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Ex Parte

October 8, 1996

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

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 Federal Communications Commission
 Office of Secretary

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

IB Docket 95-59 - "Preemption of Local Zoning Regulation of Satellite
 Earth Stations"

Today, the undersigned met with Jackie Spindler of the Cable Services Bureau to discuss the Joint Petition for Partial Reconsideration filed by Bell Atlantic, the Wireless Cable Association International, and several other parties on October 4, 1996. The petitioners seek reconsideration of certain aspects of the Commission's August 6, 1996 Report and Order ("Order") preempting local regulation of MDS antennae.

The Order provides an important first step towards implementing Section 207 of the Telecommunications Act of 1996. By preempting many of the burdensome restrictions that have historically been imposed on the use of wireless cable antennae, the Order will provide consumers with greater access to wireless cable services. However, certain modifications to the rules are necessary to promote the development of wireless cable as a viable competitor in the multichannel video marketplace. These include:

- reconsideration of the Commission's finding that the BOCA set-back requirement and 12 foot height limitations are enforceable;
- reconsideration of the Commission's finding that a painting requirement "would likely be acceptable";

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- amendment of the Commission's rules to only allow governmental entities the right to impose safety-related restrictions;
- amendment of the Commission's rules to clarify the situations in which restrictions based on safety or historic preservation interests could be applied;
- amendment of the Commission's rules to include transmission antennae in the preemption rules; and
- amendment of the Commission's rules to improve the process for declaratory rulings.

Adoption of these proposed amendments is critical to the successful development of the wireless cable industry. They will help to eliminate the burdensome restrictions that have long plagued the industry. We urge their adoption.

Questions regarding this matter should be directed to me at (202) 392-1189.

A handwritten signature in black ink that reads "Donald R. Butty". The signature is written in a cursive style with a large, sweeping initial "D".

cc: Ms. Jacqueline Spindler