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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service	)	MM Docket No. 94-131
and	)	
Implementation of Section 309(j) of the Communications Act - Competitive Bidding	)	PP Docket No. 93-253

REPLY COMMENTS OF
CROSS COUNTRY WIRELESS, INC.

Cross Country Wireless, Inc. ("Cross Country") -- the founder and operator of the nation's single largest wireless cable system serving over 41,000 subscribers in San Bernardino and Riverside Counties in California (the "Riverside System")-- hereby submits reply comments on the Commission's Notice of Proposed Rulemaking, MM Docket No. 94-131 and PP Docket No. 93-253, released December 1, 1994, ("Notice") to amend the filing procedures for the Multipoint Distribution Service ("MDS")[1/] and the Instructional Television Fixed Service ("ITFS") and to implement competitive bidding procedures for new MDS licenses.

Cross Country commends the Commission for initiating this proceeding to expedite the development of wireless cable

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[1/] MDS includes both single channel and multi-channel applications and authorizations. Notice at ¶ 1, note 1.

service and promote competition in the video marketplace. To achieve these goals, Cross Country believes that the Commission must adopt the proposals set forth by the Wireless Cable Association International, Inc. ("WCAI") to expand the definition of protected service area ("PSA") and establish an initial filing window for operators and licensees with access to 20 or more channels, except in rural markets where the channel minimum would be 12.[2/] Cross Country also believes that the Commission should attempt to process all pending ITFS and MDS applications before accepting new station applications. As set forth below, these regulatory proposals together will facilitate the development of competitive wireless cable systems.

The Commission must expand the 15-mile PSA to correspond to the actual coverage area of wireless cable systems in order to promote competition with incumbent hard-wire cable operators. Like many other wireless cable operators, Cross Country currently provides full-quality signals to several subscribers outside its 15-mile protected service area. Similarly, many of the ITFS licensees from whom Cross Country leases excess capacity have receive sites outside the 15-mile PSA. Indeed, 37 percent of the ITFS receive sites served by the Riverside wireless cable and ITFS

[2/] See Comments of The Wireless Cable Association International, Inc., MM Docket No. 94-131 and PP Docket No. 93-253, filed on January 23, 1995, at pp. 10-28 ("WCAI Comments").

distance-learning facilities are located beyond the 15-mile PSA, and nearly 20 percent of the receive sites are located between 20 and 29.5 miles from the antenna/transmitter site.

If these subscribers and ITFS receive sites are not included within the protected service area definition, they could be subject to interference from proposed new stations, thereby reducing the overall competitiveness of the wireless cable system and the reach of the ITFS distance-learning facilities. Additionally, failure to make the PSA coterminous with existing MDS and ITFS service areas could encourage greenmail and delay the initiation of digital technology.

Cross Country also agrees with WCAI that establishing an initial filing window for existing MDS licensees and wireless cable operators with access to at least 20 channels in all but rural markets -- where the minimum would be 12 -- will expedite the development of wireless cable service.[3/] This twenty-channel minimum will ensure that successful applicants in the initial filing window have sufficient channels to commence wireless cable service, and thereby "accelerate opportunities for competition with wired

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[3/] Cross Country agrees with WCAI, that at least four channels should be under lease or license at the proposed site. WCAI Comments at p. 28. It also agrees that only channels for which a license or conditional license is valid and in full force and effect on the day of filing, or for which an application has been filed that has been cut-off and not subject to competing applications, should be counted. To the extent an application is subject to a petition to deny or a competing application (following the cut-off), it will be counted subject to resolution in favor of the applicant.

cable systems in various locales." Notice at ¶ 14. A lower threshold (i.e. an 8, 9, or 10 channel minimum) would not necessarily guarantee that a viable wireless cable competitor would emerge after the initial filing window. For this reason, the Commission should allow only those operators and licensees with access to 20 channels or more (or 12 channels or more in rural markets) to participate in the initial filing window.

Finally, Cross Country would urge the Commission to finish processing pending MDS and ITFS modification applications before accepting new station applications. Many wireless cable operators now have excess capacity lease agreements with ITFS and MDS licensees. Many of these facilities, however, must be modified or relocated before a competitive wireless cable service can be launched. To the extent that the Commission can process pending modification applications before accepting proposals for new stations, it would reduce the existing backlog and create more certainty in determining where new stations can be located.

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For the foregoing reasons, Cross Country requests that the Commission adopt the PSA definition and initial filing window proposals set forth by WCAI, and to the extent possible, process all pending ITFS and MDS applications before accepting new station applications.

Respectively Submitted,

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Dated: February 7, 1995