

August 6, 2020

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: *Notice of Ex Parte Communication, RM-11768*

Dear Ms. Dortch:

On August 4, 2020, attendees from Space Exploration Technologies Corp. (“SpaceX”) met telephonically with Chairman Pai and his advisor Aaron Goldberger, and on a separate call with Umair Javed from Commissioner Rosenworcel’s Office to discuss a 2016 petition for rulemaking (the “2016 Petition”).<sup>1</sup> SpaceX attendees are listed in Attachment 1.

The 2016 Petition proposes to remove Non-Geostationary Orbit (“NGSO”) satellite operations from the 12.2-12.7 GHz band (the “12 GHz Band”) so that new rights can be bestowed upon Multichannel Video and Data Distribution Service (“MVDDS”) licensees. But the Commission opted not to move forward with this proposal in 2016, and instead authorized NGSO systems like Starlink to use the 12 GHz Band. This decision proved correct and has been a major success for the Commission. In just two years since the Commission issued a license to SpaceX, the company has launched over 500 satellites and is manufacturing user equipment designed specifically to use the 12 GHz Band to provide broadband to otherwise unserved communities across in the United States.

The need for this high-speed, low-latency service has never been more clear or more urgent. But just as SpaceX is beginning to roll out this needed service, the MVDDS licensees are attempting to resurrect their stale 2016 Petition, having never successfully deployed and begun offering MVDDS services. If allowed to proceed, this effort would undercut NGSO efforts and deprive consumers living in unserved areas of the country of the robust broadband service they require.

But as part of this latest iteration of the MVDDS proposal, the MVDDS licensees seem to have abandoned key tenets of their 2016 Petition. Despite the strong language in the original petition, they now appear to argue for a so-called “neutral” proposal, including vague nods to sharing the 12 GHz Band. While SpaceX supports spectrum sharing as a general matter, the MVDDS licensees have not submitted any proposal under which they

---

<sup>1</sup> MVDDS 5G Coalition Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service, RM-11768 (filed Apr. 26, 2016) (“2016 Petition”).

would be able to share the band with NGSO systems while operating with the vastly expanded rights they have requested. To the contrary, the MVDDS licensees have already concluded that “coexistence between MVDDS 5G operations and NGSO FSS operations is not possible.”<sup>2</sup> They reiterated that “coexistence between NGSO FSS and MVDDS is not [feasible]” and therefore they would not conduct any further study.<sup>3</sup> No engineer has questioned these conclusions in the four years this docket has been pending. In fact, as recently as December 2019, Dish Network (the largest MVDDS licensee) continued to rely on these conclusions, stating categorically that “concurrent sharing of spectrum between co-primary 5G and NGSO FSS operations is not viable in the 12 GHz Band.”<sup>4</sup>

In contradiction to its newfound embrace of sharing just as NGSO operations begin and massive capital outlays have been made by NGSOs, the MVDDS licensees also return to their inaccurate talking points that NGSO operators can (and should) simply move to other spectrum. This argument once again runs counter to the facts and demonstrates a deep misunderstanding of spectrum licenses. As noted above, SpaceX cannot simply move to other bands as it has already deployed an expansive network that depends on this band to deliver broadband to consumers. Moreover, unlike terrestrial wireless operators, NGSO operators do not have flexible-use licenses and cannot just change frequency bands.

The Commission recently confirmed that its “top priority is closing the digital divide so that all Americans can enjoy the many benefits of a high-speed broadband Internet connection – whether job opportunities, remote learning, telehealth, or staying connected to family and friends.”<sup>5</sup> The Commission should remain steadfast in its commitment to close the digital divide and dismiss the 2016 Petition.

Very best regards,

/s/ David Goldman

David Goldman  
Director of Satellite Policy

SPACE EXPLORATION  
TECHNOLOGIES CORP.  
1155 F Street, NW  
Suite 475  
Washington, DC 20004  
Tel: 202-649-2641  
Email: [David.Goldman@spacex.com](mailto:David.Goldman@spacex.com)

---

<sup>2</sup> Tom Peters, MVDDS 12.2-12.7 GHz Co-Primary Service Coexistence (June 8, 2016) *as attached to* Comments of MVDDS 5G Coalition at Attachment I, File No. RM-11768 (filed June 8, 2016).

<sup>3</sup> Tom Peters, MVDDS 12.2-12.7 GHz Co-Primary Service Coexistence II (June 23, 2016) *as attached to* Reply Comments of MVDDS 5G Coalition at Appendix A, File No. RM-11768 (filed June 23, 2016).

<sup>4</sup> Letter from Alison Minea, DISH Network L.L.C., to Marlene H. Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20180319-00022, File No. RM-11768, at 3 (filed Dec. 2, 2019).

<sup>5</sup> *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, DA 20-796, ¶ 1 (WCB, rel. July 29, 2020).



## Attachment 1

### **SpaceX Attendees**

Elon Musk (Meeting with Chairman Pai only)

Mark Juncosa (Meeting with Chairman Pai only)

Tim Hughes

David Goldman