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

In the Matter of	)	
	)	
Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States	)	IB Docket No. 96-111
	)	DOCKET FILE COPY ORIGINAL
and	)	
	)	
Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations	)	CC Docket No. 93-23 RM-7931
and	)	
	)	
COMMUNICATIONS SATELLITE CORPORATION Request for Waiver of Section 25.131(j)(1) of the Commission's Rules As It Applies to Services Provided via the Intelsat K Satellite	)	File No. ISP-92-007

REPLY COMMENTS
OF
AMSC SUBSIDIARY CORPORATION

AMSC Subsidiary Corporation ("AMSC") hereby submits its reply to the comments submitted in response to the *Notice of Proposed Rulemaking* in the above-referenced proceeding. AMSC's principal concern, as expressed in its comments, is that the Commission retain its policy of limiting the domestic use of foreign satellite systems if the use of such systems would impact adversely on the availability of spectrum for systems licensed by the Commission. The Commission has consistently recognized that there is a

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spectrum shortage in the MSS L-band in which AMSC operates, which requires such a policy. A few of the comments dispute the impact of a change in Commission policy on the availability of spectrum in the MSS L-band, and AMSC responds briefly to those arguments below. This is not the proper proceeding, however, for a full discussion of that issue. The only issue properly before the Commission in this proceeding is the inclusion of spectrum availability as a factor to be considered in reviewing applications to use foreign satellite systems. On that point, it does not appear that any of the parties disagree.

Three parties submitted comments proposing to use foreign satellite systems in the MSS L-band to provide domestic Mobile Satellite Service: TMI Communications and Company, Limited Partnership ("TMI"), which operates a recently-launched MSS system in Canada; Comsat Corporation ("Comsat"), which is the U.S. signatory of Inmarsat; and BT North America Inc. ("BT"), which is affiliated with the British signatory to Inmarsat.[1] None of these parties argue against maintaining spectrum availability as a key part of any Commission review of such a proposal. Instead, they contend that there would be no adverse impact on spectrum availability for the U.S. system if they were permitted to provide service in the United States using their respective foreign systems. TMI implies that the U.S. government has always contemplated that the AMSC and TMI systems would provide North-American-wide service. BT contends that the Commission can eliminate the

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1/ Charter Communications International, Inc. ("Charter") submitted comments that support the use of the Mexican satellite, Solidaridad, to provide service in the United States. AMSC understands, however, that Charter is interested only in the use of Solidaridad for Fixed Satellite Service in bands other than the MSS L-band.

distinction between international and domestic MSS without affecting the spectrum available to AMSC. All three argue that the recent temporary coordination arrangement among the North American MSS systems resolves any concerns about spectrum availability.

AMSC disagrees strongly with these characterizations of the facts. The Commission has consistently supported the joint development of the Canadian and American MSS systems because of the efficiency that is involved in joint procurement and the availability of mutual back-up. At no point, however, has the Commission indicated that the Canadian system would routinely and permanently provide service in the United States to U.S. customers.[2]

BT's claim that any impact on spectrum availability would be minimal is submitted without any support, except a reference to a seven-year old pleading that was itself conclusory. No one should misunderstand or be cavalier about the extent of the spectrum scarcity in the MSS L-band. The Commission recently indicated that it is unlikely that

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2/ AMSC supports permitting the U.S. and Canadian domestic systems to serve their respective domestic customers when they temporarily require service in the other country. An example of this is continued service to a domestic customer who crosses the border and travels temporarily in the other country. Such reciprocity should provide added convenience to the systems' customers without having a substantial impact on spectrum availability and without necessarily having any impact on international frequency coordination. Similarly, it is appropriate for either of the two systems to provide limited service to the other country if there is a temporary technical limitation to the domestic system. The provision of space segment by AMSC to New East, cited by TMI, is an example of such limited service. It represents the temporary provision of Standard C-like data service until TMI builds the necessary ground segment to provide the service using its own satellite. The Commission's decision in *DISCO I* does not require a different approach by the Commission.

AMSC will ever gain access to a full 20 MHz, let alone the 28 MHz initially assigned to it.[3] The international frequency coordination focuses on as little as a few kilohertz of spectrum. Even the smallest additional loss of available spectrum for the U.S. system is significant.[4]

The recent signing of a temporary arrangement for international frequency coordination is not a panacea. It is merely a temporary arrangement and requires further negotiations for future arrangements, the success of which are impossible to predict at this time. All that can be said with any certainty is that the negotiations will be more difficult if foreign systems are permitted to provide service in the United States.[5]

The three proponents of using foreign systems contend that such systems will provide necessary competition to U.S. customers. The Commission, however, has recognized that the U.S. system faces substantial competition from a wide range of other services, including satellite and terrestrial services, and that spectrum availability is a

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3/ *Notice of Proposed Rulemaking* in IB Docket No. 96-132, FCC 96-259 (June 18, 1996).

4/ AMSC also disputes the contention that service to receive-only mobile terminals will have no impact on spectrum availability. Comments of TMI, p. 18; Comments of Comsat, p. 40. The typical application for service to such terminals is likely to be a paging service. To the extent that a foreign system is providing a paging service in the U.S. to U.S. customers, it undoubtedly will require more spectrum than otherwise. Thus, such a contention is flatly wrong.

5/ Teledesic expresses its concern that the issue of spectrum availability may be used improperly to exclude systems such as its own from providing service in other countries. AMSC understands this concern. The fact that the issue may be misused, however, does not detract from its legitimacy in some cases, such as in the international frequency coordination of the MSS L-band.

predominant concern.[6]

BT also suggests that AMSC is not capable of providing aeronautical service. *See also,* Comments of AT&T. In fact, AMSC does offer aeronautical service and is compatible with accepted international standards. Moreover, with the proper gateway facility, aeronautical customers of Inmarsat may operate on AMSC-1 when they are in the United States.[7]

Conclusion

Therefore, for the above-stated reasons, AMSC urges the Commission to continue to

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6/ See *Order on Reconsideration and Further Notice of Proposed Rulemaking* in CC Docket No. 87-75, FCC 96-161 (May 9, 996) (the "*Aeronautical NPRM*"), para. 20. In the *Aeronautical NPRM*, the Commission cites competition that AMSC faces from other U.S. satellite systems such as Qualcomm's Omnitracs system and Orbcomm's land mobile and maritime service, and likely future competition from low earth orbit systems.

7/ AMSC also disputes several other statements made by BT with respect to aeronautical communications. While these issues are better addressed in response to the Commission's *Aeronautical NPRM*, a brief response is appropriate here. Specifically, it is possible for aircraft to switch from Inmarsat to AMSC space segment as it enters U.S. airspace, since the aircraft crew should be aware of its location and the location of relevant geographic boundaries. Moreover, the ICAO Standards and Recommended Procedures contain a technical mechanism for transferring communications from one system to another.

limit the U.S. domestic use of foreign satellites in the MSS L-band.

Respectfully submitted,

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August 16, 1996

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CERTIFICATE OF SERVICE

I, Cindi Smith Rush, a secretary to the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., hereby certify that on this 16th day of August, 1996, I served a true copy of the foregoing "Reply Comments" of AMSC Subsidiary Corporation by first class United States Mail, postage prepaid, to each person on the attached service list.

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