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July 31, 2020

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex parte* submission in GN Docket Nos. 18-122 & 20-173

Dear Ms. Dortch:

Discovery, Inc., Fox Corp., The Walt Disney Company, and Univision Communications, Inc. (collectively, the "Content Companies") depend on the services of satellite operators for reliable distribution of the nation's most popular programming to more than 100 million American television households. This reliance extends to all satellite operator services that ensure the uninterrupted distribution of programmers' signals, including support and restoration services. The Content Companies therefore agree with Intelsat and SES that the Commission should support inclusion of restoration services—which by necessity entail use of in-orbit satellites—in satellite operators' transition plans.[1]

The longstanding in-orbit restoration services of satellite operators provide a failsafe that allows for the prompt restoration of distribution services in the event of transponder failure or loss of satellite function. Programmers continue to rely on these restoration services to protect the quality and reliability of their signals, and satellite operators are contractually obligated to provide these protections. Preserving these incumbent restoration services as part of the migration to the upper 200 MHz thus is appropriate *and* necessary to fulfill the comparability standard of the C-band Order.[2] It also would promote the Commission's broader goals of

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[1] *See, e.g.*, Letter from Laura H. Phillips, Counsel for Intelsat License LLC, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 18-122 and 20-173 (filed July 27, 2020) ("July 27, 2020 Intelsat *Ex Parte* Letter"); *see also Intelsat License LLC C-Band Transition Plan*, GN Docket No. 18-122, at 13 (filed June 19, 2020); *SES Americom, Inc. Accelerated C-Band Transition Implementation Plan*, GN Docket No. 18-122, at 5–6 (filed June 19, 2020).

[2] *See Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2422 ¶ 194 n.518 (2020) ("*C-Band Order*") ("[C]omparability for video distribution services requires that the video quality of the end-to-end, programmer-to-viewer chain is at least as good as it is today.").

maintaining redundancy in the delivery of communications services upon which the public depends.[3]

The Content Companies recognize that confusion concerning reimbursement for expenses associated with "in-orbit spares" dedicated to restoration services may simply reflect a misunderstanding of the vital role and function of these satellites. Although these satellites do not broadcast continuously from all of their transponders, they are not "spares" in any ordinary sense of the word; instead, as they do today, these satellites will actively preserve programmers' contractual signal protection and service restoration rights.

In its preliminary transition plan, Intelsat included a replacement satellite (Galaxy 12R) with a C-band payload at 129° W.L. to provide a consistent level of restoration services protection.[4] The Content Companies agree with Intelsat that without the restoration services made possible by this in-orbit satellite, "any failure of a transponder or other in-orbit anomaly would leave the customers without transmission ability and would constitute an unacceptable risk to their businesses."[5] SES similarly has included plans to launch an "in-orbit spare" satellite to be collocated at 103° W.L., which will enable it to meet existing contractual guarantees to programmer customers.[6]

In the C-band Order, the Commission appropriately found that a successful transition requires that the "video quality of the end-to-end, programmer-to-viewer chain [remain] at least as good as it is today."[7] The ability to restore programming services promptly in the event of a satellite failure via another in-orbit satellite is a critical part of that chain. Accordingly, the Commission should clarify that costs necessary to preserve satellite restoration services—including the launch of additional in-orbit satellites—are eligible for reimbursement.

Please direct any questions to the undersigned.

Sincerely,

Matthew S. DelNero
Counsel for the Content Companies

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[3] *See, e.g.*, *Review of the Emergency Alert System*, Second Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 13275, 13290–91 ¶¶ 29–31 (2007); *see also Communications Infrastructure Security, Access, and Restoration Working Group Final Report*, Media Security and Reliability Council, at 8 (Feb. 25, 2004); *Adopted Best Practices Recommendations*, Media Security and Reliability Council, at 4–5 (Dec. 9, 2003).

[4] *See Intelsat License LLC C-Band Transition Plan* at 13.

[5] July 27, 2020 Intelsat *Ex Parte* Letter at 3.

[6] *See SES Americom, Inc. Accelerated C-Band Transition Implementation Plan* at 6.

[7] *C-Band Order*, 35 FCC Rcd at 2422 ¶ 194 n.518.