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August 21, 1997

AUG 21 1997

**VIA HAND DELIVERY**

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

Re: Ex Parte Presentation in CS Docket 96-83

Dear Mr. Secretary:

Pursuant to 47 C.F.R. § 1.1206, the Building Owners and Managers Association International, the Institute of Real Estate Management, the International Council of Shopping Centers, the National Apartment Association, the National Multi Housing Council, and the National Realty Committee (jointly, the "Real Estate Associations"), through undersigned counsel, submit this original and one copy of a letter disclosing a written ex parte presentation in the above-captioned proceeding.

On August 21, 1997, the attached letter addressing the safety and aesthetic issues raised by the indiscriminate installation of direct broadcast satellite receiving antennas was delivered on behalf of the Real Estate Associations to Chairman Hundt.

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**Miller & Van Eaton, P.L.L.C.**

Honorable Reed E. Hundt

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August 21, 1997

Please contact the undersigned with any questions.

Very truly yours,

MILLER & VAN EATON, P.L.L.C.

By

  
Matthew C. Ames

Enclosure

cc: Hon. Reed E. Hundt  
Hon. James H. Quello  
Hon. Rachelle B. Chong  
Hon. Susan Ness  
William E. Kennard, Esq.  
Meredith Jones, Esq.

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August 21, 1997

**BY HAND**

Honorable Reed E. Hundt  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Docket No. 96- 83 (Over-the-Air Reception Devices)

Dear Mr. Chairman:

We write on behalf of our clients, the Building Owners and Managers Association, International; the Institute of Real Estate Management; the International Council of Shopping Centers, the National Apartment Association; the National Multi Housing Council; and the National Realty Committee (jointly, the "Real Estate Associations") in connection with the Commission's pending rulemaking in the above-referenced docket. As you are aware, one of the issues in that docket concerns the ability of tenants and third parties to install antennas and other facilities in residential, office and other buildings without the consent of the building owner. We have expressed concerns about both the safety and aesthetic effects of any rule that might interfere with the ability of building owners to control the use of their property.

Enclosed is a photograph that illustrates our concerns. The photograph is of an apartment building in Eastern Europe; nearly every balcony on the apartment has a satellite dish mounted on it. The antennas appear to be one meter or less in diameter, and so would be permitted in this country under the proposals before the Commission. Careful inspection of the photograph shows the following:

- Many of the installations extend beyond the interior of the balcony, and so extend over passers-by below.
- The type – and precariousness – of the installation varies, depending on the angle needed to obtain a line of sight.
- Installation techniques in general do not appear to be particularly secure.

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- The size of the dishes presents a real and potentially fatal hazard were one to fall; even the smaller dishes more common in this country pose such a hazard, especially if one fell from a great enough height.
- The aesthetic effect of the dishes is, in a word, ugly.

In addition to the problems amply illustrated by the photograph, some less obvious factors must also be considered:

- The nature of a building's facade and the quality of construction will determine the appropriate installation technique, and whether an antenna may be safely installed at all.
- Insurance costs for all properties would rise steeply after the first accident anywhere.
- Many properties operate on a very thin margin and would have no room in their budgets to continually inspect uncontrolled installations.

The Real Estate Associations believe that however desirable the haphazard installation of satellite antennas may be in Eastern Europe, where there are few if any alternative sources of information, the American public has different priorities. Building owners and managers have a strong interest in ensuring the safety of their properties, and the public has an equally strong interest in living in attractive surroundings, uncluttered by antennas and other obtrusive apparatus. We strongly support competition in the video programming and telecommunications markets, but the other interests of property owners and the public in general must also be considered. Consequently, we again urge the Commission to refrain from further action in this docket. For all of the practical reasons given above and in the various pleadings and presentations submitted by the Real Estate Associations, building owners must retain sole discretion to decide whether, where, and how antennas may be installed on their properties.

**MILLER & VAN EATON, P.L.L.C.**

By

  
Matthew C. Ames

cc: Senator John McCain  
Senator Conrad Burns  
Representative Tom Bliley  
Representative Billy Tauzin  
Hon. James H. Quello  
Hon. Rachele B. Chong  
Hon. Susan Ness  
Hon. Gloria Tristani  
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Michael Powell, Esq.

