

Bell Atlantic Network Services, Inc.
1133 Twentieth Street, N.W.
Suite 810
Washington, DC 20036
202 392-1189
FAX 202 392-1687
E-mail: donald.brittingham@bellatl.com

Donald C. Brittingham
Director, Wireless Division

EX PARTE OR LATE FILED

RECEIVED

AUG 5 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Ex Parte

August 5, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

**Re: CS Docket 96-83 -- "Restrictions on Over-the-Air Reception Devices:
Television Broadcast and Multichannel Multipoint Distribution Service"**

The attached letter was delivered today to Chairman Reed E. Hundt. Please file a copy in the record for the above referenced proceeding. Questions regarding this matter may be directed to me at (202) 392-1189.

Donald C. Brittingham

cc: Commissioner Rachelle B. Chong
Commissioner Susan Ness
Commissioner James Quello

Ms. Randi Albert
Ms. Jackie Chorney
Mr. James Coltharp
Mr. William Johnson
Ms. Meredith Jones
Mr. Gary Laden
Ms. Jane Mago
Mr. David Siddall
Ms. Jacqueline Spindler

0+1

Bell Atlantic Network Services, Inc.
One Bell Atlantic Plaza
1310 North Court House Road 11th Floor
Arlington, Virginia 22201
703 974-1200
FAX 703 974-8621
E-Mail edward.d.young@bell-atl.com
evoung@ba.com

Edward D. Young, III
Vice President - External Affairs
and Associate General Counsel

August 5, 1996

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

**Re: CS Docket 96-83 -- "Restrictions on Over-the-Air Reception Devices:
Television Broadcast and Multichannel Multipoint Distribution Service"**

I am writing to you today to address a very important issue in the recently enacted Telecommunications Act of 1996. Section 207 of the Act requires the Commission to preempt regulation of antennae, and other devices, used to receive wireless cable services (officially the "multichannel multipoint distribution service", or MMDS). I cannot overemphasize the importance of establishing a broad preemption policy to ensure that consumers have a competitive alternative to wired cable systems.

Current state and local regulations and non-governmental restrictions that prohibit the placement of MMDS antennae hinder the ability of consumers to receive video programming services offered by MMDS operators. Moreover, it is not only outright prohibitions on antennae that limit consumer access to wireless cable services, but also restrictions and regulations -- such as application and review processes -- that impose undue delay and additional cost on such access. The Commission's proposed rules, which presume such regulations are unreasonable and place the burden of proving otherwise on the regulator, is the right approach. Placing the burden of proof on consumers would impede access to the service, and severely undermine the viability of MMDS.

Of particular concern are those restrictions imposed by non-governmental entities such as homeowners' associations. Such restrictions are often more onerous than state and local governmental regulations, and generally are not related to any safety concern. Because safety and health concerns can, and should, be addressed through local governmental regulations, the Commission's proposal to provide less deference to non-governmental entities is appropriate.

In recent discussions with the staff, Bell Atlantic has learned that the Commission may be considering rules that would allow regulations to be imposed on antennae installed higher than 12 feet above the roof line. Such a rule, even if it were to only require advance approvals of such installations, would result in impaired access to MMDS for as much as 40% of Bell Atlantic's potential customer base. Consumers will not purchase wireless cable services if they have to "jump through hoops" to get them.

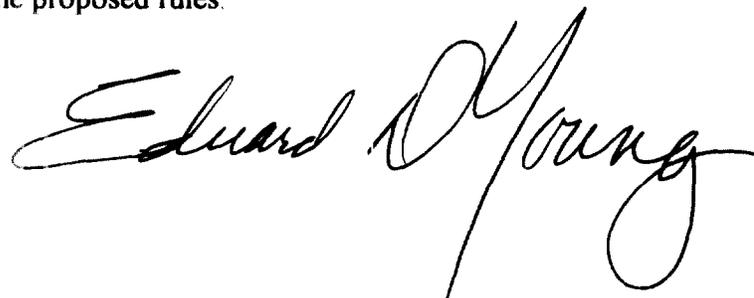
As the Commission is aware, Bell Atlantic has a strong interest in the success of MMDS. Last year, we announced our plans to use wireless cable systems in many key markets to facilitate more rapid entry into the video services marketplace. Our video programming services will be delivered over a digital MMDS system deployed by CAI Wireless Systems, an MMDS operator that won a substantial number of licenses in the Commission's recent auction. However, for this plan to be successful, consumers must have access to our services. Regulations that restrict antennae placements or require arduous approval processes impair such access.

Wireless cable services will surely yield a valuable public benefit by providing much needed competition to incumbent cable systems. They will also yield an additional benefit; a significant increase in the availability of quality educational programming. Inherent in the provision of wireless cable services is the partnership between MMDS operators and educators who are instructional television fixed service (ITFS) licensees. ITFS licensees lease excess capacity on their channels to MMDS operators to supplement their own channels in the provision of commercial service. They are an integral part of any wireless cable service, since MMDS operators simply could not offer a competitive service without the additional channel capacity that ITFS licensees provide.

The partnerships that have developed between MMDS operators and ITFS licensees yield two important benefits to the advancement of public education. First, these partnerships provide educators with a valuable distribution channel for making educational programming available to a wider audience. Second, since ITFS channels are leased by MMDS operators, they also provide educators with a significant revenue stream which can be reinvested in the development of additional quality programming.

For example, in Hampton Roads, Virginia (Bell Atlantic's first planned deployment of MMDS), we have established such a partnership with WHRO-TV and the Hampton Roads Educational Telecommunications Association. The members of this association include major universities, community colleges, K-12 schools, hospitals, etc. In addition to providing these entities with a valuable distribution channel and revenue source, we will provide original community interest and educational programming that ITFS licensees can access. We will also convert their current systems to new digital technology, providing improved picture and sound quality. The partnership is definitely a win-win situation for all involved. However, for consumers to benefit, they must have access to these services.

I believe that adoption of a broad preemption policy is necessary to ensure consumer access to MMDS. Such a policy will provide consumers with increased competitive choice and access to a wide variety of quality educational, cultural, and entertainment programming. I, therefore, urge adoption of the proposed rules.

A handwritten signature in black ink, reading "Edward Young". The signature is written in a cursive style with a large, looping "Y" and "g".