

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7643

NEW YORK OFFICE
405 LEXINGTON AVE.
NEW YORK, NY 10174

November 20, 2001

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

Re: MDS America, Incorporated
***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 19, 2001, Kirk Kirkpatrick, President and Chief Executive Officer of MDS America, Bahman Badipour of LCC International, Inc., and Helen Disenhaus of Swidler Berlin Shereff Friedman, met with W. Kenneth Ferree, Chief of the Cable Services Bureau, together with Barbara Esbin, Associate Bureau Chief, John Wong, Chief of the Engineering and Technical Services Division, and Eloise Gore, Esq., all of the Cable Services Bureau.

At the meeting, the representatives of MDS America presented Mr. Ferree and his staff with copies of LCC International's independent test report, which is already part of this docket.¹ 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.

MDS America stated its support for spectrum auctions for MVDDS. The group also discussed the importance of technology-neutral rules for MVDDS, particularly in light of the

¹ 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.

availability of interference mitigation techniques superior to those of Northpoint. MDS America also described its technology's ability to rapidly bring high-quality broadband Internet services and video programming to rural America and increase the competitive choices available to the public.

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 "Helen E. Disenhaus". The signature is written in a cursive style with a large initial "H".

Helen E. Disenhaus *HE*
Counsel for MDS America, Incorporated

Enclosures

cc: Kirk Kirkpatrick
Nancy Spooner

CERTIFICATE OF SERVICE

I hereby certify that on this 20th 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:

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204
Washington, D.C. 20554
(Electronic Submission to the Docket)

W. Kenneth Ferree, Chief*
Cable Services Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Barbara Esbin, Associate Bureau Chief*
Cable Services Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Eloise Gore, Esq.*
Cable Services Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

John Wong*
Chief, Engineering and Technical Services Division
Cable Services Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

David R. Goodfriend
Director, Legal and Business Affairs
Echostar Satellite Corporation
5701 South Santa Fe Drive
Littleton, CO 80120

Merrill S. Spiegel
Vice President, Government Affairs
DIRECTV
555 11th Street, N.W., Suite 810
Washington, D.C. 20004

Antoinette Cook Bush
Northpoint Technology, Ltd.
444 North Capitol Street, N.W.
Suite 645
Washington, D.C. 20554


Denelle Dixon 