

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Rulemaking to Amend Parts 1, 2, 21, and 25)
of the Commission's Rules to Redesignate)
the 27.5-29.5 GHz Frequency Band, to)
Reallocate the 29.5-30.0 GHz Frequency)
Band, to Establish Rules and Policies for)
Local Multipoint Distribution Service)
and for Fixed Satellite Services)

CC Docket No. 92-297

REPLY COMMENTS
OF THE
UNITED STATES TELECOM ASSOCIATION

The United States Telecom Association ("USTA")¹ hereby files its reply comments in response to the Commission's *Sixth Notice of Proposed Rulemaking*. The comments provide no legal, regulatory or policy justification in support of renewing the Commission's LMDS ownership restrictions against ILECs and incumbent cable operators. The June 30, 2000 sunset of the LMDS ownership restrictions should be honored by the Commission.

MCI WorldCom comments that the ownership restrictions should be continued for another three years. According to MCI WorldCom, "incumbent operators still maintain market power and continue to have an incentive to forestall competition in their markets."² MCI

¹ Formally the United States Telephone Association.

² MCI WorldCom Comments at 3.

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WorldCom argues that ILECs continue to hinder competition in the local exchange market as reflected by the absence of Commission approval of RBOC Section 271 in-region long distance applications.³

MCI WorldCom, however, acknowledges that ILECs have not impeded LMDS deployment. According to MCI WorldCom, "The delays which LMDS licensees have encountered to date include lengthy negotiations and high costs for obtaining roof right-of-way agreements, lack of equipment for certain portions of the spectrum, and line-of-sight issues."⁴ In addition, with the Commission's approval of Bell Atlantic's Section 271 application to provide in-region long distance services to customers in New York, MCI WorldCom's argument that RBOCs have not complied with the requirements of the 1996 Act is rendered moot. Several Section 271 applications are pending and more are expected to be filed and approved by the Commission. Moreover, the fact that ILECs can purchase other wireless spectrum does not serve as a legal or policy justification for denying ILECs and incumbent cable operators the same right to own LMDS spectrum in their existing service territories. The fact that ILECs and cable incumbents are not restricted in their ownership of other wireless spectrum supports the argument that these carriers are not more likely to engage in warehousing of LMDS licenses to impede broadband competition than could be argued would occur where no ownership restrictions are applied to ILECs and cable incumbents. MCI WorldCom presents no factual, legal, or policy arguments to support continuation of the LMDS ownership restrictions applied to ILECs

³ MCI WorldCom Comments at 4.

⁴ *Id.* at 5.

and incumbent cable operators.

MCI WorldCom controls significant broadband infrastructure. In addition, MCI WorldCom has recently invested in MMDS spectrum. If the conditions that have delayed LMDS licensees from deploying services outlined by MCI WorldCom continues during an extension of the LMDS ownership restrictions applied to ILECs and incumbent cable operators -- lengthy negotiations and high costs for obtaining roof right-of-way agreements, lack of equipment for certain portions of the spectrum, and line-of-sight issues -- then MCI WorldCom would be in a position to purchase LMDS spectrum at pennies on the dollar as they have MMDS spectrum. In the interim, LMDS services are not deployed, thereby depriving consumers of additional competitive alternatives for broadband services. Similarly, its pending purchase of Sprint would greatly increase the broadband infrastructure and wireless capabilities of MCI WorldCom. Clearly, MCI WorldCom, not ILECs, presents a monopoly threat to broadband competition.

The overwhelming number of comments support the June 30, 2000 sunset of the Commission's LMDS ownership restrictions. As ILECs serving rural areas commented, rural America will only begin to enjoy the benefits of broadband services based on LMDS spectrum when the LMDS ownership restrictions are eliminated.⁵ Barriers to competition in broadband services should be eliminated. In celebration of the fourth anniversary of the passage of the pro-competitive, deregulatory 1996 Act, the Commission should sunset the current LMDS ownership restrictions on June 30, 2000.

⁵ See, e.g., OPASTCO Comments at 2-3, Independent Alliance Comments at 5-6.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

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By: Keith Townsend

Lawrence E. Sarjeant

Linda L. Kent

Keith Townsend

John W. Hunter

Julie E. Rones

1401 H Street, NW

Suite 600

Washington, D.C. 20005

(202) 326-7371

Its Attorneys

CHAIRMAN WILLIAM KENNARD
FEDERAL COMMUNICATIONS COMMISSION
445-12TH STREET, SW
ROOM 8-B201
WASHINGTON, DC 20554

COMMISSIONER SUSAN NESS
FEDERAL COMMUNICATIONS COMMISSION
445-12TH STREET, SW
ROOM 8-B115
WASHINGTON, DC 20554

COMMISSIONER HAROLD FURCHTGOTT-ROTH
FEDERAL COMMUNICATIONS COMMISSION
445-12TH STREET, SW
ROOM 8-B302
WASHINGTON, DC 20554

COMMISSIONER GLORIA TRISTANI
FEDERAL COMMUNICATIONS COMMISSION
445-12TH STREET, SW
ROOM 8-C302
WASHINGTON, DC 20554

COMMISSIONER MICHAEL K. POWELL
FEDERAL COMMUNICATIONS COMMISSION
445-12TH STREET, SW
ROOM 8-A204C
WASHINGTON, DC 20554

LAWRENCE STRICKLING, CHIEF
COMMON CARRIER BUREAU
FEDERAL COMMUNICATIONS COMMISSION
445-12TH STREET, SW
ROOM 5-C450
WASHINGTON, DC 20554

JACK JENNINGS
COMMON CARRIER BUREAU
FEDERAL COMMUNICATIONS COMMISSION
445-12TH STREET, SW
ROOM 5-C450
WASHINGTON, DC 20554

MAGALIE ROMAN SALAS, SECRETARY
FEDERAL COMMUNICATIONS COMMISSION
445-12TH STREET, SW
ROOM TW-A325
WASHINGTON, DC 20554

INTERNATIONAL TRANSCRIPTION SERVICE
1231 20th STREET, N.W.
WASHINGTON, DC 20036

GREGORY W. WITEAKER
MICHAEL R. BENNET
BENNET & BENNET, PLLC
1000 VERMONT AVENUE, 10TH FLOOR
WASHINGTON, DC 20005

PAUL C. BESOZZI
PATTON BOGGS LLP
2550 M STREET, NW
WASHINGTON, DC 20057

JAMES F. IRELAND
COLE, RAYWID & BRAVERMAN, LLP
1919 PENNSYLVANIA AVENUE, NW
SUITE 200
WASHINGTON, DC 20006

SYLVIA LESSE
MARGARET MYLAND
KRASKIN, LESSE & CROSSON, LLP
2120 L STREET, NW.
SUITE 520
WASHINGTON, DC 20037

ROBERT S. KOPPEL
TALLY FRANKEL
MCI WORLDCOM, INC.
1801 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20006

DANIEL L. BRENNER
DAVID L. NICOLL
COUNSEL FOR THE NATIONAL CABLE
TELEVISION ASSOCIATION
1724 MASSACHUSETTS AVENUE, NW
WASHINGTON, DC 20036

L. MARIE GUILLORY
JILL CANFIELD
4121 WILSON BOULEVARD
10TH FLOOR
ARLINGTON, VA 22203

STUART POLIKOFF
STEPHEN PASTORKOVICH
OPASTCO
21 DUPONT CIRCLE, NW
SUITE 700
WASHINGTON, DC 20036

MARY McDERMOTT;
BRENT H. WEINGARDT
PERSONAL COMMUNICATIONS
INDUSTRY ASSOCIATION
500 MONTGOMERY STREET, SUITE 700
ALEXANDRIA, VA 22314-1561

JOHN A. PRENDERGRAST
D. CARY MITCHELL
BLOOSTON, MORDKOFKY
JACKSON & DICKENS
2120 L STREET, NW, SUITE 300
WASHINGTON, DC 20037

LAURENCE E. HARRIS
DAVID S. TURETSKY
TERRI B. TATOLI
TELIGENT, INC.
SUITE 400
8065 LEESBURG PIKE
VIENNA, VA 22182

PHILIP L. VERVEER
DAVID M. DON
WILLKIE FARR & GALLAGHER
THREE LAFAYETTE CENTRE
1155 21ST STREET, NW
WASHINGTON, DC 20036

DANIEL L. POOLE
JEFFREY A. BRUEGGEMAN
US WEST, INC.
1020 19TH STREET, NW
SUITE 700
WASHINGTON, DC 20036