Before the
Federal Communications Commission
Washington D.C. 20554

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In the Matter of:	)	
Amendment of Part 95 of the Commission's Rules to provide regulatory Flexibility in the 218-219 Mhz Service	))))	**WT Docket No. 98-169 RM-8951**
Amendment of Part 95 of the Commission's rules to allow Interactive Video and Data Service licensees to provide mobile service	))))	**WT Docket No. 95-47 Rm.-8476 (proceeding terminated)**

To: The Commission: Mail Stop 1170

Two Way TV, Inc. Is the holder of 13 IVDS licenses that are in good standing.
The Commission Should Facilitate the exit of Licensees That Cannot Make Payments or that believe that a Fraud was perpetrated by the Government on the IDS license holders as a result of the IDS auction of July 1994. One of the most important actions that the Commission can take in the instant rulemaking is the implementation of a policy that will not only allow licensees that lack the funds or the desire to develop their licenses to exit the service, but will encourage them to do so. To fulfill its responsibilities to the public the Commission must focus on ensuring that financially qualified parties hold licenses in the 218-219 Mhz, rather than punishing parties that erred in purchasing these licenses. We would agree with Bay Area Comments, "That the best way to accomplish this objective is to offer complete amnesty to all licensees that made the initial 20% down-payments for their licenses. All such licensees would have the option to pay for any of their licenses in the manner proposed by the Commission in the NPRM or to return any of their licenses to the Commission for a full refund of all payments made to the Commission". "Although the Commission's proposal to include provisions in an amnesty program that will deter licensees from returning licenses in order to purchase them more cheaply in a subsequent auction is superficially appealing, such provisions would ultimately be counterproductive. There has been far too much controversy already regarding the initial auction for licenses in the 218-219 Mhz service. To the extent that some licensee believe that they overpaid for licenses because the Commission's rules allowed unqualified bidders to bid up the prices, 6 or because the information which the Commission relied upon in creating interactive video and data services ("IDS") was inaccurate and misled them, it is in the public interest to allow them to return their licenses. To the extent that the same parties believe that they can create a valuable business with the same licenses if their debt burden were smaller, it is in the public interest to allow them to bid with everyone else".

We would also agree with MKS, "MKS urges the Commssion to relax all technical restrictions and to create a non discriminatory license surrender/amnesty program which

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applies to all Licensees who paid a least the required down payment (or More) and limit the cash forfeiture to $2500 per Licensees and promptly refund the balance"

The entire process was flawed from the beginning. No Licensee wishing to walk away from IDS and return the licenses should be treated differently. The fact that some Licensees failed to timely file requests for a grace period should not disqualify them from getting a refund. It has been a "false puffing" from its inception led by Mark Fowler and Reid Hundt. Time and events have now shown that the proceedings submitted by Lauren Colby on behalf of Commercial Reality St. Pete, Inc. that the proceedings were tainted y a conflict of interest on the part of former Chairman Hundt. WT Docket No. 95-26, In the matter of Commercial Reality St. Pete, Inc. James C. Harley, Teresa Hartley and Ralph E. Howe. So much time has passed without any apparent concern at all for the plight of the Licensees coming from the FCC, that its natural to expect that many Licensees would consider themselves "beaten " and just quit.

Articles appearing in the Washington Post in 1994 suggest that some of the bidders thought that they were bidding for a TV license. The FCC has an obligation to deal fairly with those bidders that may have submitted bids on the basis of representations which turned out to be untrue. The FCC had no right to puff the spectrum to the public which can be shown to occur with the video tape transcripts. The key piece of information related to a blatant conflict of interest involving former Chairman Hundt who, it turns out, had been an attorney for EON, which had an extraordinary interest in the IVDS proceedings. We would consider it a mandate of the Commission to raise question and investigate members of the staff and Commission concerning conflicts of interest. The courts should not be barred from considering that key pieces of information by the provisions of Section 405 of the Communications Act, which prohibits an appellate court form considering matters not firs raised with the agency, to be flawed and in need of revision.

We would call for increased oversight by Congress and the Office of Management and Budget in matters of conflict of interest by members of the FCC. We would also request that Congress mandate that the FCC be subject to an open door policy where all document, reviews and hearing are made public. We would also push for greater enforcement of "Sunshine Clause" which would prohibit members of a Commissioners staff from collusion with members of anothers Commission's Staff. We would also push the commission to follow past policy of the FCC to always specify the standards to be used in implementing the new technology. Thus, for example, when the FCC adopted rules to allow FM Broadcasting, it did not do so until the FM technology had been proven fully operational, and the rules provided for uniform standard for carrier deviation, etc. The modulation characteristics of each system should be reduced to mathematical equations, and those equations should and have been in the past were made part of the rules, so that any qualified manufacturer could produce equipment for any system. The IVDS rules were quite different, there were, however no standards specified. The equipment "Puffed" by EON was never available and in the long run was proven to never work. This same conflict of interest of which Reid Hundt was a part of, refused to speak to potential customers because it was bidding for the same licenses that they were and was prohibited by collusion law to reveal to the public that they did in fact not have equipment. This is a case in point for greater oversight into the actions of Commission. Business should not be allowed the opportunity to use a public agency benefit its private profiteering by "

appointed and hired guns" for private industry. We might suggest that appointment of Commission positions should be replaced by a nomination and voting process by congress and the senate.

The FCC in a speech by Joy Alford and FCC official, on June 6, 1994, at an FCC educational seminar given in Washington, D.C. In her speech, which was entitled "IVDS : Description of the Product", Mr. Alford began by saying that, "This (IVDS technology) has the potential to change the way we shop, the way we learn, the way we bank, the way we receive healthcare, ultimately, the way we live." It appears that Mr. Hundt, had given the go ahead to push for IVDS which would benefit his client, EON. The IVDS rules were constructed in such a way as to give EON the opportunity to achieve a tremendous windfall from the sale of equipment if it had equipment to sell. Chairman Hundt had served EON and its predecessors, TV Answer, both as an attorney and a lobbyist. Hundt is quote in the Washinton Post as saying, " that he disclosed his involvement to the FCC when he became Chairman in December of 1993, and that he had been advised by the General Counsel that he would not need to recuse himself from any issues involving the company. He also said that no issues directly involving TV Answer (or EON) had arisen". Mr. Hundt had been involved with EON defense of charges that EON advertising practices were misleading. A case example where great oversight is needed. We would agree that a private investigation by the Inspector General should look into these matter. Section 403 should never be invoked against the public to benefit private industry as a bye product of a public appointed position.
Respectfully submitted,

Warren Linney
Director, Two Way TV, Inc.
Please review and add your comments and forward on to the FCC:
https://gullfoss.fcc.gov/cgi-bin/ws.exe/prod/ecfs/upload.hts The docket number for electronic filing is 98-169.

Warren Linney