

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of )  
 )  
Establishment of Rules and Policies for the ) IB Docket No. 95-91  
Digital Audio Radio Satellite Service in the ) RM No. 8610  
2310-2360 MHz Frequency Band ) DA No. 01-2570

**COMMENTS IN RESPONSE TO PUBLIC NOTICE**

The Wireless Communications Association International, Inc. (“WCA”), by its attorneys, hereby responds to the International Bureau’s November 1, 2001 *Public Notice* soliciting comment on certain proposals for addressing the interference that terrestrial Digital Audio Radio Service (“DARS”) repeaters can cause to nearby Wireless Communications Service (“WCS”), Multipoint Distribution Service (“MDS”) and Instructional Television Fixed Service (“ITFS”) facilities.<sup>1</sup>

WCA is a member of the WCS Coalition. The WCS Coalition will be filing separately to discuss serious flaws in the International Bureau’s proposal for addressing the interference terrestrial DARS facilities cause to WCS facilities and to propose an alternative solution that features a mechanism for the DARS licensees to transition to the use of the 2 kW EIRP terrestrial facilities that will minimize interference to other services. WCA is submitting the instant comments to support the Bureau’s proposal for compensating licensees of older MDS and ITFS facilities that suffer interference and for providing advance notice to the MDS/ITFS community of terrestrial DARS deployments.<sup>2</sup>

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<sup>1</sup> See “Request for Further Comment on Selected Issues Regarding the Authorizations of Satellite Digital Audio Radio Service Terrestrial Repeater Networks, *Public Notice*, Report No. SPB-176 (rel. Nov. 1, 2001)[hereinafter, the “November 1 *Public Notice*”].

<sup>2</sup> WCA notes that in ET Docket No. 00-258, proposals are pending before the Commission to relocate MDS channels 1 and 2/2A from the 2150-2162 MHz band to other spectrum. In considering the issues presented in IB

For almost two years now, WCA has been calling on the Commission to impose on terrestrial DARS licensees (who operate in the 2320-2345 MHz band) the same obligations towards MDS/ITFS licensees as were imposed on WCS licensees (who operate in the 2305-2320 and 2345-2360 MHz bands) under Section 27.58 of the Commission's Rules.<sup>3</sup> When it adopted the Part 27 rules that govern WCS, the Commission recognized that terrestrial WCS operations in the 2305-2320 MHz and 2345-2360 MHz bands could pose a substantial threat of interference to MDS/ITFS operations, and, among other things, it imposed advance notice requirements and an equipment replacement rule to minimize that risk of interference.<sup>4</sup> WCA has demonstrated at every turn that, to an MDS or ITFS licensee, the risk of interference from terrestrial DARS is no different than the risk of interference from WCS. Yet, the two DARS licensees have continued

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Docket No. 95-91 regarding terrestrial DARS repeaters, the Commission must recognize that allowing such repeaters to operate at high power levels could adversely impact the utility of bands in proximity to the DARS allocation as either spectrum for third-generation wireless services or as replacement spectrum for incumbent licensees in bands the Commission may choose to free for third-generation wireless services. For example, in the *Further Notice of Proposed Rulemaking* in ET Docket No. 00-258, the Commission has sought comment on the possible use of the 2390-2400 MHz band for such purposes. *See 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*, FCC 01-224 (rel. Aug. 20, 2001). In comments submitted in response, it has been suggested that the 2385-2400 MHz band could be a suitable relocation band for MDS channels 1 and 2/2A, for unlicensed PCS relocated from 1910-1930 MHz, or for new Time Division Duplex applications. As the maximum power level permitted for terrestrial DARS increases above 2 kW, the odds increase that the 2385-2400 MHz band will not be suitable for some or all of these potential uses.

<sup>3</sup> See, e.g., Comments of WCA, IB Docket No. 95-91, at 5-6 (filed Feb. 22, 2000); Comments of WCA in Opposition to Grant of STA Requests, File Nos. SAT-STA-20010712-0063 and SAT-STA-20010712-0064 (filed Aug. 21, 2001)[hereinafter "WCA Opposition to STAs"]; Petition for Reconsideration of STA, File No. SAT-STA-20010712-0063 (filed Sept. 28, 2001); Consolidated Reply of WCA, File No. SAT-STA-20010712-0063 (filed Oct. 15, 2001); Petition for Reconsideration of STA, File No. SAT-STA-20010712-0064 (filed Oct. 15, 2001).

<sup>4</sup> See *Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS")*, 12 FCC Rcd 3977 (1977).

to urge the Commission to subject their terrestrial operations to rules that would be far less protective of the MDS/ITFS community than Section 27.58.<sup>5</sup>

The November 1 *Public Notice* implicitly agrees with WCA's prior demonstration that the watered-down rules proposed by the two DARS licensees would unfairly subject the MDS/ITFS community to potential interference.<sup>6</sup> Rather than propose rules modeled on those suggested by the two DARS licensees, the International Bureau has proposed rules that mirror in all material respects the notice and cure provisions of Section 27.58, just as suggested by WCA.<sup>7</sup> For all of the reasons WCA has presented to the Commission over the past two years, WCA concurs with the Bureau's approach and urges the Commission to adopt the MDS/ITFS advance notice and cure proposals suggested in the November 1 *Public Notice*.

Respectfully submitted,

WIRELESS COMMUNICATIONS  
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<sup>5</sup> See Letter from Carl R. Frank, Counsel to Sirius, to Magalie Roman Salas, IB Docket No. 95-91, at Exhibit 1 (filed April 23, 2001); Letter from Bruce D. Jacobs, Counsel to XM, to Magalie Roman Salas, IB Docket No. 95-91, at Exhibit 1 (filed April 25, 2001).

<sup>6</sup> WCA Opposition to STAs at 7 n. 19.

<sup>7</sup> See November 1 *Public Notice* at 4, 7.

## CERTIFICATE OF SERVICE

I, Felicia Lane, hereby certify that the foregoing Comments was served this 14th day of December 2001 by depositing a true copy thereof with the United States Postal Service, first-class postage prepaid, addressed to the parties listed below unless otherwise noted:

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