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March 7, 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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

Dear Ms. Dortch:

On March 6, 2003, Nancy Killien Spooner and Helen Disenhaus of Swidler Berlin Shereff Friedman, on behalf of MDS America, Incorporated ("MDS America"), met with Barry Ohlson, Interim Legal Advisor to Commissioner Adelstein.

The meeting participants discussed the substance of two MDS America *ex parte* filings submitted to the Commission in the above-referenced docket. Mr. Ohlson received copies of both filings. The first filing, submitted October 15, 2002, concerns the importance of higher rural power limits for Multichannel Video Distribution and Data Service ("MVDDS"). MDS America explained that higher power limits are very important for the provision of low-cost MVDDS in rural areas. MDS America also described how allowing higher rural power limits would provide greater flexibility for avoiding interference to Direct Broadcast Satellite ("DBS") service through use of tall towers and mitigation techniques based on vertical antenna discrimination.

The group also discussed the substance of the October 11, 2002 filing, specifically, MDS America's concern that a 10 year build-out period for MVDDS licenses was too long given the great potential for anti-competitive warehousing of MVDDS spectrum. MDS America instead advocates a 5 year build-out period for MVDDS. Last, MDS America explained its support for the Commission's original decision to license MVDDS based on Component Economic Areas ("CEAs"). The use of CEAs would favor diverse competition and deployment in rural areas, as they are smaller than the proposed alternative, Designated Market Areas ("DMAs"). Given that the proposal to use DMAs was raised in a public notice moving the MVDDS auction forward to

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June, MDS America expressed its concern that smaller companies with business plans based on the Commission's prior decision might be discouraged from participating in the MVDDS auction.

Very truly yours,

A handwritten signature in black ink that reads "Nancy Killien Spooner". The signature is written in a cursive, slightly slanted style.

Nancy Killien Spooner
Counsel for MDS America, Incorporated

cc: Kirk Kirkpatrick
Helen E. Disenhaus

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of March, 2003, a true and correct copy of the foregoing was served via e-mail (denoted by *) and hand delivery, on the following individuals:

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