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August 16, 1996

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VIA HAND DELIVERY

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Joint Reply Comments in IB Docket No. 96-111

Dear Mr. Caton:

Transmitted herewith for filing on behalf of Newcomb Communications, Inc. ("Newcomb") and Mobile Datacom Corporation ("Mobile Datacom") are an original plus nine copies of their Joint Reply Comments in the above-referenced docket. If there are any questions regarding this please contact the undersigned counsel.

Sincerely,

Terri B. Natoli

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CHG

Terri B. Natoli
Robert E. Stup, Jr.
Counsel for Newcomb Communications, Inc.
and Mobile DataCom Corporation

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

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AUG 16 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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)
)
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)
)
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)
)

IB Docket No. 96-111

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CC Docket No. 93-23
RM-7931

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File No. ISP-92-007

JOINT REPLY COMMENTS

Newcomb Communications, Inc. ("Newcomb") and Mobile Datacom Corporation ("Mobile Datacom"), by counsel, hereby jointly submit their reply comments in the above-captioned proceeding¹ and respectfully state as follows:

On July 15, 1996, Newcomb and Mobile Datacom, along with numerous other parties, submitted initial comments on the DISCO II NPRM. These comments varied widely in their views on the Commission's proposed rules for authorizing U.S. earth stations to access non-U.S.

¹Hereinafter referred to as the "DISCO II NPRM".

licensed space segment for the provision of service in the U.S. Most parties suggested modifications to the Commission's proposals to account for unique circumstances affecting their particular service offerings.

Newcomb and Mobile Datacom, radiodetermination satellite service ("RDSS") licensees and operators of data messaging and position determination systems in the 1610-1626.5 MHz frequency band, focused their initial comments ("Joint Comments") on two primary issues associated with the proposed non-U.S. satellite-use rules which directly relate to their ability to continue offering U.S. customers, on an uninterrupted basis, the valuable and highly-demanded RDSS services which they currently provide. First, Newcomb and Mobile Datacom urged the Commission to adopt an additional test for use in evaluating applications to access non-U.S. satellite capacity to provide service in the United States. This test, an "Insufficient U.S. capacity" test would be used in those situations where U.S.-licensed space segment was insufficient, unavailable or technically or economically impractical to meet the space segment requirements of the U.S. applicant to provide service to U.S.-based customers. In the case of an applicant which is currently providing service to U.S. users, and the authority to access non-U.S. licensed space segment is critical to its ability to continue to serve these U.S. users, an even more compelling basis for adopting this additional test exists. Moreover, the ability to access non-U.S. licensed space segment, without regard to the Eco-Sat criteria, to provide U.S. service in situations where there is insufficient U.S. satellite capacity would further the Commission's goal of ensuring the greatest availability of satellite services to the U.S. public, the basic underpinning of the rules proposed in the DISCO II NPRM.

Second, the Newcomb and Mobile Datacom Joint Comments demonstrated to the Commission the significant differences from a technical, marketplace, and policy perspective

which exist within the category of services proposed to be covered under the broad "MSS" service classification. As such, Newcomb and Mobile Datacom proposed a sub-categorization of services within the broad MSS service category for use in considering applications to access non-U.S. space segment for mobile satellite-related applications. Specifically, Newcomb and Mobile Datacom proposed a sub-division of the MSS service category to account for the differences which exist in the non-U.S. regulatory environment between low-data-rate, packetized, non-voice, non-switched MSS data services like those provided by Newcomb and Mobile Datacom and global high-data-rate fully-interconnected MSS voice and switched data services such as those proposed to be offered by the Big LEOs.

The issues raised by Newcomb and Mobile Datacom in their Joint Comments gained support from other parties submitting comments on the DISCO II NPRM. Of particular note are the comments submitted by Capital Cities/ABC, Inc., CBS Inc., National Broadcasting Company, Inc. and Turner Broadcasting System, Inc. (collectively, "the Networks") wherein these parties also propose the adoption of an alternative to the Eco-Sat test proposed in the DISCO II NPRM to allow access to non-U.S. satellites for the distribution of international video transmissions.² Similar to the Newcomb and Mobile Datacom "Insufficient U.S. capacity" test, the Networks have stated:

[T]he Commission should not apply the Eco-Sat test to a non-U.S. satellite that a broadcaster wishes to access for an international video transmission if *there are no alternative sources of satellite capacity* with the requisite power bandwidth and coverage (footprint) to provide the required service.³ (emphasis added).

²See Comments of Capital Cities/ABC, Inc., CBS Inc., National Broadcasting Company, Inc. and Turner Broadcasting System, Inc. ("Network Comments") at Section IV.

³*Network Comments* at 11.

While the Commission's underlying policy-objective in proposing the Eco-Sat test is a sound one, *i.e.*, to foster the greatest possible availability of efficient and innovative satellite communications services for users in the United States⁴ without distorting the competitive satellite services market within the United States due to regulatory and legal disparities or barriers in non-U.S. markets for U.S. licensed systems, this objective may be achieved in situations like those cited by Newcomb, Mobile Datacom and the Networks where U.S. licensed satellite capacity may not exist or may be inadequate to meet the needs of a U.S. service provider and authorizing access to a non-U.S. licensed satellite system to meet this need, without regard to the Eco-Sat framework, will have no adverse public interest impact on the U.S. public.

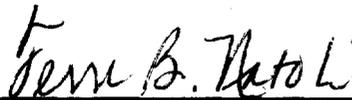
Finally, Newcomb and Mobile Datacom reiterate their request for a subdivision of the MSS service category to consider unique factors associated with certain services falling under the broad "MSS" service umbrella, specifically, the low-data-rate packetized non-voice, non-interconnected MSS data services offered by Newcomb and Mobile Datacom as compared with the global, high-data-rate, fully-interconnected MSS voice and data services to be offered by the Big LEOs. Newcomb and Mobile Datacom believe this MSS subdivision will bring to the U.S. public the greatest availability of innovative RDSS services at the earliest possible date.

⁴*DISCO II NPRM* at ¶ 8-12.

WHEREFORE, in view of the foregoing, as well as the proposals set forth by Newcomb and Mobile Datacom in their Joint Comments in this proceeding, it is respectfully requested that the Commission factor these views into the final rules it adopts in this proceeding and find that the public interest will be served by modifying its proposed rules accordingly.

Respectfully submitted,

NEWCOMB COMMUNICATIONS, INC.
AND MOBILE DATACOM CORPORATION



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