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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re:

Amendment of Part 74 of the
Commission's Rules Governing Use of
the Frequencies in the Instructional
Television Fixed Service

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) MM Docket No. 93-106
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To: The Commission

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AUG - 5 1994

FEDERAL COMMUNICATIONS COMMISSION
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PETITION FOR RECONSIDERATION

Alliance for Higher Education, Arizona Board of Regents for Benefit of the University of Arizona, South Carolina Educational Television Commission, State of Wisconsin - Educational Communications Board, and University of Maine System (collectively "Educators"), pursuant to Section 1.429 of the Commission's rules, seek reconsideration of one aspect of the FCC's Report and Order in MM Docket No. 93-106, FCC 94-147 (released July 6, 1994), relating to the rules governing the ITFS service.

The Educators

The Educators are long-time, substantial ITFS operators who use their facilities for a variety of instructional and educational purposes. The Alliance for Higher Education operates two ITFS channel groups in both the Dallas and Fort Worth areas. Arizona Board of Regents for Benefit of the University of Arizona is licensee of three ITFS groups at Tucson, Arizona. It also coordinates the use of another group licensed to the Public Broadcasting Service. South Carolina Educational Television Commission

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is the nation's largest ITFS user, with a state-wide system consisting of 65 individual stations. The State of Wisconsin - Educational Communications Board, in addition to being licensee of a number of ITFS stations itself, is a state agency that coordinates extensive ITFS usage within Wisconsin by other educational entities. The University of Maine System has developed an ITFS system with state-wide coverage, now consisting of 30 stations.^{1/}

Background

In the Report and Order, the FCC approved the use of channel loading and clarified the requirements for channel mapping, both techniques now being available to free up full-time channels for wireless cable use while preserving the primary purpose of ITFS. The Educators participated in a group of joint commentors called the "ITFS Parties." As such, the Educators joined in the compromise agreement forming the basis for the FCC's new rule. They generally support the FCC's determinations in the Report and Order.

Videotaping Issue

In one respect, however, the Commission appears to have adopted a policy -- relating to videotaping ITFS transmissions -- without the benefit of comments by ITFS users with respect to that practice. In paragraph 26 of the Report and Order, the Commission stated:

^{1/} With the exception of the University of Maine System, each of the Educators has at least one excess capacity lease agreement with a wireless cable operator.

The videotaping of ITFS programming which is transmitted in the early hours of the day for later replay during the school day appears, as we noted in Wireless Cable Order, 5 FCC Rcd at 6416, 'unredeemably wasteful of the spectrum' and libraries for such taped presentation can be readily assembled without the use of ITFS facilities.

The Educators disagree with the Commission's view on the value of videotaping of ITFS transmissions and believe that the policy enunciated in the Report and Order will unnecessarily restrict legitimate ITFS operations. They urge the FCC to reconsider its policy in this area.

There are a number of bona fide reasons for which ITFS operators may choose to transmit material outside of normal school hours and thereby provide for videotaping by receive sites. The Educators, for example, now engage or plan to engage in the following activities:

- Off hours feeds for taping purposes of in-class instructional programming to relieve school-hours capacity limitations and to provide greater playback flexibility (both with respect to wider selection of content and with respect to timing) at individual receive sites.
- Feeds to medical facilities for taping purposes of sensitive medical programming during midnight to 6:00 a.m., such programming not considered to be appropriate for transmission during regular viewing hours.
- Evening transmissions for real-time viewing and/or taping in homes by adult community college students to permit flexible and repeated viewing of course work.
- Off hours feeds for taping purposes of upcoming instructional programs to permit teachers to preview and prepare for their courses.

- Overnight feeds of daily state legislative activities (such as floor debates and committee hearings) for taping at receive sites, including cable systems, for playback the next day.
- Block feeds for taping during vacation and holiday periods to make instructional course work available for playback during school terms.
- Ad-hoc re-feeds during off hours of programs previously recorded on or distributed by tape where the previous taping was not properly accomplished or where the originally distributed tape has been damaged.

There are very good reasons why an ITFS operator might choose to transmit feeds for taping during off hours rather than to "bicycle" tapes dubbed at a central location. Overnight feeds permit faster replay of courses taught in real time. A course taught, transmitted and taped on Monday in one location can be available for viewing at other locations the next day. This permits "near real time" use of course work on a flexible schedule. This is not possible where tapes have to be dubbed and mailed.

Furthermore, many ITFS operators do not have tape dubbing and distribution facilities. Receive site taping of ITFS transmissions is much less expensive than dubbing and mailing tapes, and it "decentralizes" the costs for labor and tape stock to the individual receive sites. This is especially significant where there are dozens or hundreds of receive locations, or where students receive the programming in their homes.

Ultimately, the practice by receive sites of taping ITFS transmissions for later replay is a legitimate tool for distribution of educational programming materials.^{2/} In effect, it expands overall transmission capacity of the available ITFS channels. It provides valuable replay flexibility by receive sites. It also reduces costs and the need for centralized staffing and equipment necessary for large-scale dubbing and delivery operations.

Conclusion

Transmitting ITFS programming for taping is not "unredeemably wasteful" of the ITFS spectrum. It is just the opposite -- it increases the capacity and flexibility of educational transmissions and reduces the overall costs of distance learning systems. The Commission should therefore reconsider its characterization of the practice in Section 26 of the Report and Order. The Commission should give full credit under its minimum ITFS use standards for ITFS transmissions made for this purpose, so long as there is a bona fide educational or administrative basis for providing programming in this manner.

^{2/} The legitimacy of after hours transmissions for taping purposes is demonstrated by the fact that the practice is widely used in other transmission media -- broadcast, cable and satellite -- where there are no requirements analogous to the ITFS minimum usage rules. For example, many PBS television stations transmit educational programs overnight for taping by students in homes or by schools. On cable, the practice is used by Mind Extension University and Cable in the Classroom. Satellite delivered services TI-IN Network and National Technological University also deliver programs in off-hours for taping purposes.

Respectfully submitted,

ALLIANCE FOR HIGHER EDUCATION

**ARIZONA BOARD OF REGENTS FOR
BENEFIT OF THE UNIVERSITY OF
ARIZONA**

**SOUTH CAROLINA EDUCATIONAL
TELEVISION COMMISSION**

**STATE OF WISCONSIN - EDUCATIONAL
COMMUNICATIONS BOARD**

UNIVERSITY OF MAINE SYSTEM

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