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February 3, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

VIA HAND-DELIVERY

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

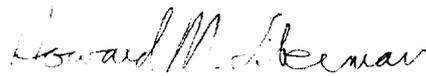
Re: Ex Parte Presentation
IB Docket 95-91

Dear Mr. Caton:

Transmitted herewith, on behalf of Primosphere Limited Partnership, is the response of Primosphere Limited Partnership to recent ex parte communications from the Consumer Electronics Manufacturers Association (CEMA).

Please address any questions concerning this submission to Robert J. Ungar of this firm or undersigned counsel.

Very truly yours,



Howard M. Liberman

cc (w/encl.): Julius Genachowski
David Siddall
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Statement of Richard Cooperman on behalf of Primosphere Limited Partnership

During the last week of January 1997 the Consumer Electronic Manufacturers Association ("CEMA") filed a report titled "Technical Evaluations of Digital Audio Radio Systems Performance" and reported presentations to a broad group of Commission staff with regard to IB Docket 95-91 Digital Audio Radio Service. This report is technically flawed and the process by which it was generated breaches agreed upon CEMA-DARS Subcommittee operating rules. Its recommendation of "immediate FCC consideration of other spectrum options such as L-band (1452-1492 MHz), UHF or VHF" for SDARS is in error and should be rejected by the Commission.

With regard to the implementation of SDARS at S-band, the document submitted by CEMA and its recommendations are flawed in that:

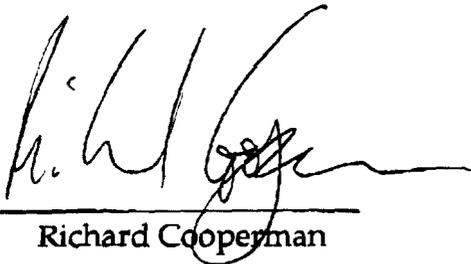
- o The main focus of CEMA testing was Terrestrial Digital Audio Radio ("TDARS") not SDARS. In its testing CEMA evaluated the performance of ten system configurations, only one of which was SDARS.
- o The single SDARS system tested does not represent a full system configuration. The SDARS system tested was a developmental system using available space capacity not optimized for SDARS. Testing was performed with a only a single medium power satellite and without advanced blockage mitigation techniques.
- o The report fails to recognize that the L-band frequencies it recommends as more suitable (1452-1492 MHz) for SDARS were rejected years ago. This band is heavily used for sensitive services by the US government and cannot thus cannot be used be set aside for SDARS.
- o The report states that the band 1452-1492 MHz has better propagation characteristics for SDARS than the band band 2310-2360 MHz, but fails to recognize that CEMA SDARS testing was performed at approximately 2000 MHz.
- o A review of the CEMA test results contained in its previously issued report entitled "Report of Field Test Task Group; Field test Data Presentation, December 1996" clearly shows that the SDARS system worked quite well. In fact the rudimentary SDARS system tested by CEMA outperformed its preferred Eureka system in large segments of the test range.

Further the very process by which this report was prepared and submitted is flawed. The CEMA-DARS evaluation process itself was the result of carefully sculpted

agreements worked out over many months between system proponents, broadcasters, equipment manufacturers and other interested parties. Rules were established to ensure due process, fairness and technical rigour to level the playing field for all system proponents. A test range was established and mobile testing was performed under the joint oversight of CEMA and NRSC representing the NAB. The results of this testing was summarized by Working Group B "Testing" of the CEMA -DAR Subcommittee in a report issued in December 1996.

Now comes a document purporting to be a technical evaluation of the test results. This document was not routed through any CEMA-DAR Subcommittee working group, not passed on by members of its drafting group, filed in haste at the Commission after NRSC itself and others involved in the drafting process raised strong objections. It is indeed troubling that CEMA would file this report and lobby the Commission in the face of substantial objections from major participants in the process.

The report represents a total breach of the agreed upon process whereby all parties bound themselves to work together in a pre-agreed and orderly manner. It does not represent the view of the Subcommittee but rather a small subset working at cross purposes to the group. Thus its recommendations should be rejected by the Commission.



February 3, 1997

By: Richard Cooperman

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