



May 31, 2005

**Bruce D. Jacobs**  
202.663.8000  
[bruce.jacobs@pillsburylaw.com](mailto:bruce.jacobs@pillsburylaw.com)

By Electronic Filing

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: EX PARTE SUBMISSION  
WT Docket 03-66; Amendment of Parts 1, 21, 73, 74, and 101 of the  
Commission's Rules to Facilitate the Provision of Fixed and Mobile  
Broadband Access, Educational and Other Advanced Services in the  
2150-2162 and 2500-2690 GHz Bands**

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Dear Ms. Dortch:

NY3G Partnership ("NY3G") hereby submits the attached engineering statements in response to the *ex parte* filing submitted by Trans Video Communications ("TVC") on April 27, 2005 ("TVC Engineering Statement").<sup>1</sup> Both technical reports confirm NY3G's prior position that adopting the "split-the-football" approach for the F-group channels in New York City in fact would create a large exclusion zone covering seven million people throughout Manhattan and large portions of Brooklyn and Queens and refute TVC's arguments to the contrary.

TVC makes a number of errors in its technical analysis. TVC assumes a much lower power operation by NY3G than would be reasonable and assumes the existence of an unrealistic level of attenuation. In brief, TVC's imagined system would be incapable of providing reliable in-building service in Manhattan, the nation's most concentrated and important market, and is thus completely impractical. Moreover, TVC ignores base station-to-base station interference and the effects of the FCC's height benchmarking

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<sup>1</sup> NY3G commissioned a second engineering firm to assess independently the merits, if any, of TVC's Engineering Statement and to verify NY3G's prior conclusions regarding the size of the exclusion zone in New York City.

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requirement on base station operations. Taking these factors into consideration, the systems would either have an exclusion zone in the heart of Manhattan of at least 14.2 kilometers wide or be so restricted as to limit service to street level. The deployment of such feeble and unviable systems would not be in the public interest.

TVC also assumes the continued operation of TVC's and NY3G's existing F-group facilities to provide high-power, video services. This is not only nonsensical, given the new rules permitting NY3G to relocate its facilities, but it also highlights TVC's continuing predilection to use this spectrum inefficiently, blocking the deployment of NY3G's state-of-the-art, two-way wireless broadband service to millions of people in the nation's largest market.

New York City is the only market in the country where the substantial overlap in service areas between co-channel licensees occurs near the heart of a major metropolitan area, rather than at the periphery of the market. These circumstances make the "split-the-football" approach uniquely problematic in New York City, at least for the F-group channels. For these reasons, NY3G urges the Commission to resolve the co-channel conflict in New York City by requiring TVC to operate on a secondary, non-interference basis to NY3G. *See, e.g.*, NY3G Comments (January 10, 2005).

Very truly yours,

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/s/

Bruce D. Jacobs  
Tony Lin  
*Counsel for NY3G Partnership*

cc: Chairman Kevin J. Martin  
Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Commissioner Jonathan S. Adelstein  
Scott Delacourt  
Uzoma Onyeije  
John Schauble  
Nancy Zaczek