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September 28, 2004

Via ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Notice of Oral Ex Parte Presentation in ET Docket Nos. 04-186, 02-380

Dear Ms. Dortch:

On behalf of QUALCOMM Incorporated (“QUALCOMM”), this is to report that today, I spoke on a panel at the MSTV Fall Conference relating to the above-referenced proceedings. Alan Stillwell of the Office of Engineering & Technology was also on the panel, as well as John Henderson of Hitachi America, Edgar Reihl of Shure, Inc., and Carl Stevenson of IEEE. Victor Tawill of MSTV and Sterling Davis of Cox Broadcasting were the moderators of the panel.

I explained that QUALCOMM is interested in the proceeding because:

- 1) QUALCOMM is the inventor and developer of Code Division Multiple Access (“CDMA”) technology that enables the provision of ubiquitous wireless broadband service on licensed PCS and cellular spectrum, and as a result, QUALCOMM is concerned about any precedent that may be set in these proceedings whereby unlicensed devices are allowed to operate in licensed spectrum without a clear and convincing showing to prove that there will be no harmful interference to licensed services, and that such a showing should include a series of real world test results, not simply theoretical projections;
- 2) QUALCOMM is the licensee of Block D Lower 700 MHz spectrum, Channel 55, and as a result, QUALCOMM is very concerned about any possible delay in the completion of the DTV transition because of the deployment of unlicensed devices in the TV bands, which will be in flux during the transition;
- 3) both as the inventor and developer of licensed wireless broadband service via CDMA technology and as a Lower 700 MHz licensee, QUALCOMM is concerned about the Commission permitting unlicensed devices to operate in the TV bands because it may discourage parties from bidding for licenses in Commission auctions and building out systems on licensed spectrum and/or otherwise erode the value of licensed spectrum for the Commission, after the auction, to make available adjoining spectrum for free, albeit on an unlicensed basis; and,

4) QUALCOMM is developing unlicensed wireless systems based on 802.11n technology, and, therefore, QUALCOMM is not at all opposed to, or antagonistic toward, unlicensed technologies per se, but QUALCOMM believes that unlicensed devices should operate in spectrum that Commission has already allocated on a dedicated basis for unlicensed devices, allocations which are more than ample.

I stated that QUALCOMM does not believe that the Commission should adopt the proposals contained in the Notice of Proposed Rule Making at this time for all of the foregoing reasons.

I am filing this letter via ECFS.

Respectfully submitted,

/s/ Dean R. Brenner

Dean R. Brenner
Senior Director, Government Affairs
QUALCOMM Incorporated

Cc: Alan Stillwell