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March 25, 1999

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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: NOTICE OF EX PARTE COMMUNICATION*

Dear Ms. Salas:

I am writing to report that on March 23, 1999, Patrick McConnell, George Harter, Merrill Weiss and the undersigned met on behalf of the over 110 licensees, system operators, equipment vendors and consultants that submitted the petition for rulemaking that commenced this proceeding (the "Petitioners") with Keith Larson, Charles Dzedzic, Joseph Johnson, David Roberts and Michael Jacobs of the Mass Media Bureau to discuss various issues raised by the pending petitions for reconsideration of the *Report and Order* in this proceeding.

Reiterating arguments advanced in their petition for reconsideration, opposition to petitions for reconsideration filed by others and reply, the Petitioners emphasized the importance of expeditiously resolving this proceeding in a manner that will permit MDS/ITFS-based services to be competitive with other alternatives that are less-extensively regulated. The focus of the discussion was largely on the pending proposals to expand the Commission's new streamlined geographic-based licensing system to all ITFS modification applications and to eliminate the professional installation and 20 day advance notice requirements attached to the activation certain response stations. With respect to the former issue, the Petitioners expressed concern that in order to fully develop two-way systems in a given market, it will be essential for the Commission to allow modifications beyond the addition of response station hubs and booster stations. Thus, they emphasized that unless all ITFS major modifications can be processed under the streamlined geographic based system, the introduction of innovative new two-way systems will be stymied. With respect to the second issue, the Petitioners emphasized their willingness to accept tough procedures for addressing those few, if any, instances in which actual interference does occur, if coupled with elimination of excessive restrictions on all response station installations that will

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prevent MDS/ITFS-based services from responding to customer demand with the speed of competitive offerings. They noted that the concerns which led to adoption of the professional installation requirement are not present with respect to lower power response stations that will be equipped with interlock capabilities, and that the use of loopback capabilities will assure the ability to test response stations sold through retail distribution channels.

In addition, the Petitioners discussed the substantial benefits that will be realized by requiring all applicants to utilize a common terrain-sensitive model for the prediction of interference, the benefits of loosening, but not eliminating, the frequency tolerance requirements, and their reasons for retaining the existing formulas for determining compliance with the spectral mask. The Petitioners' proposal to extend the circumstances under which channel shifting can be employed was also addressed. Finally, the Petitioners expressed support for the proposal by Qualcomm, Inc. to eliminate restrictions on the use of directional antennas by low power response stations.

Please contact the undersigned should you have any questions regarding this *ex parte* presentation.

Respectfully submitted,



Paul J. Sinderbrand

Counsel to the Petitioners

cc: Keith Larson
Charles Dziejczak
Joseph Johnson
David Roberts
Michael Jacobs