

November 5, 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 November 3 and 4, 2020, the undersigned, of Space Exploration Technologies Corp. (“SpaceX”), met via teleconference, separately, with the Federal Communications Commission (“Commission”) staff listed on Attachment A to discuss the above-captioned proceeding. In the meetings, SpaceX discussed its position with respect to the 2016 petition for rulemaking to limit SpaceX’s access to the 12.2-12.7 GHz band (the “12 GHz Band”),¹ consistent with SpaceX’s previous filings in this proceeding.²

In recent filings,³ Multichannel Video Distribution and Data Service (“MVDDS”) licensees and the groups they support make the confusing assertion that the swelling opposition against their petition somehow compels the Commission to move forward with a rulemaking. The diverse parties opposing the MVDDS licensees’ demands include telecom industry groups, tribal consumers that already benefit from the band, and a broad array of public interest groups. Among other valid points, these groups explain that the MVDDS licensees have been unable to provide any technical evidence that contradicts previous record demonstrations that the MVDDS licensees’ demands would necessarily harm consumers of other services in the band. Yet, the MVDDS licensees now allege that these commonsense points somehow compel the Commission to ignore the technical evidence and propose new rules nonetheless. Quite simply, this conclusion makes no sense.

¹ 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”).

² See, e.g., Letter from David Goldman, Director of Satellite Policy, SpaceX, to Marlene H. Dortch, Secretary, FCC, RM-11768 (filed Oct. 20, 2020); Letter from David Goldman, Director of Satellite Policy, SpaceX, to Marlene H. Dortch, Secretary, FCC, RM-11768 (filed July 22, 2020); Letter from David Goldman, Director of Satellite Policy, SpaceX, to Marlene H. Dortch, Secretary, FCC, RM-11768 (filed July 10, 2020); Letter from David Goldman, Director of Satellite Policy, SpaceX, to Marlene H. Dortch, Secretary, FCC, RM-11768 (filed June 4, 2020).

³ See, e.g., Letter from Jeffrey H. Blum, Executive Vice President, External and Legislative Affairs, DISH Network L.L.C., to Marlene H. Dortch, Secretary, FCC, RM-11768 (filed Oct. 23, 2020).

The logic put forth by DISH Network L.L.C. (“DISH”) and others would all but invalidate any certainty provided by the Commission’s licensing authority. Under DISH’s suggested standard, if any party filed a petition for rulemaking to permit new operations in any spectrum band, for example AWS-4, the Commission would be obligated to initiate a rulemaking in response. In fact, under DISH’s logic, opposition to the petition would only “raise new questions” that strengthen the case for immediate Commission action, meaning current licensees such as DISH could only build out their networks at their own risk. Obviously, such a standard would destabilize the regulatory certainty businesses require to invest the billions of dollars needed to deploy new networks. Ultimately, the consumers of these networks, such as those that currently rely on SpaceX’s network, would be left behind.

Unfortunately, SpaceX is also forced correct the record to address misleading statements about its own license. The MVDDS licensees have alleged that the Commission imposed a condition on SpaceX’s license stating that SpaceX could only deploy in the 12 GHz band at its own risk. The MVDDS licensees have gone so far to say that a condition imposed on *another operator’s license* applies to SpaceX.⁴ SpaceX’s license contains no such condition. To be sure, SpaceX’s license does make the straightforward statement that its authorizations are “subject to modification to bring it into conformance with any rules or policies adopted by the Commission in the future.”⁵ But, of course, this condition does not apply only to the 12 GHz Band, and in fact, all licenses issued by the Commission are subject to future Commission action. Hence, under the arguments raised by the MVDDS licensees, no licensee should deploy in any licensed spectrum band because that investment would be at risk of the Commission invalidating the authorization later. This interpretation would effectively render all Commission authorizations meaningless. But even if this interpretation was somehow valid, the Commission granted SpaceX a license with no such condition just this year to operate up to one million user terminals in the 12 GHz Band.⁶ Otherwise unserved consumers are already reaping the benefits of this authorization.⁷ SpaceX’s license, and the authorizations issued to other satellite users of the 12 GHz band, are just as valid as those of any other licensee in any other frequency band.

⁴ See Letter from Bruce E. Fox, Managing Member of General Partner of Go Long Wireless, Ltd., to Marlene H. Dortch, Secretary, FCC, RM-11768 (filed Aug. 14, 2020).

⁵ See *Space Exploration Holdings, LLC Application for Approval for Orbital Deployment and Operating Authority for the SpaceX NGSO Satellite System, et al.*, IBFS File No. SAT-LOA-20161115-00118 *et al.*, Memorandum Opinion, Order and Authorization, FCC 18-38, at para. 40(r) (2018).

⁶ See Radio Station Authorization, IBFS File No. SES-LIC-20190211-00151 (granted Mar 13, 2020) (call sign E190066).

⁷ Pursuant to its space station and blanket earth station authorizations, SpaceX’s Starlink system is actively using its authorized spectrum, including the 12 GHz Band, to serve customers such as the Hoh Tribe in Washington State. See, e.g., Newsweek, “SpaceX Starlink Internet ‘Catapulted Us Into the 21st Century,’ Native American Tribe Says” (published Oct. 9, 2020), available at <https://www.newsweek.com/spacex-starlink-internet-hoh-tribe-washington-state-elon-musk-1537783>.



Very best regards,

/s/ David Goldman

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Director of Satellite Policy

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The SpaceX logo is located in the bottom right corner of the page. It features the word "SPACEX" in a bold, blue, sans-serif font. To the right of the text is a stylized, grey, curved line that represents a rocket's trajectory or a wing, curving upwards and to the right.

SPACEX

ATTACHMENT

Commission Attendees

November 3, 2020

Erin McGrath, Legal Advisor to Commissioner O’Rielly

Bill Davenport, Chief of Staff and Senior Legal Advisor to Commissioner Starks

November 4, 2020

Mary Claire York, Legal Advisor to Commissioner Rosenworcel