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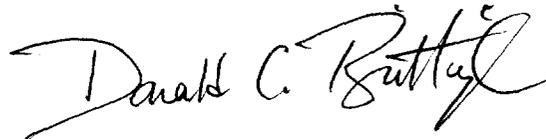
Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

**Re: CC Docket 92-297**  
**“Rules and Policies for Local Multipoint Distribution Service (LMDS)”**

Today, the undersigned met with Joe Levin, Susan Magnotti, and Walter Strack of the Wireless Telecommunications Bureau, John Berresford and Tom Koutsky of the Office of General Counsel, and Joe Farrell of the Office of Plans and Policy. The discussion focused on the Commission’s Fourth Notice of Proposed Rulemaking in the above referenced proceeding; specifically, whether LECs should be restricted from holding LMDS licenses in-region. Bell Atlantic opposes any such restriction.

The Commission has consistently followed an “open entry” policy in adopting rules for new wireless services. Nothing in the 1996 Telecommunications Act changes in any way the soundness of such a policy for LMDS. In fact, Congress clearly articulated its intent to promote LEC entry into the video programming market, and identified LMDS as one potential option for LEC entry.

A summary of items discussed today is attached. Questions regarding this matter should be directed to me on (202) 392-1189.



Attachment

- cc: Mr. John Berresford
- Mr. Joe Farrell
- Mr. Thomas Koutsky
- Mr. Joe Levin
- Ms. Susan Magnotti
- Mr. Walter Strack

*DFZ*

**Rules and Policies for Local Multipoint Distribution Service  
CC Docket No. 92-297**

**Bell Atlantic Ex Parte (9/5/96)**

**1. The FCC has consistently followed an “open entry” policy for new wireless services.**

- Open eligibility for PCS, MMDS, GWCS, DBS, and MSS; Commission found it necessary to promote the development of new services, and to ensure that the spectrum is put to its highest and best use.
- In PCS proceeding, Commission adopted rules enabling LECs to acquire PCS licenses based on its conclusion that LEC participation would have “public interest benefits”, e.g., by producing “significant economies of scope between wireline and PCS networks”.

**2. The 1996 Telecommunications Act confirms that open eligibility is the right policy.**

- One of Congress’ fundamental goals in enacting the 1996 Act was to eradicate market entry barriers that inhibit competition.
- Congress specifically intended to promote LEC entry into the video programming market.

Section 301(b)(3) of the Act; adds to the definition of “effective competition” situations where a LEC “offers video programming services directly to subscribers by any means ... in the franchise area of an unaffiliated cable operator”.

Conference Report; LEC provision of video programming is not limited to wireline open video systems; “by any means” includes any medium (other than direct-to-home satellite service)..., including MMDS, LMDS...”; recognized that LECs need to be able to choose from among multiple video entry options to encourage entry...”.

**3. An “open entry” policy for LMDS is in the public interest.**

- Open eligibility will expedite service by allowing experienced carriers to obtain licenses, and will permit existing carriers to achieve efficiencies and economies of scale.
- Open eligibility encourages maximum participation in auctions, thereby ensuring that the full value of spectrum authorizations is recovered.
- Restricting LEC eligibility will impair development of competition to cable.

**4. LECs do not have an incentive, nor the ability, to preempt competitive entry.**

- **Increasingly effective competition**, and the existence of a variety of technologies with which to effectuate such competition, dissipates the potential for a LEC to foreclose competitive entry.
- **Highest valued use of the LMDS spectrum** is likely to be for the provision of broadband services, including video programming, rather than as a substitute for a LEC's current service offerings.
- **Government regulation** of monopoly pricing is designed to constrain market power.

**5. The Commission should not impose restrictions on the use of LMDS.**

- Usage restrictions would conflict with the Commission's policy of flexible use for wireless services.
- In adopting such flexibility for CMRS carriers, the Commission determined that "...regulatory restrictions on use of the spectrum could impede carriers from anticipating what services customers most need, and could result in inefficient spectrum use and reduced technological innovation".