

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Process Reform for Executive Branch Review) IB Docket No. 16-155
of Certain FCC Applications and Petitions)
Involving Foreign Ownership)

COMMENTS OF THE SATELLITE INDUSTRY ASSOCIATION

The Satellite Industry Association (“SIA”)¹ hereby comments on the above-captioned Notice of Proposed Rulemaking (“NPRM”) seeking “to improve the timeliness and transparency” of the Federal Communications Commission’s (“FCC’s” or “Commission’s”) referral of certain applications with reportable foreign ownership interests to the relevant Executive Branch agencies (“Team Telecom”).² SIA supports the clarification in this proceeding that the Commission does not, and will not, refer non-common carrier earth station applications for Executive Branch review.

¹ SIA is a U.S.-based trade association providing representation of the leading satellite operators, service providers, manufacturers, launch services providers, and ground equipment suppliers. For more than two decades, SIA has advocated on behalf of the U.S. satellite industry on policy, regulatory, and legislative issues affecting the satellite business. For more information, visit www.sia.org. SIA Executive Members include: The Boeing Company; DIRECTV; EchoStar Corporation; Intelsat S.A.; Iridium Communications Inc.; Kratos Defense & Security Solutions; Ligado Networks; Lockheed Martin Corporation; Northrop Grumman Corporation; OneWeb; SES Americom, Inc.; Space Exploration Technologies Corp.; SSL; and ViaSat, Inc. SIA Associate Members include: ABS US Corp.; Artel, LLC; COMSAT Inc.; DigitalGlobe Inc.; DRS Technologies, Inc.; Eutelsat America Corp.; Global Eagle Entertainment; Glowlink Communications Technology, Inc.; Hughes; iDirect Government Technologies; Inmarsat, Inc.; Kymeta Corporation; O3b Limited; Panasonic Avionics Corporation; Planet Labs Inc.; TeleCommunication Systems, Inc.; Telesat Canada; TrustComm, Inc.; Ultisat, Inc.; and XTAR, LLC.

² *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, FCC 16-79 (June 24, 2016) (“NPRM”).

Previously in its comments on a May 10, 2016 letter from the National Telecommunications and Information Administration (“NTIA”),³ SIA expressed concern that any new rules would sweep too broadly and embrace applications for non-common carrier earth stations not now subject to Team Telecom review.⁴ In the NPRM, the FCC acknowledged that non-common carrier earth station applications currently are not referred to Team Telecom.⁵ Additionally, the FCC clarified that only common carrier earth stations requiring a Section 310(b) foreign ownership ruling are subject to Executive Branch review.⁶ Finally, the Commission confirmed it was not proposing “to expand the types of applications that [it refers] to the Executive Branch.”⁷ SIA entirely agrees. Specifically, SIA supports continuation of the policy not to refer non-common carrier earth station applications, and common carrier earth station applications that do not require a Section 310(b) foreign ownership ruling, to Team Telecom and accordingly not to impose the information requests or certifications requested by the Executive Branch on such applications.⁸

³ FCC Public Notice, NTIA Letter Regarding Information and Certifications from Applicants and Petitioners for Certain International Authorizations, IB Docket No. 16-155, DA 16-531, page 1 (“FCC Public Notice”); Letter from Assistant Secretary Lawrence E. Strickland, NTIA, to FCC Secretary Marlene H. Dortch (May 10, 2016) (“NTIA Letter”).

⁴ Comments of the Satellite Industry Association at 2-4 (filed May 23, 2016) (“SIA Comments”).

⁵ NPRM, ¶ 15.

⁶ *Id.*

⁷ *Id.*, ¶ 13.

⁸ Of course, as the Commission properly recognizes, a non-common carrier earth station authorization “may be included as part of a referral of associated applications, such as an international section 214 application or an assignment or transfer of control application.” *Id.*, n.39.

SIA also agrees with many of the FCC’s remaining proposals, particularly advance certification of adherence to lawful requests for information under relevant law,⁹ the proposal not to refer domestic section 214 applications to the Executive Agencies,¹⁰ and the institution of 90-day “shot-clocks” for Executive Branch decision making.¹¹ Each of these policies will speed processing of applications, including transfers of control, while reducing administrative burdens on both the Commission and the Executive Branch.¹²

SIA does not, however, agree with the proposal to allow the Executive Branch an additional 90 days to review a proposed transaction¹³ as this could cause significant harm to commercial transactions and is not in line with the timeline imposed by other agencies responsible for similar national security reviews. As the Commission notes, the initial 90-day review period is made up of the 30-day comment period allowed for all applications for transfer of control plus an additional 60 days if the Executive Branch specifically requests the Commission to defer action on the application.¹⁴ This proposal is consistent with the timelines imposed on national security reviews conducted by the Committee on Foreign Investment in the United States (“CFIUS”).¹⁵ As the Commission notes, the entire CFIUS review process, including additional time for more complicated reviews, takes no more than 90 days. The Commission does not provide a reason why a review in the context of a request for transfer of

⁹ *Id.*, ¶ 31.

¹⁰ *Id.*, ¶ 14.

¹¹ *Id.*, ¶¶ 36, 39-41.

¹² The FCC should be careful to craft rules that do not demand excessive public information disclosure in exchange for the benefits of its new policies. *Cf.* NPRM, ¶¶ 21-24.

¹³ *Id.*, ¶ 42.

¹⁴ *Id.*, ¶ 40.

¹⁵ *Id.*, ¶ 41, n.116.

control would be any more complicated than a CFIUS review requiring a full three months of additional time. A six month review process could have a significant impact on potential commercial transactions, which would undermine the purpose of the Commission's efforts to streamline the review process.

In sum, the Commission wisely narrowed potentially overbroad language of the NTIA letter, clarifying that non-common carrier earth station applications would *not* be referred to Team Telecom. Given that, SIA supports, in general, the NPRM's proposals to speed and streamline Executive Branch approval, but requests that the review period be limited to no more than 90 days.

Respectfully submitted,

/s/

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