

# SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

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November 7, 2001

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**

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 6, 2001, Kirk Kirkpatrick, CEO and President of MDS America, Peter Blond, Vice President of MDS America, Bahman Badipour, of LCC International, Inc., and Helen Disenhaus and Nancy Killien Spooner of Swidler Berlin Shereff Friedman, met with Julius Knapp, Deputy Chief of the Office of Engineering and Technology ("OET"), Tom Derenge, Chief, Spectrum Policy Branch, of OET's Policy and Rules Division, and Jim Burtle, Chief, Experimental Licensing Branch, of OET's Electromagnetic Compatibility Division.

At the meeting, the representatives of MDS America presented Messrs. Knapp, Derenge, and Burtle 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.

During discussions concerning the variations in DBS signals due to weather attenuation, Dr. Badipour provided simple charts illustrating certain *ad hoc* measurements he took of DBS signals

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<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.

on a clear day in the Washington, D.C. area. The graph, provided for illustrative purposes only, distinctly shows a measurable change in the strength of the DBS signal on a clear day. With rapidly changing weather, as often occurs in Florida, one would expect even greater variations in the DBS signal strength due to natural conditions.

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 described its technology's ability to rapidly bring high-quality broadband Internet services and video programming to rural America. MDS America also outlined its desire to conduct further real-world demonstrations of its equipment, as proposed by Commission staff in recent meetings.

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, flowing style.

Nancy Killien Spooner  
Counsel for MDS America, Incorporated

Enclosures

cc: Kirk Kirkpatrick  
Helen Disenhaus

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</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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