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ORIGINAL

September 20, 2002

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SEP 20 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

By Messenger

Ms. Marlene H. Dortch
Commission's Secretary
Office of the Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Re: **EX PARTE**
ET Dockets 98-42, 98-153, 98-206 and 02-135
CS Dockets 96-83 and 00-96
IB Docket 95-91
IB Proceedings: SAT-PDR-20020425-00071, SES-LIC-20020709-00023 and SES-LIC-20020111-00075

Dear Ms. Dortch:

The Satellite Broadcasting and Communications Association ("SBCA") hosted a meeting on September 19, 2002, at the offices of Morrison & Foerster LLP, during which the below-listed satellite industry representatives met with Commissioner Kathleen Q. Abernathy, John Branscome (Acting Legal Advisor), Bryan Tramont (Senior Legal Advisor), Stacy Robinson (Mass Media Legal Advisor) and Jason Scism (Special Assistant), of the Federal Communications Commission, to discuss matters addressed in the enclosed presentation.

Satellite industry attendees:

- Andrew Wright, David Murray and Joy O'Brien of SBCA;
- Margaret Tobey and David Munson of Morrison & Foerster LLP (counsel for SBCA);
- Merrill Spiegel of DIRECTV, Inc.;
- David Goodfriend of EchoStar Satellite Corp.;
- Nancy Eskanazi of SES AMERICOM, Inc. ("SES");
- Phillip Spector of Paul, Weiss, Rifkind, Wharton & Garrison (counsel for SES);

- Adam Schwartz of the National Rural Telecommunications Cooperative ("NRTC");
- Jack Richards of Keller and Heckman, LLP (counsel for NRTC);
- Clayton Mowry and Suzanne Chambers of Arianespace, Inc.;
- Lon Levin of XM Satellite Radio;
- Patrick Donnelly of Sirius Satellite Radio; and
- Thomas Loranger of The Paul Laxalt Group, consultant for Sirius Satellite Radio.

In addition to the original copy of this letter, two copies of this letter and two copies of the enclosure have been submitted for inclusion in the public record for each of the above-referenced proceedings as required by Section 1.1206(b) of the Commission's Rules.

Very truly yours,

Margaret L. Tobey

Margaret L. Tobey
Counsel to the Satellite Broadcasting and Communications Association

cc: Commissioner Kathleen Q. Abernathy
B. Tramont
J. Branscome
S. Robinson
J. Scism

Satellite Broadcasting and Communications Association

Lunch with Commissioner Abernathy

September 19, 2002

SBCA Membership

PLATFORM PROVIDERS
- Arianespace
- DIRECTV
- EchoStar
- Globecast
- SES Americom

DBS MEMBERS
- NRTC
- Pegasus

SATELLITE RADIO
- Sirius Satellite Radio
- XM Satellite Radio

SATELLITE BROADBAND
- Channel Master
- Earthlink Corp.
- Hughes Spaceway
- NRTC
- SES AMERICOM
- Starband Communications Inc.
- Verizon Video
- Wink Communications

RETAIL MEMBERSHIP
- Over 750 retailer members
- Members in every one of the contiguous United States
- Members in 8 foreign countries

SBCA Programmer Membership

PROGRAMMERS

- A & E TV Network
- Black Entertainment Television
- Comedy Central
- Discovery Communications
- Disney/ABC Cable Networks
- ESPN
- HBO
- Hubbard Media Group
- Lifetime Television
- MTV Networks
- National Football League
- NBC Cable Networks
- Playboy Entertainment Group
- Rainbow Media Holdings, Inc.
- Scripps Networks
- SHOWTIME Networks
- Starz Encore Group LLC
- Turner Network Sales, Inc.
- USA Networks
- The Weather Channel
- The Wisdom Network

SBCA Programs

- National Standards and Testing Program
- SkyFORUM
- Annual Convention
- Market Research

SBCA Regulatory Issues

- FCC Spectrum Policy
- Direct Broadcast Satellite
- Satellite Radio Service
- Satellite Broadband Operations

FCC Spectrum Policy

- FCC should adopt a flexible definition of harmful interference
  - Satellite signals travel tens of thousands of miles
  - Consumers expect same quality as if signal came from a short distance away
- FCC must protect incumbent users from interference
  - Existing services have customers and investments

ORIGINAL

MVDDS Decision

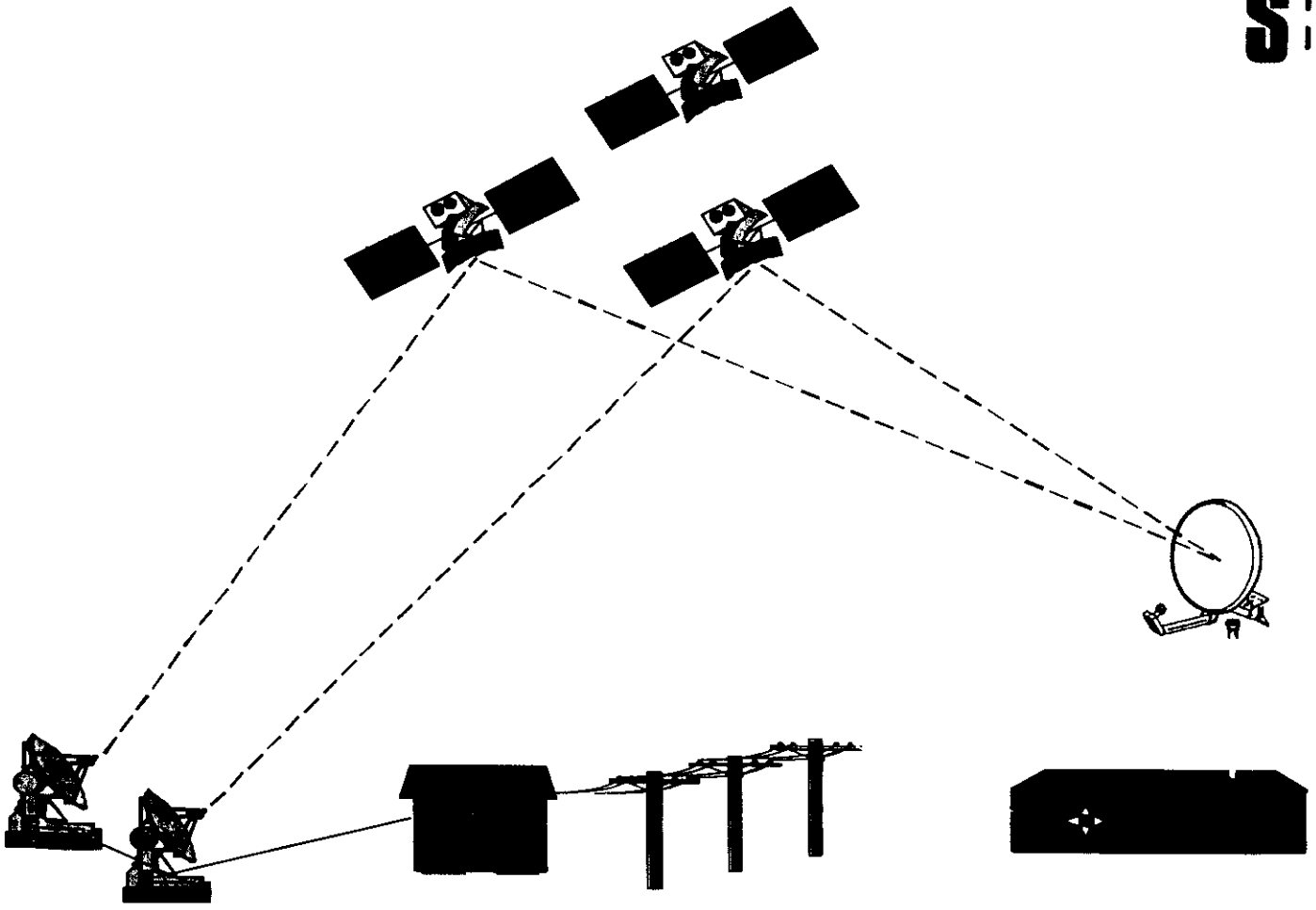
- Departure from FCC policy that band-sharing between satellite and terrestrial services is not feasible in 12 GHz band

- MVDDS operating rules violate the FCC's rule that allocates priority status to DBS in the 12 GHz band
  - Obligation on DBS providers to ensure that MVDDS does not cause interference to DBS operations
  - Future DBS consumers are not protected from interference from MVDDS

Interference to Satellite Radio

- Potential for interference from unlicensed devices
  - Ultra-wideband; 2.4 GHz
  - Part 15 devices (Bluetooth, WiFi)
  - 2.4 GHz Part 18 devices (Fusion lighting)
- Satellite radio is unique in that it possesses fives characteristics that
- make interference of greater potential and greater concern
  - **Satellite** (necessarily sensitive; terrestrial repeaters cover only 1% of U.S. land mass)
  - **Mobile** (prior coordination is not possible)
  - **Mass Media** (consumers demand near perfect service)
  - **Close in Frequency to Unlicensed Devices** (2.4 GHz band is only 55 MHz from upper edge of satellite radio band)
  - **Satellite Radios and Unlicensed Devices Likely to Be Used in Close Proximity to One Another**
- FCC is conducting interference tests

Typical DBS System



Direct Broadcast Satellite

- SES AMERICOM Petition
- Transition to Digital Television
- Extension of OTARD Rule
- Canadian Applications for DBS Service

SES AMERICOM Petition

- AMERICOM2Home platform would increase competition in MVPD market and benefit consumers
  - Lower subscription rates and equipment prices
  - Higher quality content and more diverse programming
  - Benefits to content providers and equipment retailers ultimately benefit consumers
- Interference and policy issues have been raised at the FCC

Transition to Digital Television

- SBCA opposes any forced-carriage regime
- In January 2001, FCC tentatively decided that a dual-carriage mandate would infringe on cable operators' First Amendment rights
- No statutory authority from SHVIA directing the Commission to impose a dual-carriage regime on DBS providers

Extension of OTARD Rules

- In 1996, FCC adopted the Over-the-Air Reception Devices (OTARD) Rule
- The rule prohibits most restrictions that:
  - unreasonably delay or prevent installation, maintenance or use
  - unreasonably increase the cost of installation, maintenance or use
  - preclude reception of an acceptable quality signal.
- Extensions of OTARD Rule
  - In 1999, the Commission extended the rule to apply to rental property where the renter has an exclusive use area
  - In 2000, the Commission further amended the rule so that it applies to customer-end antennas that receive and transmit fixed wireless signals
- The rule should be extended to <u>all</u> viewers
  - Statutory language does not include only single family homeowners and MDU residents who have an area of exclusive use or control

Canadian Applications for DBS Service

- DBAC proposes to offer multichannel video service from Canadian-licensed orbital slots (82° and 91° W.L.)
- WSNet applied to operate DBS service using Canadian-licensed satellites at 82° and 91° W.L.
- FCC must apply ECO-Sat test to evaluate if U.S. operations have effective competition opportunities in the relevant foreign market
- There are existing Canadian limits on U.S.-licensed satellites broadcasting into Canada and severe content restrictions on U.S.-originated programming

Satellite Radio Service

- Earth based uplink from broadcast studio
- Satellite uplink acquisition and re-broadcast
- Signal is rebroadcast through ground-based repeaters which is in-synch with the satellite broadcast

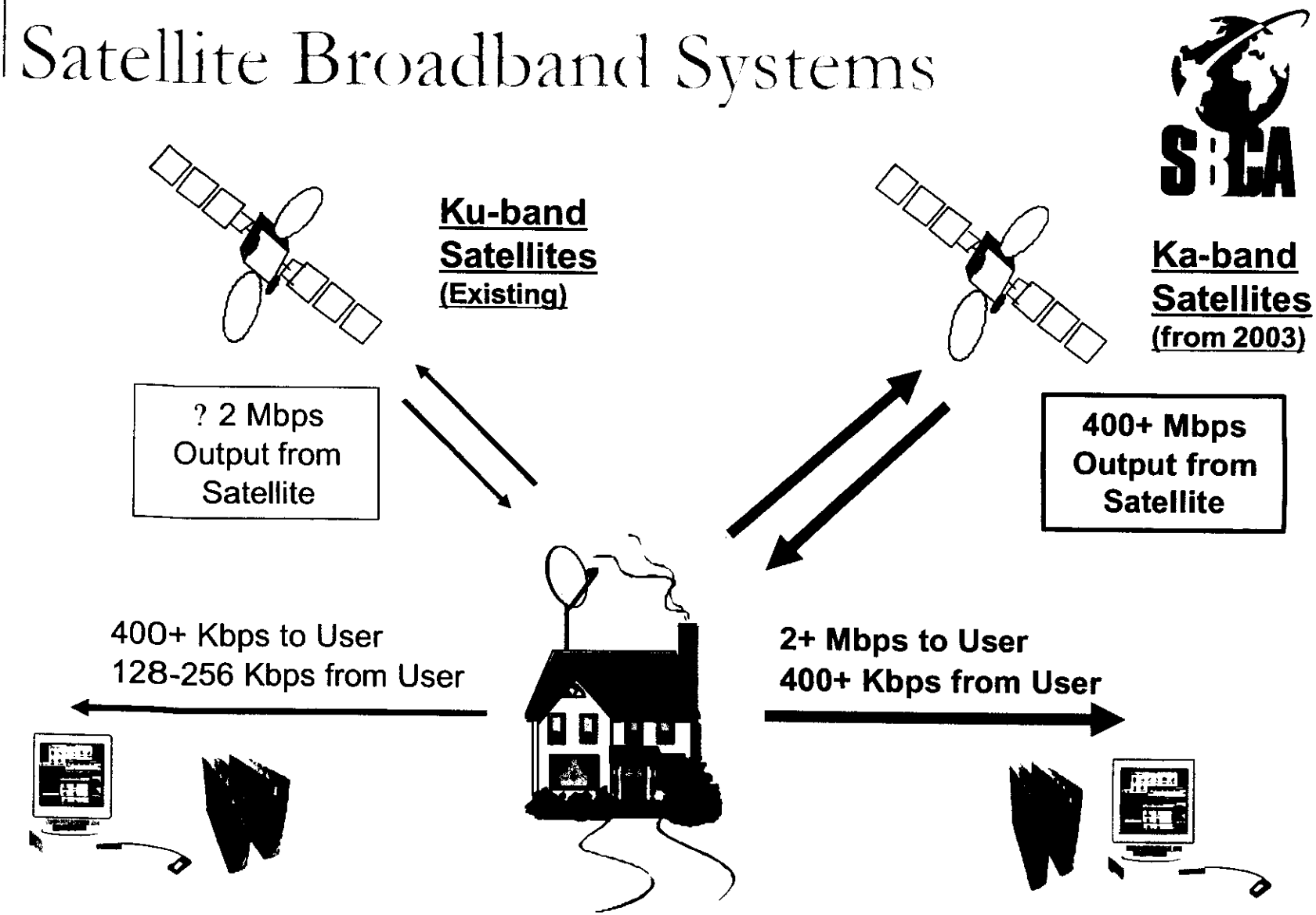
Terrestrial Repeaters

- Used to augment satellite service in urban areas
- Negotiations are on-going with Wireless Communication Service (WCS) industry to resolve interference concerns

Satellite Broadband Operations

- Satellite Broadband Systems
- Current Generation Satellite Broadband
- Next Generation Satellite Broadband
- Role of Government in Broadband Deployment

Satellite Broadband Systems



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Current Generation

- Operates in Ku-band of spectrum: 10-15 GHz
- Consumer equipment: one-meter dish
- Speed comparable to DSL and cable modem
  - Up to 128K bits per second (kbps) bursts from consumer
  - Up to 400 kbps downlink bursts to consumer

Next Generation Satellite Broadband

- Will operate in Ka-band of spectrum: 20-30 GHz
- Will be more affordable for consumers
- Substantially higher speeds- equivalent to T-1 line
  - 400 kbps from consumer
  - 2,000 kbps to consumer
- Smaller consumer equipment
- Use advanced spot-beam satellites
- August 2001: FCC assigned orbital slots for next-generation broadband service
  - FCC's Ka-band licensing policy must consider market conditions and real world construction status

Role of Government in Broadband Deployment

- Provide financially neutral assistance
  - Do not favor one business model over another
- Legislative Incentives should be technology neutral
  - Any incentives created to encourage broadband build-out should be available to all broadband technologies
  - Important when defining "qualifying equipment" that may benefit
- Low interest loans and loan guarantees will benefit consumers
  - High up-front cost of satellite broadband equipment is holding back consumer adoption rates
- Promote market-based solutions to satellite broadband deployment
- Bandwidth Needs are Growing
  - Need access to sufficient spectrum to support large numbers of users and higher-speed services
  - Whether and how spectrum is shared directly affects the number of broadband users that can be served