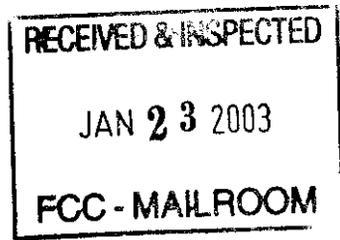


To: FCC Staff

From: Independent MultiFamily Communications Council (IMCC)

Re 18GHz Second Order on Reconsideration, IB 98-172

Date January 9, 2003



IMCC represents Private Cable Operators, formerly known as SMATV operators, which serve the MDU market place, many of which utilize microwave technology. Manufacturers, vendors and MDU owners are also members of IMCC. PCOs compete with franchised cable operators and serve approximately 5 - 6% of the MDU communities with 100 units or more, mostly in urban areas. PCOs provide video channels using both analog and digital transmission. Without adequate and usable radio spectrum, PCOs will not be able to offer a number of analog channels adequate to compete with MSOs.

IMCC members are endeavoring to understand the rationale behind and the impact of the Second Order so that we can continue to serve MDU residents and provide video competition. Following is a list of questions. The answers will help provide guidance for our industry.

The Second Order seemingly bases its conclusions primarily on two assertions. First, because the Commission, earlier this year, adopted the Media Bureau's recommendation that PCOs be allowed to use the lower CARS band (12.7 -13.2), and because there are fewer (104,000 rather than 170,000) links in the 18.3 - 18.58 space than understood when the First Order was issued in June of 2000, there should be enough space in the Lower and Upper CARS bands to accommodate PCO relocation. Second, that OET has done a complete analysis to demonstrate that this usable space is available.

Just as background, it is our view that the Media Bureau's recommendation was primarily issued as a matter of equity, without an in depth analysis of technology or feasibility. That is, if franchised cable is allowed to use the 12.7 - 13.2 space, PCOs, providing much needed competition to franchised cable, should also be allowed to use that space. There was no sophisticated technical analysis regarding the number of licenses or links or users in the Lower CARS band. For instance, it is known that franchised cable is the largest user of the Lower CARS band, but we also know that many of their links are dormant, but we have no details about their actual usage. The lower CARS band was opened to PCOs as a supplement to and not a supplanting of PCO use of the 18.3 - 18.58 space. IMCC is not aware of the "subsequent analysis" referenced in footnote 38, which is the authority for the assertion about the reduced number of links in the 18.3 - 18.58 space.

1) It takes many months to do the preparation necessary to submit an FCC license application. That includes marketing to the MDU and signing a contract. Then the PCO must do all the site layout and work with a company like Comsearch to do the coordination and technical preapplication process. Plus the PCO must find the financing for the project, This is time consuming and costs many thousands of dollars. The Order says that no licenses will be granted after November 19, 2002. What if an application was already in an advanced state of progress or a PCO has made service commitments to an MDU client based on the assumption they could get an 18GHz license?

2) Will there be any difference in treatment of a license granted to a PCO before or after the First Order on Reconsideration issued in June of 2000?

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