

December 2, 2019

EX PARTE PRESENTATION

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

Re: WorldVu Satellites Limited, IBFS File No. SAT-MOD-20180319-00022, Call Sign S2963; Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service, RM-11768

Dear Ms. Dortch:

DISH Network L.L.C. and South.com L.L.C. (together, “DISH”) submit this letter to respond to WorldVu Satellites Limited’s (“OneWeb’s”) continued efforts to disparage MVDDS licensees and their investments in the 12.2-12.7 GHz band (“12 GHz Band”).¹ Unlike OneWeb, the MVDDS licensees paid for their spectrum in a public auction and have deployed services across the nation. The Commission should reject OneWeb’s unsupported claims that it must operate in the 12 GHz Band for its yet-to-be-launched service, especially given that OneWeb has long been on notice that the Commission could take future action to optimize the 12 GHz Band for terrestrial 5G use. The 12 GHz Band is an important spectrum resource to help the United States lead the world in 5G. OneWeb cannot use this band without harming this 5G opportunity, and OneWeb has more than ample other spectrum resources available should it launch a service in the future. For all of these reasons, DISH urges the Commission to reject OneWeb’s continued efforts to undermine efficient use of the 12 GHz Band.

I. MVDDS LICENSEES PURCHASED THEIR SPECTRUM AT AUCTION AND HAVE BUILT OUT THEIR LICENSES

The Commission should reject OneWeb’s baseless claim that MVDDS licensees are “fail[ing] to utilize the 12 GHz band in hopes of successfully reaping a spectrum windfall.”² As an initial matter, MVDDS licensees competitively bid for their licenses at auction. By contrast, Non-Geostationary-Satellite Orbit (“NGSO”) operators like OneWeb received their authorizations without competitive bidding. Current MVDDS licensees and their predecessors were winning bidders in FCC Auction 53 and have invested in the deployment

¹ See Letter from Brian D. Weimer, Counsel for WorldVu Satellites Limited (OneWeb), to Marlene H. Dortch, Secretary, FCC, Oct. 17, 2019 (“OneWeb Letter”).

² OneWeb Letter at 3.

of new services in the 12 GHz Band.³ MVDDS licensees therefore have strong investment-backed expectations regarding their spectrum usage rights.

And, contrary to OneWeb’s attempt to downplay ongoing deployment,⁴ MVDDS licensees have deployed various services throughout the United States, in spite of serious regulatory constraints on power, antenna height, and other operating parameters.⁵ For its part, DISH certified in June 2019 that it has met all of its relevant construction milestones.⁶ By contrast, OneWeb has not paid for spectrum rights it has received for its hoped-for NGSO constellation and has yet to launch services.

II. ONEWEB AND ALL OTHER STAKEHOLDERS HAVE BEEN ON NOTICE FOR YEARS ABOUT THE FUTURE OF THE 12 GHZ BAND

As OneWeb has long been aware, through the MVDDS 5G Coalition, some of the MVDDS auction winners have asked the FCC for permission to deploy two-way, 5G wireless services to make more efficient and beneficial use of the 12 GHz Band.⁷ It is therefore puzzling to hear that OneWeb has “launched satellites and begun constructing network infrastructure that will utilize the 12 GHz band[.]”⁸ OneWeb also claims, without support or explanation, that optimizing the 12 GHz Band for 5G use would “drastically alter the operating environment in the 12 GHz band” and “undercut [] billions of dollars in investment” by NGSOs.⁹

In fact, OneWeb and other stakeholders have been on notice for several years that MVDDS operators would be constructing terrestrial operations in the 12 GHz Band, and that the Commission was contemplating action to improve the regulatory rules to better support innovative terrestrial 5G applications in the band. More than two years ago, the FCC made clear that if NGSO operators use the 12 GHz Band, they assume the risk that future

³ See *Multichannel Video Distribution and Data Service Spectrum Auction Closes: Winning Bidders Announced*, Public Notice, 19 FCC Rcd 1834 (2004).

⁴ See OneWeb Letter at 2-3.

⁵ See 47 C.F.R. §§ 101.1401 *et seq.*

⁶ See, e.g., SOUTH.Com L.L.C., Buildout Demonstration, Call Sign WQAW335, filed July 22, 2019, available at https://wireless2.fcc.gov/UlsApp/ApplicationSearch/applAdmin.jsp;JSESSIONID_APPSEARCH=z4k6dYQGrrLVh62shbZcztJpwHRws3TGxGhBhrTxzM5Mqy0fWLSC!-1987816417!1805222569?applID=11630203#; DISH Network L.L.C., Buildout Demonstration, Call Sign WQAR665, filed July 24, 2019, available at <https://wireless2.fcc.gov/UlsApp/ApplicationSearch/applAdmin.jsp?applID=11634358#>.

⁷ See Petition of MVDDS 5G Coalition for Rulemaking, RM-11768 (Apr. 26, 2016) (“5G Petition”).

⁸ OneWeb Letter at 2.

⁹ *Id.* at 3.

Commission action to support greater terrestrial use of the band could result in additional conditions or restrictions on their operations:

“[T]oday’s conditional grant of OneWeb’s request does not preclude the Commission from initiating a rulemaking proceeding regarding the 12.2-12.7 GHz band ... any investments made toward operations in this band by OneWeb in the United States **assume the risk that operations may be subject to additional conditions or requirements as a result of such Commission actions.**”¹⁰

For OneWeb to protest that its claimed investments would be threatened by the pending rulemaking petition filed by the MVDDS 5G Coalition is disingenuous as best.

III. ONEWEB ALREADY HAS AMPLE SPECTRUM AND WOULD THREATEN IMPORTANT 5G POTENTIAL IF IT SEEKS TO USE THE 12 GHz BAND

OneWeb also argues, without support, that the 12 GHz Band is “critical for the provision of next-generation, NGSO-based connectivity services and applications to U.S. consumers.”¹¹ And yet, OneWeb’s amended NGSO application seeks the use of more than **18,000 megahertz** of spectrum across multiple bands.¹² As the pending rulemaking petition explained years ago, concurrent sharing of spectrum between co-primary 5G and NGSO FSS operations is not viable in the 12 GHz Band.¹³

Given the generous spectrum allocations OneWeb seeks, it is unclear why it continues to insist that it must have access to the specific 500 MHz of spectrum in the 12 GHz Band, especially given the need for additional spectrum to support terrestrial 5G services in the United States. The Commission has correctly identified as a national imperative the need to expand broadband deployment and ensure U.S. leadership in 5G by “evaluat[ing] spectrum bands *in all ranges* and ensur[ing] that there is no gap in our policies in terms of *enabling new opportunities for flexible broadband use.*”¹⁴ To that end, the 12 GHz Band spectrum offers 500 MHz of continuous spectrum that propagates better than the millimeter wave (mmW) spectrum that the FCC has been auctioning (such as various 28 GHz, 37 GHz, 39 GHz and 47

¹⁰ See, e.g., WorldVu Satellites Limited Petition for a Declaratory Ruling Granting Access to the U.S. Market for the OneWeb NGSO FSS System, Order and Declaratory Ruling, IBFS File No. SAT-LOI-20160428-00041, FCC 17-77 ¶ 6 (June 23, 2017) (emphasis added).

¹¹ OneWeb Letter at 2.

¹² See Amendment of WorldVu Satellites Limited, IBFS File No. SAT-AMD-20180104-00004 (Jan. 4, 2018).

¹³ 5G Petition at 22-23.

¹⁴ *Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz*, Notice of Inquiry, 32 FCC Rcd 6373, ¶ 6 (2017) (emphasis added).

GHz licenses).¹⁵ The 12 GHz Band thus represents a clear opportunity to put more 5G spectrum into use in the near term.

Long-overdue modernization of MVDDS operational constraints would unleash this spectrum to support terrestrial services to U.S. consumers and businesses. OneWeb fails to explain why the 12 GHz Band should be removed from the terrestrial 5G pipeline, especially when NGSOs have ample other spectrum resources at their disposal.

IV. CONCLUSION

DISH urges the Commission to modernize its 12 GHz rules by acting on the long-pending petition for rulemaking for this band. As OneWeb has long been aware, the 12 GHz Band represents an important 5G spectrum resource for U.S. leadership in wireless technology, and OneWeb has placed no evidence in the record to suggest the Commission should prioritize NGSO use of the band at the expense of all other uses.

Respectfully Submitted,

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¹⁵ See Industry Note, *12 GHz: Another option for US 5G Spectrum*, NEW STREET RESEARCH, Nov. 3, 2019.