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March 7, 2002

William Caton, Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte* Submission of MDS America, Incorporated
ET Docket No. 98-206; RM-9147; RM-9245

Dear Mr. Caton:

MDS America, Incorporated ("MDS America"), submits this *ex parte* filing reporting a meeting on March 6, 2002, with staff members of the Commission's Office of Engineering and Technology ("OET"), Wireless Bureau, and International Bureau. Present at the meeting from OET were Julius Knapp, Geraldine Maise, Tom Derenge, Jim Burtle, Ira Keltz, and Gary Thayer; from the International Bureau, Paul Locke; and from the Wireless Bureau, Tom Stanley and Michael Pollak. On behalf of MDS America, in attendance were Peter Blond, Vice President of MDS America, Dr. Bahman Badipour, of LCC International, and Nancy K. Spooner and Helen E. Disenhaus, of Swidler Berlin Shereff Friedman, LLP.

At the meeting, MDS America presented a portion of a videotape demonstrating the actual operations of Multichannel Video Distribution and Data Service ("MVDDS") systems constructed by MDS International (from whom MDS America has licensed this technology), in mountainous areas in Andorra and a fishing town in Greenland. As pointed out by the local system operators, it was important in both situations that the MVDDS operations be relatively low in cost, require minimal day-to-day supervision, and be able to co-exist with Ku-Band satellite services already serving local residents without causing harmful interference to the Ku-Band satellite service reception. In both cases, as attested by the local operators in the videotape, the MVDDS service provided by MDS International satisfied these criteria. (See Attachment A, describing the videotape.)

MDS America also summarized its position on the issues in this docket, with respect to the technical parameters for MVDDS / Direct Broadcast Satellite ("DBS") sharing of the 12 GHz band, as follows:

- ◆ The most important contribution from MVDDS to the public will be to provide an alternative video programming service to consumers in Rural America. Not only do these consumers typically have only one choice of service, *i.e.*, DBS, but the DBS providers have proposed to merge, narrowing their choice of providers down to one as well.
- ◆ If MVDDS is to be deployed in rural areas with the same effectiveness as in urban areas, the technical parameters for rural operations must reflect a basic distinction between the two: population density. In rural areas, services are often scarce, regardless of the facilities or the medium, due to a basic fact; the cost of facilities in rural areas often cannot be spread amongst a group large enough to cover the costs, let alone support a viable business.
- ◆ Just as the Commission would not limit antenna towers to two feet, because no customers could be served under such parameters, the Commission should refrain from restricting MVDDS operations—for *any* MVDDS carrier—to service areas as small as 100 square miles (as proposed by others). *Even if the spectrum is given away to Northpoint*, neither Northpoint nor anyone else can support a rural area service under such conditions.
- ◆ No other parties to this docket have developed, manufactured, installed, operated, and obtained satisfied customers with MVDDS equipment operating in the 12 GHz band. MDS America’s technology licensor, MDS International, has been doing this for many years, and already knows—from real world experience—what the MITRE report concluded: that while “northpointing” mitigation doesn’t work, *other* mitigation techniques, of which there are several, work so well that typically, MVDDS transmissions cannot be detected *at all*, let alone cause anything approaching harmful interference to DBS receivers.
- ◆ MDS America supports a C/I ratio of between 5 dB and 9 dB for rural areas, and 23 dB for urban areas. MDS America also supports the Commission’s DBS outage limits of no more than 2.86% annually or 10 minutes per month. The DBS providers have publicly supported a C/I ratio of 23 dB, while Northpoint has generally advocated a C/I ratio of approximately 20 dB. The reason MDS America advocates lower C/I ratios while supporting the Commission’s proposed DBS outage limits is that it is the only party to this docket with real-world, rather than theoretical, MVDDS experience. MDS systems have been successfully tailored to operate both in very rural areas (such as Greenland) as well as urban areas (such as Lyons, France) without causing harmful interference to DBS operations in the very same band.
- ◆ The LCC International report in this docket demonstrated MDS’ real-world experience for the Commission. The DBS providers have not, to date, submitted any criticism of that report. In fact, the DBS providers only have stated that Northpoint’s northpointing proposal is a failure, and that the MITRE report states as much.¹ However, as Northpoint frequently

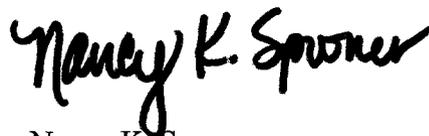
¹ MDS America does not count as criticism the DBS providers’ citation to a letter from a Mr. Patel that is not yet part of this docket. MDS America has more specifically responded to the DBS providers’ allusion to this letter in its *ex parte* filing to this docket of February 19, 2002.

reiterates, and MDS America agrees, the MITRE report concludes that MVDDS and DBS can coexist, with the proper mitigation techniques.

- ◆ MDS America is requesting authority to conduct further demonstrations of its equipment, this time under the same conditions as fully deployed MVDDS systems. The previous tests were restricted by height, bandwidth, and conditions; for example, rainy day operations were not permitted. MDS America is confident that these additional tests will only drive the point further home: its equipment has been carefully developed for the very purpose of sharing the 12 GHz band with DBS without causing harmful interference, and providing service to remote areas just as effectively as urban ones.
- ◆ With respect to the development of a compensation mechanism, MDS America appreciates that such a methodology might be difficult for the Commission to administer. Of course, MDS America does not support a compensation mechanism to the exclusion of the very existence of MVDDS. However, the Commission must address not just spectrum sharing, but also the provision of services that will compete in the market place. MDS America is committed to working with the Commission, its fellow MVDDS providers, and the DBS carriers to create some type of private mechanism for resolving interference disputes. If the Commission can lend its assistance through the establishment of a workshop to address these issues, MDS America certainly will be the first to attend.

MDS America respectfully submits that a large measure of the benefits of MVDDS will be lost if restrictive technical rules, based on discarded premises, preclude its deployment beyond large metropolitan areas. If MVDDS is to be authorized by the Commission, the service should be permitted not only to share the 12 GHz band with DBS, but also to compete directly with DBS, in areas where consumer choices are limited, or even nonexistent.

Respectfully submitted,



Nancy K. Spooner
Counsel for MDS America, Incorporated

cc: Kirk Kirkpatrick
Helen Disenhaus

Summary of Videotape Presentation to Commission Staff

Representatives of MDS America, Incorporated (“MDS America”) recently visited three operating terrestrial systems, one in Andorra, one in Greenland, and the other in Lyons, France, that utilize the MDS International equipment for which MDS America is the sole U.S. licensor. This is the same equipment that MDS America proposes to utilize to provide Multichannel Video Distribution and Data Service (“MVDDS”) in the United States. MDS America’s representatives prepared a short film of the systems and interviewed the system managers responsible for system oversight, with knowledge of the compatibility of the systems with Ku band satellite service reception in Andorra, Greenland, and Lyons, France.

MDS America presented this video footage to the Commission staff members listed in the cover letter transmitted with this summary of the tape. Due to time constraints, only footage of Andorra and Greenland were shown. Below is a summary of the contents of the videotape.

In the first segment, MDS America met with Mr. Josep Rosich,¹ the immediate engineering assistant to Mr. Xavier Jimenez, the Technical Manager and Operations of Servei de Telecomunicacions d’Andorra (STA). Mr. Rosich escorted MDS America’s representatives to the mountaintop where the MDS MVDDS transmitter is located. Mr. Rosich showed a map of Andorra, stating that it is 430 square kilometers, and showing a diagram of their MDS system. In Andorra, Mr. Rosich stated that they utilize the MDS equipment as a backhaul system to three regional distribution sites provide 10 video programming channels on UHF frequencies to every part of Andorra. Mr. Rosich stated that STA looked into utilizing a standard point-to-point microwave system, but found that such a system would be much more expensive, heavy, and difficult to install, in comparison to the MDS equipment.

Mr. Rosich stated that they have received “very satisfactory results” in Andorra from the MDS system. He stated that Andorra has a very complex geography, with numerous small valleys. However, the MDS system allows them to provide 10 video programming channels (several of which are state channels from France, and the Andorran national channel) to 100% of the Andorran territory. He stated that an individual in a small town can receive the same quality of service as if they were in the center of the Andorran capital.

Mr. Rosich stated that STA took into consideration, before choosing the MDS system, that it not interfere with small-dish satellite service reception in the Ku band. Mr. Rosich stated that such lack of interference was an important factor, because the Andorran telecommunications regulator did not want international conventions violated. Mr. Rosich stated that the MDS system transmits at 1 Watt, right in the middle of the Ku band. He also stated that this was possible, without causing interference, by slightly isolating the MDS transmitter, which isolation was provided by the height of the system control building and the antenna structure. Mr. Rosich then showed the satellite receiving antennas installed near the MDS antenna, and stated that this provided good proof that terrestrial systems can coexist with satellite systems in the Ku band.

¹ In its previous summaries of this videotape submitted in *ex parte* filings to this docket on March 6, 2002, MDS America incorrectly identified Mr. Josep Rosich as Mr. Josep. MDS America hereby corrects this error.

In the second segment shown to staff, there is a brief interview with Mr. Kim A. Thompson, the Airport Manager for Maniitsoq, Greenland, discussing the fact that before the installation of the MDS system, Maniitsoq could only receive a single programming channel. He stated that some people in Maniitsoq founded a club, and with some government funding were able to obtain additional programming using the MDS system.

Next, Mr. Frede Heilman, Project Manager of Maniitsoq TV, and an employee of Greenland Telecom, is shown discussing the MDS equipment. He also stated that prior to installation of the MDS system, Maniitsoq only received one radio station and one television station. He stated that Maniitsoq is a 64 degrees North Latitude, which is on the edge of the satellite service footprint. He stated that the MDS system was installed and operational in the summer of 2000, and that during the 1 ½ years of its operation, it has worked properly. He stated that the system is self-managing, only requiring a visit once a week.

Mr. Heilman then demonstrated the antenna receiving the satellite signal, and stated that 11 channels are received, 8 of which are transmitted free-to-air in Maniitsoq. He then stated that they utilize 12 GHz omnidirectional transmitting antennas from MDS. He also stated that the town's citizens use small receive dishes to obtain the terrestrial service signal from the MDS transmitter, which is important because satellite service requires very large receiving dishes in Maniitsoq. He stated that the customers' dishes are able to receive the terrestrial signal from any direction. He also showed a large satellite receive dish and stated that the satellite service customer has continued to receive service since the MDS system was installed.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of March, 2002 a true and correct copy of the foregoing was served via hand delivery (denoted by †), e-mail (denoted by *) or first class United States mail, postage prepaid, on the following individuals:

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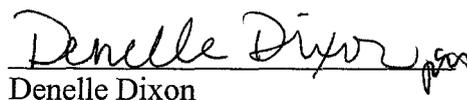
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