



January 5, 2021

EX PARTE NOTICE

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Ex Parte Presentation in Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service, RM-11768; IBFS File No. SAT-MOD-20200417-00037; Call Signs: S2983 and S3018

Dear Ms. Dortch:

On January 4, 2021, Jeffrey Blum and Alison Minea of DISH Network Corporation (“DISH”), along with Tom Peters of Hogan Lovells US LLP, spoke by video conference with Ben Arden, Legal Advisor for Commissioner Brendan Carr. Subsequently, on January 5, 2021, Jeffrey Blum and Alison Minea of DISH and Trey Hanbury and Tom Peters of Hogan Lovells spoke by video conference with Erin Boone, Acting Wireless Advisor for Commission Nathan Simington.

During the meetings, DISH discussed the need to continue identifying spectrum for 5G wireless broadband and encouraged the Commission to vote to approve a notice of proposed rulemaking to determine how the 12.2-12.7 GHz band (the “12 GHz band”) can be used for 5G. Freeing the 12 GHz band for terrestrial flexible use (including mobile services) offers a straightforward way to accelerate and strengthen 5G deployment in the United States. A neutral rulemaking proceeding enjoys support from trade associations, public interest groups, communities of color, and multichannel video distribution and data service (“MVDDS”) licensees.¹

The Commission can authorize terrestrial flexible use in the 12 GHz band without upending the status quo. Coordination between direct broadcast satellite (“DBS”) service providers and terrestrial broadband operators is readily manageable. Different antenna orientations, small cells, site selection, and the band’s limited propagation characteristics allow terrestrial broadband operators to avoid DBS receive sites. Similarly, continued technological innovation has made coordination between non-geostationary orbit fixed-satellite service (“NGSO FSS”) constellations feasible for the same reasons: antenna discrimination, small cells, site selection, and other features of the band promise to permit both NGSO FSS and 5G to operate concurrently without disruption. Issuing an NPRM will allow the

¹ See, e.g., Letter from Go Long Wireless, Ltd., Cass Cable TV, Inc., Story Communications, LLC, and Vision Broadband, LLC, to Marlene H. Dortch, Secretary, FCC, RM-11768 et al. (filed Aug. 14, 2020); Letter from Alexi Maltas, SVP & General Counsel, Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC, RM-11768 (filed July 21, 2020); Letter from Harold Feld, Public Knowledge and Michael Calabrese, Open Technology Institute at New America, to Marlene H. Dortch, FCC, RM-11768 (July 9, 2020); Letter from Jennifer M. McCarthy, Vice President, Legal Advocacy, Federated Wireless, Inc., to Marlene H. Dortch, Secretary, FCC, RM-11768 (filed June 15, 2020); Letter from V. Noah Campbell, RS Access, LLC, to Marlene Dortch, Secretary, FCC, RM-11768 et al. (filed June 11, 2020).

Commission to define the precise terms of coexistence among satellite and terrestrial services in the 12 GHz band.

While revisiting twenty-year old constraints on two-way terrestrial services in the 12 GHz band is long overdue, the Commission should not rush to authorize SpaceX's request to effect a wholesale reconfiguration of its NGSO system operations in the 12 GHz band. Indeed, SpaceX has requested permission to lower the altitude of 2,824 of the company's satellites by as much as 785 kilometers and double the number of orbital planes.² By creating a denser web of satellites, SpaceX's proposed modification would increase the power of SpaceX's NGSO system transmitting into co-channel Ku-Band DBS receivers that tens of millions of American consumers depend upon for news, entertainment, and information.³ SpaceX has not demonstrated how its redesigned system will satisfy the equivalent power flux density ("EPFD") limits that exist to protect DBS from harmful interference. SpaceX must make such a showing using realistic assumptions for the number of simultaneously operating satellites in its system, or have its third modification application denied.

Converting MVDDS authorizations in the 12 GHz band from one-way, point-to-multipoint to terrestrial flexible use represents the best way to release 500 megahertz of contiguous mid-band spectrum to a commercial market sorely in need of these resources. During the meetings, DISH urged the Commission to vote to approve the notice of proposed rulemaking currently on circulation.

Please contact me with any questions regarding this submission.

Sincerely,

/s/

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² See generally Third Modification Application of SpaceX, File No. SAT-MOD-20200417-00037 (filed Apr. 17, 2020).

³ See Letter from Jeffrey Blum, Executive Vice President, External and Legislative Affairs, DISH Network LLC, to Marlene Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20200417-00037 (filed Aug. 6, 2020); Letter from Jeffrey Blum, Executive Vice President, External and Legislative Affairs, DISH Network LLC, to Marlene Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20200417-00037 (filed July 14, 2020); Letter from Jeffrey Blum, Executive Vice President, External and Legislative Affairs, DISH Network LLC, to Marlene Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20200417-00037 (filed June 16, 2020).