Exhibit 1 – Statement in Support of Modification to Experimental Station Call Sign WC2XPU

MDS America, Incorporated ("MDS America"), by the instant application, requests authority from the Commission for certain modifications to MDS America's current experimental license under Call Sign WC2XPU. These modifications, which include authority to increase the height of the antenna and the removal (or revision) of certain conditions contained in the experimental license, are proposed to allow MDS America to further demonstrate the non-interfering characteristics of its Multichannel Video Distribution and Data Service ("MVDDS") equipment. Grant of this request to modify the experimental license will also permit MDS America to demonstrate that its MVDDS system is capable of bringing economically viable broadband services to rural America, due to the technical operating parameters of the equipment.

By way of background, MDS America filed an application with the Commission in order to demonstrate that its terrestrial MVDDS system would not adversely impact the reception of DBS service transmissions. *See* FCC File No. 0095-EX-PL-2001. The Commission granted an experimental license on May 2, 2001, with several special conditions, including notification and coordination requirements. On May 21, 2001, the Commission issued a replacement license, which included additional conditions to the station's operations.

MDS America has conducted tests of its MVDDS system subject to the conditions contained in its experimental authorization. LCC International, an independent, internationally respected RF consultant, arranged and observed these tests, collecting data that is summarized in a report prepared by Dr. Bahman Badipour of LCC International. A copy of that report is attached hereto.[1] The report conclusively demonstrates that MDS America's licensed MVDDS technology can easily co-exist with DBS operations without causing harmful interference.[2] The results conform with the experience of MDS International, the technology's licensor, in its deployment of MVDDS systems overseas.

Given the favorable results of the report from LCC International, MDS America now seeks permission to increase the maximum height of its antenna and to remove the limitations on tests conducted during rain conditions. In the Commission's *MVDDS Proceeding*,[3] DBS

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[1] The LCC International report has been filed in the Commission's MVDDS docket; *see MDS America Ex Parte Submission,* October 17, 2001, ET Docket No. 98-206.

[2] While MDS America did receive a few phone calls in July 2001 from DirecTV subscribers with various reception problems, none of those problems could be ascribed to MDS America. MDS America notified the Commission about all complaints. Please see MDS America's File No. EX-PL-2001, or the "View Documents" column in the on-line file for call sign WC2XPU for letters dated July 9, July 11, and July 12, 2001.

[3] *See Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency*

operators argued that the introduction of a signal from a fixed MVDDS transmitter would reduce broadcast satellite signal strength margins significantly, thereby increasing the incidence of increased outages experienced by DBS customers in large portions of an MVDDS service area, primarily during rain events.[4] The Commission stated there were a variety of techniques that an MVDDS operator could use to protect DBS operations from harmful interference, including reducing the power of MVDDS transmitters during periods of DBS fading due to rain.[5]

As described in the LCC International report, MDS America has demonstrated that its technology does not cause harmful interference to DBS transmissions under non-rainy weather conditions. In order to demonstrate that MDS America's MVDDS equipment also does not cause harmful interference to DBS operations in the 12 GHz band under rainy conditions, MDS America respectfully requests that Special Condition No. 10 (no tests during rain conditions) be removed. In fact, Special Condition No. 10 already contemplates the likelihood of operations during rain, as the rest of the condition states that "If rain tests are planned, they must be conducted under controlled conditions. Technical details of any rain tests will be submitted to OET at least 1 week prior to beginning such tests." MDS America respectfully submits that the other conditions generally imposed by the Commission in the experimental license (*e.g.*, notice and coordination requirements, filing of test plans) are adequate to ensure that DBS subscribers in the vicinity of the test area are not harmed.

Furthermore, MDS America seeks the opportunity to demonstrate the full potential of its MVDDS equipment to provide broadband services on an economically viable basis in rural areas. To that end, MDS America requests that Special Condition No. 8 (maximum antenna height limited to 30 meters) be modified to allow for a maximum antenna height of 181 meters above ground level. This change to its experimental operating authority will allow MDS America to demonstrate an MVDDS system of "real-world" proportions, and that system's ability to easily co-exist with DBS operations.

The Commission has stated that permitting MVDDS in the 12 GHz band would be in the public interest because it would contribute to innovations in technology and advanced services, encourage robust competition in the video programming and broadband service markets, and help provide local broadcast signals to unserved or underserved areas.[6] Given that: (1) MDS America has conducted tests under its existing experimental license without causing any harmful interference to DBS operations; (2) based on these tests and prior experience with this MVDDS equipment overseas, there is little risk to existing DBS subscribers under expanded operations; and (3) there are significant benefits that will be derived from expanded experimental operations with the MDS America MVDDS equipment, grant of MDS America's proposed modifications to its experimental license would serve the public interest.

Range, ET Docket No. 98-206, FCC 00-418, First Report and Order and Further Notice of Proposed Rule Making, 16 FCC Rcd 4096 (2000) ("*MVDDS Proceeding*").

[4] *Id*. at ¶ 266.

[5] *Id*. at ¶ 216.

[6] *Id*. at ¶ 291.