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JUN 29 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

June 29, 2001

Magalie Roman Salas, Esquire  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW, The Portals  
Washington, D.C. 20554

EX PARTE OR LATE FILED

Re: *Ex Parte* Presentation by Hubbard Broadcasting, Inc.  
Regarding Mitre Report - ET Docket No. 98-206 /

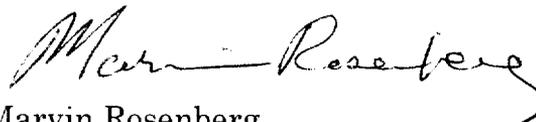
Dear Ms. Salas:

In accordance with Section 1.1206 of the Commission's Rules, and transmitted herewith on behalf of the Hubbard Broadcasting, Inc. ("HBI") is the following *Ex Parte* disclosure:

On June 27, 2001, Ward L. Quaal of HBI mailed a letter, a copy of which is attached, to Commissioner Michael J. Copps and Legal Adviser Lauren Van Wazer. Mr. Quaal's prior meeting with Commissioner Copps and Legal Adviser Van Wazer referenced in the letter was previously reported to the Commission on June 19, 2001, and the June 27 letter is a follow up to the subject matter discussed at the prior meeting as also set forth in the June 19 notification.

If you have any questions, please contact the undersigned.

Very truly yours,



Marvin Rosenberg  
Counsel for Hubbard Broadcasting, Inc.

mr:ik  
Enclosure

cc: The Honorable Michael J. Copps  
Lauren Van Wazer, Esquire

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*The Ward L. Duval Company*  
*401 North Michigan Avenue*  
*Suite 3140*  
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*Ward L. Duval*  
*President*

June 27, 2001

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JUN 29 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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VIA FEDERAL EXPRESS

The Honorable Michael J. Copps  
Commissioner  
Federal Communications Commission  
Suite 8 A302  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: High power DBS (DirecTV, Echostar) vs Northpoint

Dear Mike:

Carrying forward from our fine meeting with you, Andy Paul and I think that it would be useful to you and your staff to see the accompanying letters to Chairman Powell from Representative Rick Boucher (D-VA) and Representative Michael Oxley (D-OH).

Mr. Boucher speaks of his concern about the MITRE study and its warning to him regarding potential interference to persons in his District who subscribe to DBS service.

Representative Oxley addresses the great value of DBS as a vigorous and viable competitor to cable! He expresses his concern and that of Majority Leader Armev which led to their mutual effort for engineering tests. Indeed, as Mr. Oxley states, the MITRE field examination confirms that terrestrial systems could cause "significant interference" with satellite signals!

Again, Mike, as Andy and I remarked in our meeting with you, we do not fear competition! We simply want to preclude interference (outages in the "digital world") to the more than 16 million households across America!

*Los Angeles, California*

*310/277-9399*

The Honorable Michael J. Copps  
June 27, 2001  
Page two

Perhaps you have read the outstanding piece by Chuck Hewitt, President of the Satellite Broadcasting and Communications Association, as it appears in this week's (6/25/01) *Broadcasting & Cable*. A copy is enclosed herewith.

Finally, Mike, we feel that consideration should and must be given by the Commission to use by Northpoint of readily available spectrum that accommodates so very well such a terrestrial service.

Kindest wishes and thank you again for your time and interest!

Very respectfully,



Ward L. Quaal

WLQ/rlc

Enclosures

cc: Lauren Van Wazer, Esq.  
Mr. Andrew R. Paul

bcc: Mr. Stanley S. Hubbard  
Mr. Stanley E. Hubbard  
Mr. Robert W. Hubbard  
Ms. Ginny Morris  
David A. Jones, Esq.  
Mr. Gerald D. Deeney  
Mr. Ronald L. Lindwall  
Stephen R. Litman, Esq.  
Marvin Rosenberg, Esq. ✓

**RICK BOUCHER**  
9th DISTRICT, VIRGINIA

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## Congress of the United States House of Representatives

June 20, 2001

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Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Dear Chairman Powell:

I am writing to share with you my concern regarding potential interference that my constituents who subscribe to Direct Broadcast Satellite (DBS) service may suffer if the Commission permits terrestrial multichannel video data and distribution services (MVDDS) to share the DBS spectrum band without proper protection from interference. That concern has been underscored by my careful review of the report on the congressionally mandated independent test conducted by the MITRE Corporation. That testing demonstrated "significant interference" to DBS subscribers from potential MVDDS providers.

The MITRE report suggests that mitigation techniques, while not eliminating all interference, might make sharing "feasible." The report, however, raises more questions about mitigation than it answers. It mentions over a dozen potential mitigation techniques, including suggestions ranging from increasing the height of MVDDS towers to 200 meters above the highest DBS antennas, to requiring consumers to move, modify or even replace DBS equipment that is currently working to their satisfaction. It is impossible to draw any conclusions as to whether or not the suggested mitigation techniques are practical, and what combination might work under what circumstances.

Clearly, the Commission owes it to the 16 million households – 40 million viewers – that currently subscribe to DBS service to require further testing and examination of the efficacy and practicality of each of these mitigation techniques and combinations before it considers licensing an MVDDS provider in the DBS band. For example, the MITRE report itself recommends further field-testing to validate that pointing MVDDS transmitting antennas north will improve interference protection when satellite elevation angles are low.

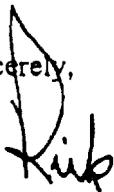
DBS, with 15 percent of the multichannel video distribution marketplace, is on the verge of providing the first meaningful competition to cable – a goal that Congress and the Commission have shared for over a decade. While I would prefer to see even more competition – and I am hopeful that MVDDS ultimately can be accommodated on a non-interference basis in

Chairman Michael K. Powell  
June 20, 2001  
Page Two

some available spectrum – I encourage the Commission to move carefully so as not to permit a new provider to jeopardize the service of the only viable competitor to cable.

Thanking you for your time and attention to this matter, I remain

Sincerely,

A handwritten signature in black ink, appearing to read "Rick", written over a large, stylized letter "R".

Rick Boucher  
Member of Congress

CC: Commissioner Gloria Tristani  
Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps

RB/jem

MICHAEL G. OKLEY  
FOURTH OHIO DISTRICT

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CHAIRMAN



Congress of the United States  
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June 26, 2001

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The Honorable Michael Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Powell:

I am writing to share my ongoing concerns regarding the Commission's handling of the potential introduction of terrestrial service providers into the spectrum band previously reserved for Direct Broadcast Satellite (DBS) service.

For years, Congress has worked to promote choice for consumers of video services. Satellite television has emerged as a viable alternative to cable and, in doing so, has allowed us to move to a policy of favoring competition over regulation. To offer serious competition, however, satellite operators must be able to deliver clear signals to consumers. There is justified concern that signal interference could be caused by certain terrestrial services that have been proposed. In the 106<sup>th</sup> Congress, Majority Leader Dick Armey and I were among those who pushed for an independent assessment of this risk. And, indeed, engineering tests conducted by the MITRE Corporation confirmed that terrestrial systems could cause "significant interference" with satellite signals unless stringent mitigation techniques are implemented.

Because the report seems to have raised more technical questions than it answered, I hope that the Commission will proceed with caution in approving terrestrial services. There should be extensive tests of whether the mitigation techniques will work, under what conditions, and whether, to paraphrase the MITRE report, the costs of mitigation and residual interference outweigh the benefits of coexistence. While we all welcome competition, a new entrant should not be allowed to compromise the quality of an existing service. I appreciate your attention to my concerns.

Yours truly,  
  
Michael G. Okley, M.C.  
Fourth Ohio District

A I R T I M E

# Fear of interference

*DBS 'fights tooth and nail' to protect customers, investment*

By Chuck Hewitt

**A**fter reading Sophia Collier's Airtime column (June 11), it became crystal clear that Northpoint knows no bounds when it comes to confusing and clouding the issue of spectrum sharing in the direct broadcast satellite (DBS) band. Until now, Northpoint has primarily relied on exaggeration and half-truths, but it has advanced to issuing complete untruths.

Congress and the FCC have worked successfully for more than a decade to create competition to cable in the multichannel video marketplace. In just over seven years, nearly 16 million households have signed up for DBS service, and DBS has become what the FCC has called "the principal competitor to cable." Introducing an interference-causing Multichannel Video Distribution and Data Service (MVDDS) like Northpoint's into the DBS band at this critical competitive juncture, thus creating harmful interference to normal DBS operations, would be a total reversal of years of carefully thought-out FCC and congressional policies.

DBS' customer-service rankings are by far the best in the multichannel-TV industry—much higher than those of cable—in large part due to the unparalleled quality and reliability of the DBS signal. To jeopardize that quality to accommodate a secondary user, especially when there is spectrum already available for "wireless cable" systems functionally identical to Northpoint's, is unthinkable. Northpoint can operate its wireless cable service in those spectrum bands where it will not disrupt service to DBS customers, yet neither

Northpoint nor the FCC has explained why those frequency bands would not provide the most suitable home for Northpoint's proposed service.

The congressionally mandated independent testing done by the Mitre Corp. is devastating to the proposal to allow terrestrial "wireless cable" to share the DBS band. The *first* conclusion of the Mitre Report is that Northpoint's proposed service would cause "significant interference" to normal DBS operations. Contrary to Northpoint's claims, the Mitre Report does not recommend a process for licensing MVDDS.

The Mitre Report states that sharing might be feasible "if and only if suitable mitigation measures are applied." These mitigation measures include visiting the homes of DBS customers and suggesting that they move their dishes from one spot to another, get larger satellite dishes, or cover their existing dishes with aluminum "shields." The report then asks whether the costs of mitigating, given the residual spectrum interference, outweigh the benefits. We believe the answer is a resounding "NO," especially considering the residual interference that will remain even after consumers apply such measures.

On the issue of spectrum auctions, the law requires an auction of spectrum for terrestrial operations where bidders can compete. Spectrum auctions are the best market-based mechanism for the allocation of scarce spectrum. More important, spectrum belongs to every American; it is no different from a national forest or a national park. Commercial entities cannot be permitted to simply walk away with this



Hewitt is president of the Satellite Broadcasting and Communications Association, which represents satellite-TV companies

valuable national asset. Unfortunately, Northpoint seeks to do just that, choosing not to bid for the appropriate available spectrum but instead to claim entitlement to a multimillion-dollar gift from the American public.

In one of its most egregious claims to date, Northpoint states that, "on Jan. 1, 2002, DirecTV and EchoStar will likely drop local television stations in dozens of markets so that they can continue to deliver local stations in the most populated markets." Both DirecTV and EchoStar hope not to have to pull *any* local stations from markets they currently serve, and they do not have any such plans. In fact, both are launching spot-beam satellites to add more local channels to comply with the must-carry provision of the Satellite Home Viewer Improvement Act.

Contrary to Northpoint's claims, the DBS providers have not implemented a campaign to keep out competitors. However, we are fighting on behalf of our nearly 16 million current DBS households. We will continue to fight tooth and nail to protect our customers—and the multibillion-dollar investment we made in our businesses—from harmful interference. ■