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July 2, 1998

RECEIVED
JUN 30 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions - MM Docket No. 97-217 and RM-9060: EX PARTE COMMUNICATION

Dear Ms. Salas:

Transmitted herewith on behalf of George Mason University Instructional Foundation, Inc., is an original and fifteen (15) copies of its additional comments in the above-referenced rule making proceeding invited by the Commission pursuant to its June 12, 1998 public notice (DA 98-1119). Eleven copies are provided herewith for distribution to each Commissioner and staff member identified on the comments as receiving a copy of this filing. Should there be any questions concerning this matter, please communicate directly with the undersigned.

Very truly yours,

Robert F. Corazzini

Enclosure

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List A B C D E

George Mason University Instructional Foundation, Inc.

June 29, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions. MM Docket No. 97-217 and RM-9060: EX PARTE COMMUNICATION

Dear Ms. Salas:

This letter is directed to the **ex parte** presentations disclosed in the Commission's June 12, 1998 public notice (DA 98-1119) which were filed after the close of the original comment period in May and June of 1998. In responding to these **ex parte** Comments, it is the intent of The George Mason University Instructional Foundation, Inc. ("GMUIF") to emphasize our support for expeditious Commission adoption of new rules and policies consistent with the proposals advanced by the over 110 wireless cable operators, ITFS licensees, MDS licensees and equipment vendors that commenced this proceeding (the "Petitioners").

GMUIF, an ITFS licensee actively engaged in distance learning education through a working partnership with a wireless cable operator in the use of its ITFS channels, has previously supported the Petitioners' proposals in the above-captioned rule making proceeding through the filing of Comments during the initial rule making comment period.

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GMUIF believes that the Petitioners' proposal will ensure that the substantial benefits of two-way technology are fully available for use by educators as it will allow all ITFS licensees to use their own channels for return path applications if they choose. Likewise, Petitioners' proposal to retain the existing interference protection standards and its proposal that the operator of any response station found to cause harmful electrical interference cure that interference have convinced us to support their adoption since we believe that such interference protection rules and policies are fully protective of our interests.

We also strongly believe that delays in the processing of applications and the inauguration of two-way services must be eliminated. Application processing delays have in the past adversely affected both the distance education community and the commercial wireless cable operators. As we pointed out in our original comments, the success of televised distance education depends in no small part upon the success of the wireless cable system industry. Because wireless cable will be competing against a variety of other providers of two-way services that are not subject to regulatory delay, it is essential that the Commission's new rules permit the rapid inauguration of two-way services, without application processing delays or burdensome testing requirements.

On June 9, 1998 and June 12, 1998, the Archdiocese of Los Angeles Education and Welfare Corporation ("Archdiocese") and the Catholic Television Network along with their representatives filed an **ex parte** memorandum in this proceeding which reflected a rehash of the now well debated "brute force interference" argument. The solution they offer to the "problem" they have created is to simply urge delay by the Commission. GMUIF has specifically addressed

the brute force interference issue in its comments filed on February 9, 1998. These comments remain equally applicable today to this issue and will not be repeated here. However, for the purpose of today's filing they are incorporated by reference herein. In its June 9, 1998 letter, the Archdiocese claims to support the adoption of rules to permit two-way operations on ITFS and MDS frequencies. However, their so-called support is not truly meaningful because it is accompanied by a series of complicated and restrictive "solutions" which as we pointed out in our previous comments, would not in fact serve the interests of ITFS licensees generally. Simply stated, GMUIF agrees with the Petitioners' observation in their June 10, 1998 **ex parte** Notice of Ex Parte Communication that "any delay will prove harmful both to the wireless operators . . . and to the educators that seek to rapidly deploy two-way high speed Internet access services." We simply believe that our interests and in our estimation, the interests of distance educators in general, are more effectively served by crafting a workable solution now and not allowing any problems, real or perceived, to block genuine progress in this area.

BellSouth in its May 8, 1998 notice picks up on the CTN theme which is essentially that the FCC should not act expeditiously, but should rather proceed in a very deliberate and by definition, time consuming, manner. This approach of study, delay and restrict is embodied in BellSouth's recommendation that committees be established to analyze the problem. Although the GMUIF believes that BellSouth's embracing of the CTN delaying procedure is counterproductive, nonetheless, GMUIF does in fact agree with a number of specific suggestions put forth by BellSouth in this and its preceding April 22, 1998 notice relating to such things as channel shifting, loading, swapping, fifteen year leases, and the classification of Internet use as ITFS programming, along with the grandfathering of existing ITFS agreements. BellSouth also

correctly observes that ITFS licensees have successfully negotiated contracts with MMDS lessees providing benefits which go beyond the requirements of the FCC's rules.

In January of 1998, the National ITFS Association, Inc., and the Wireless Communications Association International, Inc., entered into a Joint Statement of Position which it filed with the FCC in this proceeding. That Joint Statement which GMUIF fully endorses provides a realistic solution to the possible problems which two-way transmissions may create. More importantly, it offers the greatest flexibility possible for wireless operators and ITFS licensees while simultaneously protecting the ITFS spectrum for its intended educational purposes. The issue at the heart of this proceeding is whether we all can keep pace with the uses of modern technology in education today or allow the naysayers to keep us in place.

GMUIF is strongly opposed to the BellSouth and CTN proposals which directly and indirectly have the effect of limiting response stations to the MDS/MMDS spectrum. The tools which become available when we as educators are able to use two-way services in our educational endeavors are enormous. Response stations on ITFS channels are critical to the improvement of educational services in general and distance learning services in particular. In this regard, flexibility is the key to innovation and the improvement of services. Depriving ITFS licensees of the ability to independently provide two-way services over our own channels simply restricts the very benefit that our ITFS services are designed to achieve, denigrating our educational efforts and devaluating our ITFS spectrum.

If the advent of computerization has taught the educational community one overriding lesson, it is that each new technology presents its own limited window of availability and opportunity and it is absolutely essential that this opportunity be seized without delay. Deferring the possibility of using the most modern technology available to distance education has the potential for severe societal ramifications. We cannot afford to wait for a perfect world scenario. For our younger generation, it may well be that an opportunity delayed is truly an opportunity denied.

GMUIF urges the Commission to affirmatively consider changes to its current application processing procedures which would help expedite the deployment of these new services. We believe that the two-way licensing process proposed by the Petitioners is eminently reasonable. The proposed process is imbedded with built-in protections and ample opportunity for the ITFS services to ensure their own protection. The ultimate protection is that those operating any two-way services must cure any interference promptly and at their sole expense.

It is important to appreciate that having reviewed the Petitioners' proposals, we believe that they fully protect our educational objectives and adequately address the legitimate concerns raised by educators. Successful and viable commercial two-way services are an absolutely necessary component of the continuing financial support for ITFS services from wireless cable operators. Diminishing such support will eventually diminish the ability of ITFS licensees to provide distance learning and other educational services.

GMUIF appreciates this opportunity to present its further views.

Respectfully submitted,

The George Mason University
Instructional Foundation, Inc.
George Mason University
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Fairfax, VA 22030

By: _____
Michael R. Kelley, Ph.D.
President

cc: Hon. William E. Kennard
Hon. Susan Ness
Hon. Harold Furchtgott-Roth
Hon. Michael K. Powell
Hon. Gloria Tristani
Mr. Roy Stewart
Mr. Keith Larson
Ms. Barbara Kreisman
Mr. Charles Dziedzic
Mr. Michael Jacobs
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RFC/kaw
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