC operations meet the requirements imposed under Section 25.255 of the Rules, and must impose on the closest MDS/ITFS licensee no restrictions relative to MSS/ATC more restrictive than those under the current rules. In addition, WCA stressed the importance of assuring that multichannel video programming distributors that opt-out of the transition do not suffer any loss in capacity as a result of MDS relocation and noted the difficulties of achieving that objective if only spectrum within the existing 2.5 GHz band is utilized for relocation.

Pursuant to Section 1.1206(b)(2), this notice and three copies thereof are being filed with the Office of the Secretary for inclusion in the public record of the above-reference proceedings. Should you have any questions regarding this summary, please contact the undersigned.

Respectfully submitted,



Paul J. Sinderbrand

Counsel to the Wireless Communications
Association International, Inc.

cc: Jennifer Manner
Stacy Fuller