

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Proposal by the Wireless Communications)
Association International, Inc., the National)
ITFS Association and the Catholic Television) RM 10586
Network for Revising the MDS and ITFS)
Regulatory Regime)

To: Chief, Wireless Telecommunications Bureau

COMMENTS OF WINBEAM, INC.

In response to the Wireless Telecommunications Bureau's request,¹ Winbeam, Inc. ("Winbeam") hereby submits these brief comments in support of the proposals advanced on October 7, 2002 in a White Paper submitted by the Wireless Communications Association International, Inc. ("WCA"), the National ITFS Association ("NIA") and the Catholic Television Network ("CTN") proposing revisions to the Commission's rules applicable to the Multipoint Distribution Service ("MDS") and the Instructional Television Fixed Service ("ITFS").

Winbeam is a small company that was formed for the purpose of providing enhanced data transmission and communication services throughout areas of New York, Pennsylvania and Maryland. Winbeam has acquired, or is in the process of acquiring 11 Basic Trading Areas, 7 MDS stations and the lease rights to an additional 22 MDS and ITFS stations in the region. The business plan of Winbeam was initially buoyed four years ago when the Commission first adopted rules to permit the routine licensing of

¹ "Wireless Telecommunications Bureau Seeks Comment On Proposal To Revise Multichannel Multipoint Distribution Service And The Instructional Television Fixed Service Rules," *Public Notice*, DA 02-2732A, RM-10586 (rel. Oct. 17, 2002).

facilities designed to deliver broadband video, voice and data services.² Winbeam agrees with the fundamental premise underlying the WCA/NIA/CTN proposal – that it is essential for the Commission to adopt rules and policies for MDS and ITFS that promote the evolution of MDS and ITFS towards their highest and best use as data distribution services.

Winbeam supports the emphasis the White Paper places on the deployment of the next generation of broadband technology. It is critical to the further development and efficient use of the MDS/ITFS band that a new regulatory regime be adopted. Currently, the rules are overly restrictive and prevent MDS and ITFS licensees from providing two-way broadband services throughout their authorized service areas. Winbeam urges the Commission to adopt the band plan recommended by the White Paper for several reasons; the proposed band plan not only deinterleaves channel groups, but also introduces a unique flexibility that is able to protect high power, high-site operations while at the same time facilitating broadband cellularized operations.

Winbeam is also encouraged by the proposed elimination of some of the current regulatory burdens and transaction costs associated with the current MDS/ITFS regulatory scheme that can cripple a small business. The removal of these burdens will allow companies like Winbeam to effectively compete in the delivery of broadband services without the worry of undue regulatory delay.

In conclusion, Winbeam applauds WCA, NIA and CTN for their extraordinary efforts to develop a regulatory regime for the MDS and ITFS bands that will, for the first

² See amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licenses to Engage in Fixed Two-Way Transmissions, 13 FCC Rcd 19112 (1998)[“MDS/ITFS Two-Way Report and Order”]; on recon. 14 FCC Rcd 12764 (1999)[“MDS/ITFS Two-Way Reconsideration Order”]; on further recon. 15 FCC Rcd 14566 (2000).

time, actually promote the use of those bands for high-speed broadband distribution to fixed, portable and mobile users. The proposals advanced in the White Paper are well-conceived, represent fair compromises among competing interests and are supported by a strong consensus within the industry. Therefore, Winbeam urges the Commission to quickly issue a Notice of Proposed Rulemaking proposing to adopt the new rules and policies advanced by WCA, NIA and CTN in their White Paper.

Respectfully submitted,

WINBEAM, INC.

By: /s/ John Bunce
John Bunce
President

1300 Arrott Building
401 Wood Street
Pittsburgh, PA 15222

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