



**American Telecasting, Inc.**

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**Federal Communications Commission  
Office of Secretary**

July 2, 1998

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Re: MM Docket No. 97-217 and RM-9060 – Amendment of Parts 21 and 74 To Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees To Engage In Fixed Two-Way Transmissions

Dear Ms. Salas:

In response to the Commission's recent Public Notice in the above-referenced proceeding, American Telecasting, Inc. ("ATI") is submitting this letter to evidence its unqualified support for the proposals advanced in recent *ex parte* filings by the group of over 110 wireless cable industry participants (including ATI and over 60 ITFS licensees) that commenced this proceeding (the "Petitioners"). In particular, ATI urges the Commission to adopt the Petitioners' proposals for expediting the licensing of two-way facilities and the deployment of response stations, and to reject proposals by the Catholic Television Network ("CTN"), the Archdiocese of Los Angeles ("ALA") and others that would unnecessarily jeopardize the viability of commercial two-way services by slowing the deployment process.

ATI has over a decade of experience in the wireless cable industry, and today owns and operates wireless cable systems serving 133,700 subscribers in 33 markets. Over the past two years, however, ATI has recognized that there is an unsatisfied demand for high-speed broadband services emerging that can be satisfied utilizing MDS and ITFS channels. At ATI, we are particularly excited about the prospects for utilizing our spectrum to meet the demand for high speed Internet access. During 1997, ATI launched a commercial high-speed Internet access service branded WantWEB. WantWEB is currently available in Colorado Springs and Denver, CO and Portland, OR, and ATI anticipates initiating service in Seattle, WA in the third quarter of 1998. The initial configuration of the system utilized MDS spectrum for the wireless high-speed download from the Internet (present customers are being provided and average download data

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transfer rate of approximately 750 Kbps, 25 times faster than a 28.8 Kbps analog modem speed) and a telephone connection for the upstream data path. Initial consumer response has convinced us, however, that future versions of the service will have to use two-way wireless transmissions and eliminate the telephone connection completely in order to be viable over the long term. As such, ATI is vitally interested in seeing the Commission expeditiously adopt rules that will permit MDS and ITFS licensees to routinely secure licenses to operate two-way systems, and that will permit those two-way systems to be deployed rapidly and with a minimum of regulatory delay.

ATI noted with interest the remarks Chairman Kennard gave last week to the Federal Communications Bar Association, "A Broad(band) Vision of America." We were particularly struck by the Chairman's interest in assuring that the benefits of broadband technology be made widely available. Because of the economics of wireless cable, ATI is uniquely situated to bring reasonably-priced, high bandwidth capacity to the areas of the country we serve. The high cost of constructing a wired infrastructure has deterred wired telecommunications providers from making broadband services widely available at reasonable rates. Wireless cable operators, however, can bring broadband services to the public at far lower cost. Moreover, the superiority of wireless cable is enhanced by the propagation characteristics of the 2GHz band where MDS and ITFS operate. Unlike DEMS, LMDS or 39 GHz operators, MDS and ITFS can provide two-way high speed broadband communications over long distances. With cells capable of serving 35-mile radius areas, ATI and other wireless cable operators will be able to develop economically-viable businesses serving areas that cannot be served with the much smaller cells projected for LMDS and other services in the higher bands. Everything else being equal, MDS and ITFS should be able to provide broadband service at the lowest possible cost because of lower infrastructure costs.

If the promise of MDS and ITFS is to be achieved, however, the application processing and interference protection rules must be crafted so that commercial operations can succeed in a competitive marketplace. Contrary to the impression that CTN and ALA are attempting to create, while ATI and its brethren want to deploy two-way services in a commercially viable manner, at the same time we want to make certain that our own facilities receive an appropriate degree of interference protection. As the Commission addresses the issues before it, the Commission should recognize that just as CTN is highly protective of its ITFS receive sites, ATI fears interference to our commercial receive sites. ATI's experience to date confirms that our broadband customers demand highly-reliable service; loss of service due to interference is unacceptable. As a member of the steering committee that led the Petitioner's drafting efforts, ATI took pains to assure that the proposed rules are consistent with our need to provide and interference-free service.

ATI cannot stress enough the importance of allowing rapid deployment of two-way MDS and ITFS services, without delays for application processing and convoluted testing along the

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lines proposed by CTN. As I stressed in my April 9, 1998 letter to Commissioner Michael Powell:

Adopting new rules quickly...will do little good unless those rules provide for the rapid deployment of two-way services. I have been active in the wireless cable industry for over fifteen years, and can personally attest to the significant tharm ATI and others have suffered as a result of both MDS and ITFS licensing delays. Unless the Commission establishes a regulatory regime that permits the rapid deployment of two-way digital services over the MDS/ITFS wireless cable spectrum allocation without such delays, ATI and its brethren are doomed to failure. WantWEB will be competing in the marketplace against a host of wireless competitors (such as LMDS, WCS, GWCS, DEMS and 39 GHz) that have the ability to establish service to a given location upon demand, without regulatory delay. Licensees in those services will be able to respond to a prospective customer's request for service immediately; unless ATI can do the same, WantWEB will be a marketplace also-ran. ...You have called for the end of regulatory compartmentalization under which functionally equivalent offerings are subject to different regulatory structures. Rationalizing the licensing rules for MDS/ITFS with those of LMDS, WCS, GWCS, DEMS, 39 GHz and the like would be a good starting point for that crusade. Most consumers will have options, and those who desire access to high-speed broadband services will likely turn to tone of their other options if ATI cannot respond rapidly to a prospective customers request for service.

The Petition for Rulemaking that commenced this proceeding proposed a series of rule changes that would expedite MDS and ITFS licensing, while still assuring all licensees the level of interference protection they enjoy today. The general objective behind these proposed changes is to shift scarce staff resources from the pre-operation processing of uncontested applications to the enforcement of the Commission's interference rules through speedy resolution of contested situations. While these proposals are somewhat radical compared to the procedures usually employed by the Mass Media Bureau, they are based on rules that are being successfully applied by the Wireless Telecommunications Bureau to regulate our competitors.

From the beginning, we have embraced two objectives in attempting to craft rules. First, we sought to assure that all MDS and ITFS licensees retained the level of protection against interference that they are entitled to under the current rules. MDS and ITFS licensees already face the most complex interference protections rules on the FCC's books. While ATI and ther other members of the Petitioner's steering committee considered attempting to rewrite those rules as part of this project, we recognized that in any attempt to simplify the rules, there would be winners (who received additional protection) and losers (who received less). To avoid the undesirable consequence of having any licensee loss interference protection, we instead chose to

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retain the current interference rules and overlay an additional set of rules to govern response stations. Thus, the complexity. *However, the net result – one that our opponents assiduously avoid mentioning - is that under our proposal, every ITFS licensee remains entitled to 45 dB co-channel D/U and 0 dB adjacent channel D/U interference protection.*

Specifically, the Petitioners have proposed rules that will allow the rapid authorization of facility modifications, so long as the licensee (a) proposes to maintain its signal within acceptable limits at the boundary of its service area, (b) demonstrates that it meets the 45 dB and 0dB interference protection rules (and actually files the supporting interference studies with the Commission and serves copies of those studies on potentially-affected licensees and applicants), and (c) passes a 60-day public notice period without a petition to deny having been filed. To avoid even the slightest possibility that unpredicted interference could occur, our proposal also provides a “safety net” that requires a cessation of transmissions should impermissible harmful interference result from operations authorized under the expedited processing procedures. Adoption of this approach will avoid the processing delays that have plagued wireless cable operators in the past, both by eliminating the need for detailed staff engineering review of non-controversial applications and by freeing the staff to concentrate on contested matters.

The most recent *ex parte* filings from CTN and ALA leave the impression that response stations will be installed “willy nilly,” with no prior approval procedure. That is simply not the case. As noted above, under the Petitioner’s proposal every ITFS licensee (as well as every MDS licensee) remains entitled to 45 dB co-channel D/U and 0 dB adjacent channel D/U interference protection. Moreover, the Petitioners have proposed an extremely conservative methodology for use by all applicants in prediction compliance with the time-tested 45 dB co-channel and 0dB adjacent channel D/U interference protection ratios. Retention of the 45 dB and 0 dB D/U ratios, coupled with the requirements that a conservative methodology be employed to demonstrate compliance before securing a license and that any unpredicted interference be cured, renders unnecessary the additional regulatory burdens, such as guardbands and detailed staff prior review of interference studies, proposed by CTN to avoid adjacent channel interference.

CTN’s proposals for addressing interference the minuscule potential for interference due to downconverter overload are similarly misplaced. At the outset, the record correctly demonstrates the overload will rarely occur. Moreover, the record correctly demonstrates that a host of methods exist to prevent any interference before it occurs. Because the proposed rules require the licensee of a response station to cure any interference it causes, or else cease operating, the licensee has every incentive to carefully engineer the response station and take all necessary protective steps. Neither ATI nor any other commercial operator can afford the ill-will that would be created by installing broadband service at new locations, only to have to cease operating after service has commenced. Rather, we will take great care to assure that new response stations do not cause interference. However, in the unlikely event that interference occurs despite those protective steps, other methods have been documented by the Petitioners

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that can be deployed to immediately cure that unanticipated interference. It would be regulatory overkill to impose the delay associated with CTN's unduly burdensome testing proposals to avoid even this minuscule risk of interference.

In short, ATI urges the Commission to move rapidly towards the adoption of new rules allowing MDS and ITFS licensees to "turn around" their channels, and to make certain that those rules minimize the regulatory delays that licensees and the public will have to suffer.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Hostetler", written in a cursive style.

Robert Hostetler  
President and CEO