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March 4, 1998

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Federal Communications Commission
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BY HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, DC 20004

RE: MM Docket No. 97-217 **EX PARTE PRESENTATION**

Dear Ms. Salas:

On March 3, 1998, representatives of the Catholic Television Network met with Commissioner Harold Furchtgott-Roth and his Legal Advisor Helgi Walker to discuss the issues identified on the enclosed presentation. Present at the meeting were:

Monsignor Michael J. Dempsey, President of Catholic Television Network;
David G. Moore, Executive Director of Communications of the Archdiocese of Los Angeles;
Michael P. O'Leary, General Manager of Telicare, the Television Center of the Diocese of Rockville Center;
Robert W. Denny, P.E., President of Denny & Associates, P.C.;
J. Thomas Nolan, Ginsburg, Feldman & Bress, Chartered; and,
William D. Wallace, Crowell & Moring LLP.

Pursuant to Section 1.1206(b) of the Commission's Rules, an original and one copy of this letter are being submitted for inclusion in the file referenced above.

Respectfully submitted,

William D. Wallace

Enclosure

cc: Commissioner Harold Furchtgott-Roth
Helgi Walker

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CATHOLIC TELEVISION NETWORK

MM DOCKET NO. 97-217

MARCH 3, 1998

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WHAT IS THE CATHOLIC TELEVISION NETWORK?

- CTN is an association of 18 Roman Catholic Archdioceses and Dioceses, which hold licenses in the Instructional Television Fixed Service ("ITFS").

- CTN members are Archdioceses and Dioceses throughout the United States, including the San Francisco Bay Area, Boston, Brooklyn, Chicago, Dallas, Detroit, Los Angeles, New York, Orange, Orlando, Rockville Centre, San Bernardino, Youngstown, Buffalo, St. Louis, and Wichita.

- Each CTN member operates an accredited diocesan school system and is the licensee of one or more ITFS stations serving that school system.

- CTN's members provide educational programming to more than 500,000 students throughout the United States, and provide programming distributed by cable systems reaching millions of households.

- CTN's members have been involved with ITFS since the proceeding in which Commission established ITFS as a licensed service. Some of CTN's members have held ITFS licenses for more than 30 years.

ITFS FREQUENCIES WERE ALLOCATED FOR THE BENEFIT OF INSTRUCTIONAL USES

- For the past 30 years, the Commission has reserved the ITFS spectrum for instructional use.
- The ITFS spectrum is the only spectrum designated for instructional use in the United States.
- The ITFS spectrum reservation is grounded in the Commission's recognition of the "critical importance of education, and the significant role that ITFS can play in providing improved educational opportunities for all."
- ITFS licensees may lease excess capacity to "wireless cable operators," subject to certain programming requirements.
- ITFS licensees primarily use the spectrum for the distribution of instructional video programming to students. Wireless cable operators presently use the spectrum to distribute commercial cable services to subscribers.

CTN'S FUNDAMENTAL GOALS FOR RULES GOVERNING TWO-WAY TRANSMISSIONS IN THE ITFS/MDS FREQUENCY BANDS

1. Protect ITFS Receive Sites From Interference

A. Co- and Adjacent-Channel Interference -- Interference caused by response station transmissions into ITFS operations on adjacent frequencies in the same service area or into ITFS operations on the same frequencies in adjacent service areas.

B. Brute Force Overload or Blanketing Interference -- Interference caused by response station transmissions into non-co and non-adjacent channel ITFS stations due to placement of multiple upstream transmitters in close proximity to ITFS downcoverters.

2. Protect the Ability of ITFS Stations to Grow as an Educational Resource.

A. Preclusive Effect -- Requirement to provide interference protection to co- and adjacent-channel response stations hubs (omnidirectional receivers) would stifle the growth and expansion of ITFS transmitting stations.

B. Wireless Cable Insolvency -- The independence of ITFS stations must be maintained in the event of wireless cable operator insolvency.

3. Adopt Application Processing Rules That Keep FCC Staff Involved and Do Not Overburden Licensees or Commission Staff.

COMPARISON OF THE CURRENT AND PROPOSED ITFS/MDS REGIMES

Current Regime	Petitioners' Proposed Regime
■ One-way point to multi-point transmissions on 6 MHz channels (w/ separate 125 kHz response channels)	■ Two-way transmissions on ITFS/MDS 6 MHz channels
■ Service is almost exclusively video (one-way data transmissions are permitted)	■ Service would include video, and two-way voice and data
■ MDS/ITFS generally transmit from a single site to receive sites within a 35-mile radius service area	■ MDS/ITFS would be permitted to "cellularize" their service areas, e.g. into multiple 5-mile radius cells
■ The spectrum is licensed in alternating 6 MHz channels, and each licensee in a geographic area generally holds four channels	■ ITFS and MDS licensees would be encouraged to offer up their spectrum to an integrated system where single transmission paths of more or less than 6 MHz operate on spectrum licensed to multiple entities
■ Applicants must file a preauthorization interference analysis based on fixed and known transmit/receive sites	■ Applicants would file a preauthorization predictive interference analysis based on assumptions that may not reflect actual deployment of "upstream" transmitters
■ Mass Media Staff must review and act on all applications	■ MMB staff would review for "acceptable" applications; automatic grant if no third-party objections are filed

CO- AND ADJACENT-CHANNEL INTERFERENCE

THE PROBLEM

- Construction of upstream facilities would pose a serious threat of harmful interference into co- and adjacent-channel ITFS stations.
- None of the commenters has provided an analytical model capable of predicting the effect of a large number of dispersed response station transmitters on co- and adjacent-channel operations.
- The very nature of Petitioners' proposals requires that the scenario used to "predict" the potential for harmful interference would not available -- i.e., prior coordination is impractical for Petitioners' business plan.

CTN'S FREQUENCY SEPARATION SOLUTION

- Given the uncertainties in the interference environment, the Commission should require the operator of the two-way transmission system to ensure 6 MHz of frequency separation between all upstream and ITFS downstream transmissions.
- The 6 MHz of "guardband" spectrum would not be vacant, but could be used for commercial downstream transmissions.
- CTN's approach places the risk of interference into downstream transmissions where it belongs: on the wireless cable operator.

ADVANTAGES OF CTN'S PLAN

- CTN's approach provides critical certainty to ITFS licensees that use of these channels for upstream transmissions will pose no risk of harmful interference.
- In a cooperative environment, no realignment of channels among licensees would be necessary to accomplish this frequency separation solution.
- The Commission would still be able to provide substantial bandwidth for upstream transmissions.

BRUTE FORCE OVERLOAD

THE PROBLEM

- Placement of "upstream" transmitters near ITFS receive sites would create an unwarranted potential for "brute force" interference into non-co and non-adjacent channels.

- Many commenting parties -- including Petitioners -- concede that brute force overload represents a source of potential interference into ITFS stations. One party identifies the threat as "horrendous."

CURRENT PROPOSAL DOES NOT ADEQUATELY ADDRESS BFO

- ITFS operators will not have knowledge of the location and characteristics of response station transmitters before installation.

- In the event of interference and a need for corrective measures, ITFS operators will have to identify the source of the interference; however, all the needed information will be in the hands of the wireless cable operators.

- The availability of post hoc remedies is not an adequate solution. ITFS operators should not bear the risk of "horrendous" interference at their receive sites and disruption of educational services, simply because there might be some way to cure it.

CTN'S SOLUTION

- Response station hub operators must notify affected ITFS licensees of the location of proposed response stations within a 1960 foot radius.

- Response station hub licensees must conduct interference tests of response stations within "equipment test zone" at least 30 days prior to operation of transmitters to ensure adequate interference protection.

- CTN's pre-installation notification and testing procedures will reduce the threat of brute force interference and facilitate identification of sources of actual interference.

PRECLUSIVE EFFECT OF CO- AND ADJACENT-CHANNEL RESPONSE STATION HUBS

THE PROBLEM

- The proposed rules require ITFS licensees to protect licensed and previously proposed omnidirectional co- and adjacent-channel receiving station hubs from harmful interference.
- Because multiple omnidirectional receiving station hubs would be deployed, ITFS licensees would have difficulty demonstrating that a proposed modification would not result in interference at such hubs.
- This obligation imposed upon ITFS licensees would virtually freeze ITFS stations at their existing facilities and make very difficult new uses of ITFS frequencies.

CTN'S SOLUTION

- Frequency separation eliminates the problem of protecting co- and adjacent-channel hubs.
- Frequency separation between upstream and downstream transmission is essential to preserve the flexibility of ITFS and the ability to grow to meet future educational needs.

WIRELESS CABLE INSOLVENCY

THE PROBLEM

- The proposed rules contemplate joint operation of multiple ITFS and MDS stations with digital equipment.

- The cost of installation and maintenance of a cellularized system is likely to be far beyond both the means and needs of ITFS licensees.

- It is unlikely that ITFS licensees will have the ability to continue operations in the event of wireless cable insolvency.

CTN's SOLUTION

- Commission should ensure that an ITFS licensee has access to all equipment necessary to continue distribution of its signal by incorporating into its equipment purchase policy references to dedicated and common equipment.

- Commission should require wireless cable operators implementing a digital system to establish a performance bond or escrow account with sufficient funds to ensure uninterrupted operation of participating ITFS stations for the term of the lease.

APPLICATION PROCESSING RULES

	PETITIONERS' PROPOSAL	CTN'S PROPOSAL
FILING WINDOW	Rolling One-Day ■ Rolling one-day filing window ■ Applicant would be required to protect all previously proposed facilities, even those submitted the previous day	Monthly Window ■ First five business days of every month are designated as filing window
	Disadvantages ■ Creates enormous burden on ITFS applicants to monitor steady stream of new applications and to account for newly proposed facilities ■ Creates uncertainty for applicants regarding what facilities must be protected	Advantages ■ Reduces the flood of applications by providing applicants with regular opportunities to file ■ Allows applicants to evaluate existing interference patterns without fear that these patterns would change before application is filed
APPLICATION GRANT	Automatic Grant Proposal ■ All applications receive automatic grant on the 61st day after public notice absent petition to deny	Dual Grant Proposal ■ Grantable applications receive conditional authorization for construction and operation if 60-day public notice period closes without filing of an opposition ■ Final authorization is received 180 days after filing of certificate of completion of construction if no complaints of actual interference, or complaints have been resolved
	Disadvantages ■ Shifts the burden of ensuring interference protection from proposed station to incumbent operator ■ Abandons Commission Staff review of applications	Advantages ■ Places burden of resolving interference on the newcomer ■ Retains Staff review of applications