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Donald C. Brittingham
Director - Wireless Policy

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

EX PARTE

September 25, 1996

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 sent the attached letters to FCC staff regarding the Commission’s proceeding on LMDS. Please include a copy of these letters in the record for the above referenced proceeding. Questions regarding this matter should be directed to me on (202) 392-1189.



Attachments

cc: Mr. James Olson
Mr. Walter Strack

No. of Copies rec'd
DATE

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September 25, 1996

Mr. James Olson
Chief - Competition Division
Office of General Counsel
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

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

On September 23, 1996, I met with you, and others from the General Counsel’s office, the Wireless Telecommunications Bureau, and the Office of Plans and Policy, to discuss LEC eligibility for LMDS licenses. In the course of that meeting, I noted that the proposal to restrict LECs from acquiring LMDS licenses in their service territories is in direct conflict with the Telecommunications Act of 1996. A fundamental goal of the Act was to remove barriers to entry, not erect them. Adoption of pro-competitive policies, such as LEC interconnection rules, will ensure that local competition develops without the need for license restrictions.

Besides being consistent with the general principles of the Act, an “open eligibility” policy for LMDS is directly supported by the statute’s provisions and legislative history. In no fewer than three separate sections of the Conference Report, Congress clearly articulated its intent that LECs be provided a variety of options for deploying video programming services, including through the use of LMDS technology.

In addressing LEC provision of video programming services, Congress recognized “that there can be different strategies, services and technologies (emphasis added) for entering video markets”, and agreed “to multiple entry options (emphasis added) to promote competition, to encourage investment in new technologies and to maximize consumer choice of services that best meet their information and entertainment needs”. (Conference Report No. 104-458, 104th Cong., 2d Sess. (1995) at 172).

In addressing the establishment of open video systems, Congress again recognized “that telephone companies need to be able to choose from among multiple video entry options (emphasis added) to encourage entry, and so systems under this section [are] allowed to tailor services to meet the unique

competitive and consumer needs of individual markets". (Conference Report No. 104-458, 104th Cong., 2d Sess. (1995) at 177).

In defining what constitutes "effective competition" to incumbent cable companies, Congress recognized that LECs might provide video programming services "by any means", and defined this to include "any medium (other than direct-to-home satellite service) for the delivery of comparable programming, including MMDS, LMDS (emphasis added), and open video systems...". (Conference Report No. 104-458, 104th Cong., 2d Sess. (1995) at 170).

As you work to develop the public policies that will shape the development of LMDS, I hope you will keep in focus the Congressional intent that was clearly articulated in the Act. It is only through an "open entry" policy that the value of this new technology will be maximized for the good of the American public.

Questions regarding this matter should be directed to me on (202) 392-6980.

A handwritten signature in black ink, reading "Dan Rittig". The signature is written in a cursive style with a large, sweeping initial "D".

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Wireless Telecommunications Bureau
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2025 M Street, NW
Washington, DC 20554

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