September 1, 2016

Ex Parte

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

Re: Terrestrial Use of the 2473-2495 MHz Band for Low-Power Mobile Broadband Networks; Amendments to Rules for the Ancillary Terrestrial Component of Mobile Satellite Service Systems, IB Docket No. 13-213, RM-11685

Dear Ms. Dortch:

Globalstar, Inc. ("Globalstar") has recently suggested that the answer to resolving the widespread concerns regarding its proposed Channel 14 service is for the Commission to permit additional Channel 14 operations by other parties. We write today to reiterate that Globalstar's original terrestrial low power service ("TLPS") proposal would disrupt Bluetooth-dependent consumers, and to emphasize that the company's new, more expansive proposal would be even worse.

As numerous parties in this proceeding have explained, Globalstar proposed TLPS operations on Channel 14 could substantially degrade consumers' use of the 2.4 GHz band—in some cases potentially rendering their existing devices or applications unusable. Specifically, TLPS deployments could impair adjacent Wi-Fi operations,[1] as well as frequency-hopping technologies such as Bluetooth that depend on access to the top of the 2.4 GHz unlicensed band

[1] *See, e.g.*, Letter from Hien Le, Sr. Compliance Counsel, Nintendo of America, Inc., to Marlene H. Dortch, Secretary, FCC (filed July 5, 2016) ("NOA Ex Parte"); Letter from Paula Boyd, Director, Government Relations and Regulatory Affairs, Microsoft Corp., to Marlene H. Dortch, Secretary, FCC (filed June 24, 2016) ("Microsoft Ex Parte"); Letter from Paul Margie, Counsel to NCTA, Harris, Wiltshire & Grannis LLP, to Marlene H. Dortch, Secretary, FCC (filed June 6, 2016); Letter from Julie M. Kearney, Vice President, Regulatory Affairs, Consumer Technology Association, to Marlene H. Dortch, Secretary, FCC (filed June 22, 2016); Letter from J. Vince Jesaitis, Vice President, Government Affairs, Information Technology Industry Council, to Marlene H. Dortch, Secretary, FCC (filed June 20, 2016) ("ITI Ex Parte"); Letter from Stephen E. Coran, Counsel to WISPA, Lerman Senter PLLC, to Marlene H. Dortch, Secretary, FCC (filed May 29, 2015); Letter from Russell H. Fox, Counsel to Wi-Fi Alliance, Mintz Levin, to Marlene H. Dortch, Secretary, FCC (filed Apr. 30, 2015); Letter from Rob Alderfer, Principal Strategist, CableLabs, to Marlene H. Dortch, Secretary, FCC (filed Apr. 14, 2015). All letters referenced herein were filed in IB Docket No. 13-213.

to operate reliably.[2] If the Commission permits Globalstar to deploy its requested service, the result could be significant harm to consumer uses of the 2.4 GHz band ranging from Wi-Fi access points, to FDA-regulated medical devices such as hearing aids with Bluetooth and similar wireless features, to widely distributed consumer devices such as video game consoles.[3]

The record confirms, moreover, that approving Globalstar's proposed service through a series of staggered 'trial' deployments would not address these concerns.[4] This approach incorrectly assumes that individual, non-technical users in the 2.4 GHz band could successfully identify, evaluate, and report instances of interference attributable to Globalstar.[5] Equally problematic, the trial-deployment proposal does not appear to have any mechanism to ensure that Globalstar's trial TLPS systems would operate with power levels, protocols, and traffic loads that adequately represent the interference potential of a fully operational TLPS system with the high levels of utilization that Globalstar presumably seeks.[6]

Globalstar and others have recently suggested that the Commission could move forward with Globalstar's request if the Commission also established a "framework to permit third parties to obtain opportunistic use of Channel 14 where Globalstar has not deployed TLPS… ."[7] But this proposal would do nothing to address the fundamental concerns raised in this proceeding regarding the impact of TLPS on existing 2.4 GHz users.[8] Simply put, permitting other parties to also use Channel 14 in areas where TLPS does not operate would not reduce harms caused by TLPS operations. Indeed, permitting other parties to transmit throughout Channel 14 is likely only to compound the problems with Globalstar's proposal. As one observer succinctly put it,

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[2] *See, e.g.*, NOA Ex Parte; Microsoft Ex Parte; ITI Ex Parte; Letter from Michael Warnecke, Chief Counsel, Technology Policy, Entertainment Software Association, to Marlene H. Dortch, Secretary, FCC (filed June 6, 2016) ("ESA Ex Parte"); Letter from Laura A. Stefani, Counsel for the Hearing Industries Association, Fletcher, Heald & Hildreth, to Marlene H. Dortch, Secretary, FCC (filed Apr. 21, 2016) ("HIA Apr. 21 Ex Parte"); Letter from Paul Margie, Harris, Wiltshire & Grannis LLP, to Marlene H. Dortch, Secretary, FCC (filed Jan. 19, 2016); Letter from Mark Powell, Executive Director, Bluetooth SIG, Inc., to Marlene H. Dortch, Secretary, FCC (filed Mar. 20, 2015).

[3] *See, e.g.*, ESA Ex Parte at 1; HIA Apr. 21 Ex Parte at 2; ITI Ex Parte.

[4] *See, e.g.*, HIA Apr. 21 Ex parte at 2; NOA Ex Parte; Microsoft Ex Parte.

[5] *See, e.g.*, HIA Apr. 21 Ex Parte at 2; *see also* Letter from Microsoft, Nintendo of America, and Sony Interactive Entertainment America to Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly at 2 (filed Jun. 6, 2016).

[6] ESA Ex Parte at 2.

[7] *See, e.g.*, Letter from Regina M. Keeney, Counsel to Globalstar, Lawler, Metzger, Keeney & Logan, LLC, to Marlene H. Dortch, Secretary, FCC (filed Aug. 16, 2016). *See also* Letter from Michael Calabrese, Director, Wireless Future Project, Open Technology Institute at New America, to Marlene H. Dortch, Secretary, FCC (filed Aug. 15, 2016).

[8] HIA June 21 Ex Parte at 2; NOA Ex Parte; Microsoft Ex Parte.

"allowing increased use of Channel 14 will do nothing but double down on the interference risk."[9]

Finally, apart from the substantive concerns with Globalstar's proposal that opportunistic use of Channel 14 would not resolve, moving directly to an order that includes third party use of this spectrum would violate the Administrative Procedure Act ("APA").[10] Opportunistic unlicensed use of Channel 14 appears nowhere in the Commission's Notice of Proposed Rulemaking in this proceeding, nor is it a logical outgrowth of any of the proposed actions the Commission has discussed.[11] If the Commission wishes to consider rules that would include opportunistic use of Channel 14, it should first provide notice and meaningful opportunity to comment on this proposal, consistent with its obligations under the APA.[12]

In short, the record in this proceeding does not provide the Commission with an adequate basis to adopt the rule changes sought by Globalstar. The Commission should not take any action on Globalstar's request absent a more meaningful assessment of the impact of Channel 14 operations on existing consumer uses of the 2.4 GHz band.

Respectfully submitted,

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9 Letter from Paul J. Sinderbrand and Mary N. O'Connor, Counsel to the Wireless Communications Association International, Wilkinson, Barker, Knauer LLP, to Marlene H. Dortch, Secretary, FCC at 2 (filed June 13, 2016).

10 *See id.* at 2-3.

11 *Id.* at 3.

12 *See* 5 U.S.C. § 553.