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March 13, 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 as a follow-up to its *ex parte* letter of February 12, 2002. In its February 12, 2002 letter, MDS America set forth its recommended Multichannel Video Distribution and Data Service ("MVDDS") technical parameters for sharing the 12 GHz band with Direct Broadcast Satellite ("DBS") service. In its submission, MDS America indicated its support for site-specific equivalent power flux density ("EPFD") limits that result in a carrier to interference ("C/I") ratio of 23 dB, but only in highly urban areas. In rural areas, additional mitigation techniques will permit MVDDS carriers to operate at site-specific EPFD limits that result in C/I ratios of 9 dB, or even 5 dB, while still easily meeting the Commission's requirement of causing DBS outages no more than 2.86% annually or 10 minutes per month.

MDS America continues its full support for this proposal. However, MDS America understands that the Commission may encounter some difficulties in administering site-specific interference criteria. While MDS America still supports such an approach, the company hereby submits a slight alternative that may assist the Commission on this point. Specifically, MDS America proposes that its urban and rural C/I ratios (as specified above) be implemented as equivalent power flux density ("EPFD") limits, on a regional basis. Attached is a map depicting this proposal. (The regions on the map are the same ones proposed by Northpoint.)

Of the parties to this docket, MDS America alone has the real-world experience on which to base its proposal for MVDDS / DBS sharing criteria. As MDS America has expressed before, its proposal is based on actual, operational systems and extensive history in resolving these very issues. MDS America also believes its proposal fulfills important public policy goals, 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, and operated MVDDS equipment in the DBS band, and obtained satisfied customers as a consequence. 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 MVDDS can coexist successfully with DBS, as long as the appropriate mitigation techniques are used.
- ◆ 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.

For these reasons, MDS America supports separate urban and rural EPFD limits on a regional basis, as depicted on the attached map. These figures are founded on MDS America's standing proposal of an urban C/I ratio of 23 dB (again, as stated in previous filings, for highly urban areas only), and a rural C/I ratio of 9 dB or lower. If you have any questions regarding this submission, please contact the undersigned.

Respectfully submitted,



Nancy K. Spooner

Counsel for MDS America, Incorporated

cc: Kirk Kirkpatrick
Helen E. Disenhaus

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of March, 2002, a true and correct copy of the foregoing was served via electronic filing (denoted by †), e-mail (denoted by *) or first class United States mail, postage prepaid, on the following individuals:

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