



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

August 23, 2002

The Honorable Jon S. Corzine
United States Senate
120 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Corzine:

Thank you for your August 9, 2002 letter concerning the request by Digital Broadband Applications Corp. ("DBAC") to provide competitive interactive video and high-speed Internet services to U.S. consumers via an advanced hybrid satellite network. Specifically, DBAC seeks to operate earth stations in the United States with Canadian-licensed Direct Broadcast Satellite ("DBS") and U.S.-licensed Fixed-Satellite Service satellites (as well as using terrestrial Local Multipoint Distribution Service spectrum, where available) to deliver its proposed service. I respect the serious nature of the issues raised in your letter and appreciate the opportunity to assure you of my commitment to facilitate competition in the multichannel video and broadband marketplaces, as well as technical innovation.

The Commission's International Bureau placed the DBAC Application on Public Notice, establishing a comment cycle that closed in March 2002. In response, several parties filed comments, along with one Petition to Deny. DBAC's application presents a myriad of complex issues. In the record of the proceeding, DBAC asserts that its service should not be considered purely a DBS service because DBAC intends to provide integrated two-way video data. (By comparison, DBS is a one-way service.) This is an important distinction because the United States schedule of commitments under the World Trade Organization Agreement on Basic Telecommunications Services includes an exemption from most-favored-nation obligations for DBS. Under the exemption, the United States is not required to extend most-favored nation treatment in evaluating applications to access non-U.S. satellite systems for such non-covered services. Therefore, if it were determined that the proposed DBAC service is solely a DBS service, under Commission precedent, DBAC will have to satisfy an effective competitive opportunities for satellite services ("ECO-SAT") test demonstrating that U.S. companies have effective competitive opportunities to provide DBS service in Canada. Parties opposing the DBAC application contend that DBAC will not be able to make the ECO-SAT showing, and that waiver of the test is not warranted.

We will include a copy of your letter in the record of this proceeding. The Commission staff currently is conducting a thorough review of the DBAC Application and the public record in the proceeding. I assure you that in its review, the staff will fully consider the points raised in

your letter, and that action on the DBAC Application will be completed as expeditiously as possible.

I appreciate your taking the time to let me know of your interest in this matter. Please do not hesitate to contact me if you have any further questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Powell', written in a cursive style.

Michael K. Powell
Chairman

JON S. CORZINE
NEW JERSEY

COMMITTEES:
BANKING, HOUSING, AND
URBAN AFFAIRS
ENVIRONMENT AND
PUBLIC WORKS
JOINT ECONOMIC
BUDGET

United States Senate

WASHINGTON, DC 20510-3004

502 SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-4744

ONE GATEWAY CENTER
11TH FLOOR
NEWARK, NJ 07102
(973) 645-3030

208 WHITE HORSE PIKE
SUITE 18-19
BARRINGTON, NJ 08007
(856) 757-5353

August 9, 2002

The Honorable Michael Powell
Chairman, Federal Communications Commission
445 12th Street, N.W.
Washington, D.C. 20554

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Sullivan
P
MKP
2910*

Dear Chairman Powell:

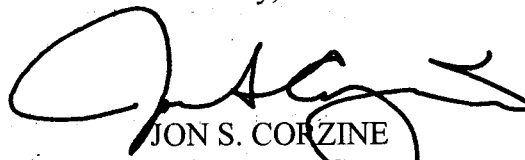
I am writing to encourage the Federal Communications Commission to act expeditiously on the petition of Digital Broadband Applications Corporation (DBAC) to provide satellite broadband video and data services through a combination of U.S. and Canadian satellites and, where available, terrestrial LMDS spectrum.

DBAC has filed a petition to operate an advanced hybrid satellite network to provide high-speed two-way digital data and video services to consumers across the United States. Using a unique system architecture, DBAC could offer innovative services such as video-on-demand and help speed the deployment of high-speed Internet access, especially in rural and underserved markets.

I share your interest in stimulating competition in the broadband and multi-channel video marketplace. Amidst increasing consolidation among service providers in these markets, it is imperative that consumers reap the benefits of competition, such as improved services and lower prices. At the same time, I recognize the need to give full consideration to all issues related to the petition and trust the FCC will give all matters appropriate consideration.

Given the potential public benefits involved, I encourage the FCC to thoroughly and promptly examine DBAC's petition. I appreciate your attention to this matter.

Sincerely,


JON S. CORZINE
United States Senator

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