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November 2, 2001

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 204 B  
Washington, D.C. 20554

Re: MDS America, Inc.  
Ex Parte Presentation, ET Docket No. 98-206

No. of Copies rec'd 012  
A B C D E

Dear Ms. Salas:

Pursuant to section 1.1206 of the Commission's Rules, MDS America, Incorporated ("MDS America"), through its undersigned counsel, writes to report an *ex parte* presentation to Commission staff in the above-referenced docket. On November 1, 2001, Kirk Kirkpatrick, CEO and President of MDS America, Bahman Badipour, of LCC International, Inc., and Helen Disenhaus and Nancy Killien Spooner of Swidler Berlin Shereff Friedman, met with Commissioner Kevin Martin, together with Monica Shah Desai, Interim Legal Advisor for Wireless and International Issues, and Catherine Crutcher Bohigian, Legal Advisor on Cable and Mass Media Issues.

At the meeting, the representatives of MDS America presented Commissioner Martin with copies of LCC International's independent test report, which is already part of this docket.<sup>1</sup> MDS America's representatives discussed the report's results, which conclusively demonstrate that MDS America's Multichannel Video Distribution and Data Service ("MVDDS") technology easily co-exists with Direct Broadcast Satellite ("DBS") operations in the 12 GHz band, under real-world conditions, even if those conditions are far from optimal. MDS America's representatives also explained that the company's technology relies solely on interference mitigation techniques that reside in its MVDDS equipment; DBS customers' receivers, and any other associated DBS equipment, need not be altered in any way to accommodate MVDDS.

The group also discussed the importance of technology-neutral rules for MVDDS, particularly in light of the availability of interference mitigation techniques superior to those of Northpoint. MDS America also outlined its technology's ability to rapidly bring high-quality broadband Internet services and video programming to rural America.

<sup>1</sup> See MDS America *ex parte* submissions of October 17, 2001, October 18, 2001, and October 23, 2001. Due to the great length of the test report, a copy is not attached hereto, and therefore this letter cross-references the report previously submitted in this docket.

Please date-stamp the extra copy of this filing and return it in the enclosed self-addressed, stamped envelope.

Respectfully submitted,

A handwritten signature in black ink that reads "Nancy Killien Spooner". The signature is written in a cursive style with a large initial 'N' and a long, sweeping underline.

Nancy Killien Spooner  
Counsel for MDS America, Incorporated

Enclosures

cc: Kirk Kirkpatrick  
Helen Disenhaus

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of November, 2001, a true and correct copy of the foregoing was served via hand delivery (denoted by \*) or first class United States mail, postage prepaid, on the following individuals:

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