Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz For Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems	)	ET Docket No. 00-258
	)	
Petition for Rulemaking of the Cellular Telecommunications Industry Association Concerning Implementation of WRC-2000; Review of Spectrum and Regulatory Requirements for IMT-2000	)	RM-9920
	)	
Amendment of the U.S. Table of Frequency Allocations to Designate the 2500-2520/ 2670-2690 MHz Frequency Bands for the Mobile-Satellite Service	)	RM-9911

To: The Commission

COMMENTS OF DIGITAL BROADCAST CORPORATION

Digital Broadcast Corporation ("DBC") submits these comments in response to the *Notice of Proposed Rule Making and Order* in the captioned proceeding, FCC 00-455 (released January 5, 2001) ("NPRM"). The NPRM explores the possibility of introducing new advanced mobile and fixed services (including Third Generation mobile services, or "3G") in various frequency bands, including the 2500-2690 MHz band currently allocated for and used by stations operating in the Instructional Television Fixed Service ("ITFS") and the Multichannel Multipoint Distribution Service ("MMDS").

DBC urges strongly that the FCC's introduction of new cell phone services cannot and must not be accomplished at the expense of ITFS and MMDS allocations in the 2500-2690 MHz band. Preservation of these ITFS and MMDS allocations are necessary both for the continuation of pervasive and invaluable licensed uses by incumbent stations in these services and the expanding rollout of advanced wireless broadband services to schools, homes and businesses. The Commission has identified, and can make available, other spectrum to satisfy demand for 3G mobile, without any incursion into the 2500-2690 MHz band.

DBC is a nationwide provider of Digital Wireless Television and high-speed Internet access services to residential customers. Our business model relies on ITFS partnerships. Through our non-profit subsidiary, the Institute for Teleducation Strategies In the New Economy (TeleSINE), we facilitate efforts by colleges and universities wishing to deploy video and data services to advance their educational mission. As a licensee and operator of commercial spectrum, and a lessee of ITFS spectrum, DBC has witnessed the benefit to education that has flowed from these partnerships. Today, after many years of struggle, our educator-partners are finally positioned to implement their academic services in tandem with today's most sophisticated technological resources.

Reaching this juncture —- which we believe represents a truly remarkable cooperative effort between commercial operators and educators —- has required enormous energy, creativity, time, and a very significant financial commitment. We have worked assiduously to resolve an array of issues, from interference questions to the optimum choice of state-of-the-art studio equipment, whose solution today presents the most encouraging prospects for educators dedicated to putting technology in the ITFS spectrum to its highest and best use. Our

relationships with educators are an important and noteworthy example of the very synergy that the FCC has repeatedly urged — namely, corporate and educator partnerships which are at once commercially viable and extraordinarily beneficial to the public.

The prospect of reallocation of the 2.5 GHz spectrum, if it came to pass, would create chaos where order finally has arrived, and arrived in no small part by dint of the FCC's own resolute initiatives. That senseless state of affairs would manifest itself in various forms that could not possibly be defended as rational. For instance, the two-way rulemaking proceeding, whose complexities took the FCC the better part of the 1990s to work through, has recently culminated in the filing of applications for new wireless broadband, two-way services. The digital declaratory ruling — again, a product of Promethean effort on the part of both the FCC and the wireless cable industry — has today made possible, as a regulatory matter, the unique benefits of digital transmission, soon to be *de rigueur* in the wireless industry. Other recent regulatory initiatives designed both to monitor competition in the broadband sectors and the video distribution markets, and to spur such competition, have been hallmarks of this Commission's vision over the past few years.

Yet, the threatened spectrum re-assignments would work disruptions of such magnitude that the FCC's initiatives in these areas would, in that event, accurately be viewed as having been rescinded, rendering null and void literally years of effort by the FCC, educators, and private industry. Proponents of 3G urge the restructuring as necessary for the next steps in the evolution of global wireless platforms. But it has been forethought and planning of precisely that nature which has been the animating force behind the strides that private industry, educators, and the FCC have made to bring users of the ITFS and MMDS spectrum to the position they now occupy. That forward momentum is more critical to the ongoing development of broadband

innovations than is the restructuring that 3G advocates seek, but it will be eviscerated if the 2.5 GHz band is altered.

We oppose the reallocation of the 2500-2690 MHz bands for 3G services on other grounds as well. Historically, educational institutions and commercial markets have been viewed as largely disparate arenas. We believe this model is no longer valid. Today, the connection between education and the New Economy is inseparable: The value of labor and the valuation of companies will, in ways unforeseeable just a few years ago, be directly affected by the work of educators. Creativity, critical thinking, alternative logics, adaptability, paradigms-as-topologies, lateral analysis, open systems, and other building blocks of the New Economy are profoundly *the educator's* special concern. Colleges and universities are the environments where these dimensions of learning are most effectively engendered, and students without these skills will not fulfill their promise. The existing spectrum allocation and regulatory structure are the crucial predicate for the benefits of technology in the service of education to be achieved.

Indeed, ITFS and MMDS licensees have been using the band for many years to provide valuable educational services to students and teachers. There are more than 1,200 licensees across the country holding over 2000 licenses, serving K-12 schools, universities, community colleges, and governmental agencies and institutions. These licensees reach hundreds of thousands or millions of students and adult/workforce learners, principally through video programming and other related services. These services must not be sacrificed merely for more sophisticated cell phones.

As noted, recent developments in technology have made it possible for ITFS and MMDS stations to provide high-speed, two-way wireless data transmission services, including broadband Internet access. These technological innovations are particularly timely given the explosion in

online education that increasingly requires broadband access to rich-media content. Wireless broadband in the 2500-2690 MHz band utilizing ITFS and MMDS channels is fast enough to support a broad range of such content, including two-way real-time video, streaming video, and other bandwidth intensive applications necessary for effective distance learning.

In addition, wireless broadband provides the capability for educational institutions to build wide area networks at a reasonable cost. Educators are just beginning to realize the enormous potential of this technology. A significant number of stations are already being used for these purposes, hundreds of ITFS and MMDS licensees have applied for licenses to provide two-way service as of August, 2000, and many more are expected to apply when the opportunity arises again within the next several months.

ITFS educational licensees have become valuable "partners" of wireless communications companies through the practice of leasing capacity, or network sharing, which the FCC first allowed in 1983. The commercial counterpart of ITFS, MMDS has provided a variety of transmission services to communities around the country. Because MMDS licensees only have a limited amount of bandwidth, many ITFS licensees have joined with them to create shared networks — essentially allowing ITFS systems to be deployed and operated at the expense of the commercial partner while generating additional funds for schools to use in developing their distance learning programs. The FCC has strongly encouraged this practice. However, if the FCC now takes channels away from these providers to make room for 3G services, the advantages of this public/private, educational/commercial collaboration will be lost

Finally, ITFS/MMDS broadband wireless services are critical to bridging the digital divide — the chasm between those in the United States who have access to broadband Internet offerings and those that do not. The benefits of high-speed Internet access do not reach most

Americans. DSL and cable modem services are primarily serving new, affluent, suburban neighborhoods, leaving inner cities, rural areas, and various other insular communities behind. However, with the highly favorable signal transmission and reception range of stations operating in the 2500-2690 MHz band, ITFS/MMDS stations can reach rural areas, inner-city neighborhoods, Indian reservations, and other underserved communities that cable modems and DSL cannot or will not serve. Thus, only wireless broadband -- provided through ITFS and MMDS in the 2500-2690 MHz band has the power to bridge the digital divide.

If the FCC reallocates all or part of the ITFS/MMDS spectrum for 3G services, the capacity, usefulness, and value of the ITFS spectrum would be significantly diminished if not destroyed. Even if only part of the spectrum is taken, many educational institutions would lose their ITFS service altogether, while others would face new equipment costs, service disruption and cutbacks, lower quality service and signal interference. Moreover, the deployment of wireless broadband services through ITFS/MMDS shared networks would be stopped in its tracks, and for many communities, the promise of high-speed advanced services — either at all or at any reasonable price — would remain beyond reach.

For all these reasons, we oppose reallocation of channels in the 2500-2690 MHz band from ITFS and MMDS, and urge the FCC to move 3G mobile services into other available spectrum.

Respectfully submitted,

DIGITAL BROADCAST CORPORATION
Gary Nerlinger, Chairman
800 Northern Boulevard
Great Neck, New York 11021
(516) 466-1932

February 22, 2001