

orbit locations within five years of grant, and to launch the remainder of its satellites by the date required by the International Telecommunication Union to assure international recognition and protection of these satellites.⁷⁷ For NGSO FSS systems, we adopt the same implementation schedule as we did for the Big LEOs.⁷⁸ Specifically, we will require NGSO FSS licensees to begin construction of its first two satellites within one year of the unconditional grant of its authorization, and complete construction of those first two satellites within four years of that grant. Construction for the remaining authorized operating satellites in the constellation must begin within three years of the initial authorization, and the entire authorized system must be operational within six years.

3. *Reporting Requirements*

62. We will also follow the new Part 25 rules for reporting requirements for FSS systems.⁷⁹ Specifically, a licensee will be required to file an annual report with the Commission describing: the status of satellite construction and anticipated launch dates, including any major problems or delays encountered; a listing of any non-scheduled transponder (GSO FSS) or satellite (NGSO FSS) outages for more than 30 minutes; and the cause(s) of such outages; and a detailed description of the utilization made of each transponder (GSO FSS) or satellite (NGSO FSS) on each of the in-orbit satellites.⁸⁰

H. **International Operations**

1. *The Process in General*

63. The United States is under a treaty obligation, in connection with its membership in the ITU, to coordinate all U.S. authorized services internationally. The ITU's coordination procedures are intended to ensure that the operations of one country's satellites do not cause or receive harmful interference to or from the operations of another country's satellites. The procedure for effecting coordination of a satellite system is a three-step process consisting of (1) advance publication, where a country makes known its plans to implement a satellite system at particular frequencies and orbital parameters (*e.g.* location),

⁷⁷ ITU Regulations require that all satellites must be brought into use no later than six years from the date on which the Appendix 4 information for that satellite was filed. However, a request for a three-year extension of time may be granted. The Appendix 4 information for 28 GHz GSO systems was filed in November 1995. Therefore, all satellites we have authorized to operate in the 28 GHz spectrum must be launched by November 2004.

⁷⁸ See Big LEO Report and Order at ¶ 189.

⁷⁹ See Part 25 Streamlining, *supra*, n. 69.

⁸⁰ See 47 C.F.R. § 25.210(j)(1)(2)(3).

(2) coordination, where technical agreements are negotiated and reached among countries to ensure interference-free operations of the planned satellites, and (3) notification, where the frequency assignment is recorded in the ITU's Master International Frequency Register. Once these processes have been completed, a satellite system is entitled to international recognition and is protected against interference from all existing and future satellites.

64. We have advance published GSO and NGSO FSS systems and have initiated coordination with the ITU. We have also submitted notification information for a NGSO FSS system.⁸¹ To facilitate these processes, we will continue to require licensees to provide us with all of the information required to complete the coordination and notification process.

65. The NTIA may authorize Government GSO FSS and NGSO FSS operations on a primary basis in the band 17.8-20.2 GHz in accordance with US footnote 334. Where international coordination is required for these Government systems, the NTIA will separately coordinate the Government GSO and NGSO operations in accordance with the appropriate ITU regulations.

66. Because the 28 GHz band is allocated and used worldwide for a variety of technically incompatible terrestrial and satellite services, we expect that international coordination of our 28 GHz band non-Government systems will be complex. Specifically, the 27.5-30.0/17.7-20.2 GHz bands are allocated domestically and internationally to the fixed service, which includes LMDS, and to the FSS, which includes both GSO and NGSO operations. MSS system feeder link operations may also be provided under FSS allocations. As we discussed previously in paragraph 6, we have determined the only way to address these conflicting allocations and proposed usage was to adopt a band plan that, in essence, divides the 27.5-30.0 /17.7 -20.2 GHz band into several band segments, each of which is to be used primarily for LMDS, GSO FSS, NGSO FSS, or MSS feeder link operations.⁸² As explained below, we believe it is in the public interest to use this plan as the basis for coordinating U.S. licensed 28 GHz band satellite systems internationally. We outline herein the procedures we intend to follow for coordinating U.S.-licensed non-Government satellite systems with each other in other parts of the world. In addition, we outline the procedures we will generally follow when coordinating U.S.-licensed non-Government 28 GHz satellite systems with both satellite and terrestrial systems licensed by other countries. At the same time, we recognize that other countries are able to implement their systems in accordance with their domestic requirements and the International Radio Regulations.

⁸¹ Because coordination procedures were not in place for NGSO FSS satellite systems at the time the Appendix 3 information was filed, it was possible for certain NGSO FSS and NGSO MSS feeder link systems to move from the advance publication (step 1) process to the notification (step 3) process.

⁸² See discussion ¶¶ 39-49.

2. *Coordination between U.S.-Licensed Satellite Systems*

67. Because we have licensed multiple non-Government 28 GHz satellite systems and several of these systems are designed to operate on a global basis, we will likely be faced with the responsibility of coordinating the international operations of two or more non-Government satellite systems with each other.⁸³ The record in this proceeding does not support a finding that sharing between ubiquitous non-Government GSO and NGSO FSS systems is technically feasible at this time without mitigation.⁸⁴ This was the impetus for adopting a band sharing plan at 28 GHz that designated separate band segments for primary GSO FSS, NGSO FSS and feeder link operations. Due to the potential coordination difficulties that may lead to delay of services, we believe it is in the public interest to require U.S. non-Government licensees to operate in accordance with our 28 GHz band plan throughout the world, with certain exceptions as described below. Without such a requirement, we believe we would jeopardize the successful operation of these systems outside of the United States.

68. In the Big LEO proceeding, where we also adopted service rules for U.S. global satellite systems, we did not require non-Government licensees to operate in accordance with the domestic band plan outside the United States.⁸⁵ This approach resulted in significant delay in the implementation of their systems, however. Eventually, the Big LEO licensees determined that in order for each system to operate on a global basis without coordination conflicts amongst themselves, the best way was to conform their international operations to the domestic band plan set out in the Big LEO Report and Order. Our experience in the Big LEO proceeding leads us to believe that it is in the public interest to adopt a policy now for coordination of these U.S. licensed global non-Government systems in the 28 GHz band to ensure that coordination can proceed and services can be provided to the public in a timely manner.⁸⁶

⁸³ This does not include the coordination of earth stations accessing U.S.-licensed systems, since these earth stations belong to the administration where the earth station is located.

⁸⁴ However, satisfactory ways of co-frequency sharing by NGSO FSS and GSO FSS networks can be found where the burden is placed on either the GSO or NGSO network. Mitigation techniques to reduce interference can be evaluated through the coordination process.

⁸⁵ See *Big LEO Report and Order* at ¶ 231.

⁸⁶ See *ex parte* filing of Lockheed Martin filed (May 7, 1997) at 8, supporting this policy: " Now that the 28 GHz band plan has been adopted in the United States, the Commission staff is considering applying the same frequency plan, including specific licensing priorities (i.e., "primary" and "secondary" designation), to the operation of U.S. licensed satellites abroad. Lockheed Martin supports the adoption of such measures."

69. While we envision coordinating U.S. licensed non-Government systems in accordance with the 28 GHz band segmentation plan throughout the world, we recognize that there will be some exceptions. For example, due to the need to accommodate non-U.S. satellite systems that had entered into the ITU advance publication, coordination and notification processes before the U.S. systems, the United States has negotiated agreements with other administrations to permit operation of specific satellite systems in certain geographic areas in frequency bands that are not entirely in conformance with the U.S. 28 GHz band plan. Accordingly, we will adhere to any coordination or consultation agreements that were initiated before the 28 GHz band plan was adopted in July 1996. In addition, these non-conforming arrangements could potentially impact how we decide to coordinate U.S. non-Government satellite systems in other portions of the 28 GHz band. For example, we may seek to make up for some of the spectrum "lost" to these systems in the agreement in other portions of the band. We anticipate that these deviations from our band plan will be the rare exception for the implementation of the U.S. band plan by U.S. non-Government satellite system licensees worldwide.

70. Last, the U.S. band plan does not distinguish between GSO and NGSO FSS systems as secondary users to LMDS in the 27.5 to 28.35 GHz uplink band. Rather, generic FSS is designated as the secondary service in the U.S. We envision only limited FSS uplink operations, such as gateway operations, will be able to operate on a non-interference basis to LMDS in the United States. In those cases where other countries use the 27.5-28.35 GHz band segment for FSS, we intend to provide U.S. non-Government GSO FSS systems with coordination priority over U.S. non-Government NGSO FSS systems in this band. This is because the U.S. band plan designates the corresponding downlink frequency band at 17.7-18.8 GHz on a priority basis to the GSO FSS, with NGSO FSS operations on a non-interference basis only to any service or system that has superior status or licensing priority. If the uplink frequencies are not treated in a similar manner, the downlink designation would be meaningless. We do not believe this to be the intended result of the band plan. We will therefore give priority to U.S. GSO systems vis-a-vis U.S. NGSO systems at 27.5-28.35 GHz.

71. Therefore, as the coordinating administration for these systems, we will require any U.S. non-Government satellite system operating inconsistently with the U.S. 28 GHz band plan -- and, by definition, its coordinated parameters -- to cease operations if it causes harmful interference to any U.S. non-Government system operating in conformance with the U.S. band plan for non-Government systems, or to any U.S. Government system operating in accordance with US footnote 334. (The non-Government band plan is not applicable for GSO and NGSO Government operations which are authorized on a primary basis across the 17.8-20.2 GHz band.)

3. *Coordination with Non-U.S. Licensed Systems*

72. In coordinating U.S.-licensed non-Government systems with systems of other Administrations, we will, as always, follow the applicable coordination procedures set out in the ITU Radio Regulations for the particular band segment being coordinated. For example, satellite system coordination may implicate ITU Radio Regulation No. S22.2 (2613) for instances where NGSO FSS systems and GSO FSS systems are proposed. This regulation applies in certain segments of the 28 GHz band and requires, in those bands, that NGSO FSS systems cease or reduce to a negligible level their operations whenever there is unacceptable interference caused to a GSO FSS system. Consequently, in coordinating and consulting U.S. non-Government FSS systems with other countries' FSS systems in bands where this provision applies, we expect that consultations or coordinations between administrations will result in operational or technical considerations which will prevent unacceptable interference to GSO FSS systems. In bands where there is a primary allocation to the fixed service and FSS, we will coordinate U.S. satellite system operations on an equal basis to the fixed stations, consistent with established ITU Radio Regulations and Recommendations.

4. *Exclusionary Arrangements in Foreign Countries*

73. The Commission can authorize operations of satellite systems in the United States only. Operation and use of these systems in geographic areas outside the United States requires appropriate authorizations from other countries in which the U.S. licensee wishes to operate earth stations. In order to ensure that Ka-band satellite service is truly global, we adopt limitations on Ka-band licensees' ability to enter into exclusive arrangements with other countries concerning communications to or from the United States similar to those in place for Big LEO systems.⁸⁷ An exclusive agreement may foreclose other FSS licensees from serving a foreign market, preventing that licensee from providing global service. Further, such an arrangement may be inconsistent with our band plan. We intend to construe the restrictions on exclusionary arrangements bearing in mind that spectrum coordination and availability in particular countries may limit the number of systems that can provide service to that country. Nevertheless, our intent will be to further the implementation and use of multiple satellite systems in other administrations.

I. **Other Requirements**

74. To discourage speculators and to prevent unjust enrichment of those who do not implement their proposed systems, we adopt a rule that prohibits any Ka-band licensee

⁸⁷ See Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz frequency band, *Memorandum Opinion and Order*, 11 FCC Rcd 12861 (1996) at ¶¶ 54-55; 47 CFR § 25.143(h) (prohibiting Big LEO licensees from entering into exclusive arrangements to serve particular countries).

from selling a bare license for a profit. This provision is not intended to prevent the infusion of capital by either debt or equity financing. Nevertheless, any such transaction will be monitored to ensure that it does not constitute an evasion of the anti-trafficking provision.⁸⁸

J. Other Issues

75. In January 1996, the Commission, in the *DISCO I Report and Order*,⁸⁹ abolished all distinctions between U.S. domestic satellites and international separate system satellites. This allows all U.S.-licensed satellites to provide any mix of domestic or international satellite services they choose, subject only to the licensee obtaining all applicable international approvals and authorizations by other administrations to provide service to, from or within their respective territories. Therefore, all FSS licensees in the Ka-band are permitted to provide any combination of domestic and international services without obtaining separate approval from the Commission for specific service areas.

IV. Conclusion

76. By our action today, we adopt regulations for new generation of satellite systems in the Ka-band. These systems have the potential to provide interactive broadband services to U.S. consumers and the world. We believe these rules will best serve the public interest in providing competitive, efficient, rapid, and intense use of fixed-satellite services in the Ka-band

V. Ordering Clauses

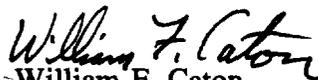
77. Accordingly, IT IS ORDERED that Part 25 of the Commission's rules are amended as specified in Appendix A, effective 60 days after publication in the Federal Register.

⁸⁸ See *Big Leo Report and Order* at ¶ 203; 47 CFR § 25.143(h) (prohibits Big LEO licensees from selling a bare license for profit).

⁸⁹ See *In the Matter of Amendment of the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems*, 11 FCC Rcd 2429 (1996) (*Disco I Report and Order*).

78. IT IS FURTHER ORDERED that the amendments to Part 25 of the Commission's rules, 47 CFR Part 25, and the Commission's policies as specified in this Report and Order WILL BECOME EFFECTIVE upon approval by the Office of Management and Budget of the new information collection requirements adopted herein, but no sooner than thirty days from publication in the Federal Register. This action is taken pursuant to Sections 4 and 303 (r) of the Communications Act of 1934, as amended 47 U.S.C. §§ 154, 303(r), and Section 201(c) of the Communications Satellite Act of 1962, 47 U.S.C. § 721(c).

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary

APPENDIX A

PART 25 SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

AUTHORITY: Secs. 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101-104, 76 Stat. 419-427; 47 U.S.C. 701-744; 47 U.S.C. 554.

2. Add new section 25.145 to read as follows:

Sec. 25.145 Licensing Conditions for the Fixed-Satellite Service in the 20/30 GHz bands

(a) Except as provided in paragraph (b) of § 25.210, in general all rules contained in this Part apply to Fixed-Satellite Service in the 20/30 GHz bands.

(b) System License: Applicants authorized to construct and launch a system of technically identical non-geostationary satellite orbit satellites will be awarded a single "blanket" license covering a specified number of space stations to operate in a specified number of orbital planes.

(c) In addition to providing the information specified in § 25.114 above, each non-geostationary satellite orbit applicant shall demonstrate the following:

- (1) That the proposed system be capable of providing fixed-satellite services to all locations as far north as 70 deg. latitude and as far south as 55 deg. latitude for at least 75% of every 24-hour period; and
- (2) That the proposed system is capable of providing fixed-satellite services on a continuous basis throughout the fifty states, Puerto Rico and the U.S. Virgin Islands, U.S.

(d) Considerations involving transfer or assignment applications.

- (1) "Trafficking" in bare licenses issued pursuant to paragraph (b) of this section is prohibited, except with respect to licenses obtained through a competitive bidding procedure.

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- (2) The Commission will review a proposed transaction to determine if the circumstances indicate trafficking in licenses whenever applications (except those involving *pro forma* assignment or transfer of control) for consent to assignment of a license, or for transfer of control of a licensee, involve facilities licensed pursuant to paragraph (b) of this section. At its discretion, the Commission may require the submission of an affirmative, factual showing (supported by affidavits of a person or persons with personal knowledge thereof) to demonstrate that no trafficking has occurred.
- (3) If a proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests, any showing requested under paragraph (d)(2) of this section shall include an additional exhibit which:
- (i) Discloses complete details as to the sale of facilities or merger of interests;
 - (ii) Segregates clearly by an itemized accounting, the amount of consideration involved in the sale of facilities or merger of interest; and
 - (iii) Demonstrates that the amount of consideration assignable to the facilities or business interests involved represents their fair market value at the time of the transaction.
- (e) Prohibition of certain agreements. No license shall be granted to any applicant for a space station in the fixed-satellite service operating in the 20/30 GHz band if that applicant, or any persons or companies controlling or controlled by the applicant, shall acquire or enjoy any right, for the purpose of handling traffic to or from the United States, its territories or possession, to construct or operate space segment or earth stations, or to interchange traffic, which is denied to any other United States company by reason of any concession, contract, understanding, or working arrangement to which the Licensee or any persons or companies controlling or controlled by the Licensee are parties.
- (f) Implementation Milestone Schedule. Each GSO FSS licensee in the 20/30 GHz band will be required to begin construction of its first satellite within one year of grant, to begin construction of the remainder within two years of grant, to launch at least one satellite into each of its assigned orbit locations within five years of grant, and to launch the remainder of its satellites by the date required by the International Telecommunications Union to assure international recognition and protection of those satellites. Each NGSO FSS licensee in the 20/30 GHz band will be required to begin construction of its first two satellites within one year of the unconditional grant of its authorization, and complete construction of those first two satellites within four years of that grant. Construction of the remaining authorized operating satellites in the constellation must begin within three years of the initial

authorization, and the entire authorized system must be operational within six years.

(g) **Reporting Requirements.** All licensees in the 20/30 GHz band shall, on June 30 of each year, file a report with the International Bureau and the Commission's Laurel, Maryland field office containing the following information:

- (1) Status of space station construction and anticipated launch date, including any major problems or delay encountered;
- (2) A listing of any non-scheduled space station outages for more than thirty minutes and the cause(s) of such outages; and
- (3) Identification of any space station(s) not available for service or otherwise not performing to specifications, the cause(s) of these difficulties, and the date any space station was taken out of service or the malfunction identified.

3. Amend § 25.210 by (1) redesignating §§ 25.210(c) through (j) as §§ 25.210(e) through (l); (2) redesignating § 25.210(b) as § 25.210(c); and adding new §§ 25.210(b) and (d) to read as follows:

Sec. 25.210 Technical requirements for space stations in the Fixed-Satellite Service

* * * * *

- (b) All space stations in the Fixed-Satellite Service in the 20/30 GHz band shall use either orthogonal linear or orthogonal circular polarization. Those space stations utilizing orthogonal linear polarization shall also comply with paragraph (a), above.

* * * * *

- (d) All space stations in the Fixed Satellite Service in the 20/30 GHz band shall employ state-of-the-art full frequency reuse either through the use of orthogonal polarizations within the same beam and/or through the use of spatially independent beams.

* * * * *

4. Add section 25.204(f) to read as follows:

Section 25.204 Power Limits

* * * * *

- (f) All earth stations in the Fixed Satellite Service in the 20/30 GHz band shall employ

uplink adaptive power control or other methods of fade compensation such that the earth station transmissions shall be conducted at the power level required to meet the desired link performance while reducing the level of mutual interference between networks.

APPENDIX B**Final Regulatory Flexibility Analysis**

As required by the Regulatory Flexibility Act, (RFA),⁹⁰ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Third Notice of Proposed Rulemaking in this proceeding (*Third NPRM*).⁹¹ The Commission sought written public comment on the proposals in the *Third NPRM*, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA), concerning the *Third Report and Order*, conforms to the RFA.⁹²

I. Need for and Objectives of the *Third Report and Order*:

In this decision, the Commission, adopts licensing qualification rules and service rules for fixed-satellite service systems in the Ka-band. The purpose of this action is to help launch a new broadband satellite service well-suited to compete in the domestic and global marketplace. In order to ensure the rapid and successful implementation of new FSS systems in the Ka-band, the Commission has used the existing FSS system rules as a foundation and has modified these rules to the extent necessary to reflect the nature of operations at Ka-band. The decision promotes efficiency in licensing and use of the electromagnetic spectrum. In addition we expect that the licensing framework we have set out for the Ka-band will aid in the development of competitive and innovative satellite systems.

II. Summary of Significant Issues Raised by Public Comments in Response to the Initial Regulatory Flexibility Analysis:

No comments were received specifically in response to the IRFA. However, in order to minimize any barriers for entry into this new satellite market for small entities, Commission staff spent months encouraging and working with all of the commercial GSO FSS applicants to reach agreement on an orbital assignment plan to accommodate all first-

⁹⁰ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Public L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

⁹¹ Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, *Third Notice of Proposed Rulemaking*, 11 FCC Rcd 53 (1995) (*Third NPRM*).

⁹² See 5 U.S.C. § 604.

round applicants. As discussed in the *Third Report and Order*, the applicants did reach agreement regarding orbit locations. Therefore we are able to waive our financial qualification requirement and not look to current financial ability as a prerequisite to a license grant. By licensing all current commercial system applicants, we enable small entities and start-up companies the opportunity to compete in the capital intensive satellite industry.

III. Description and Estimate of the Number of Small Entities to Which Rules Will Apply:

The Commission has not developed a definition of small entities applicable to satellite service licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services "Not Elsewhere Classified." This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.⁹³ According to the Census Bureau data, there were a total of 848 communications services in operation in 1992 that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported annual receipts of \$9,999 million or less and qualify as small entities.⁹⁴ The census report does not provide more precise data.

Describing and estimating the number of small entities these rules will impact is made difficult by a number of factors. First of all, information from the Satellite Industry Association and financial analysts who specialize in this market indicate there are few firms that could be traditionally thought of as small businesses. They point to the fact that this is a capital intensive industry that requires "significant partner funding and/or contract commitments prior to approaching commercial financing sources."⁹⁵ In addition, estimates of employment in the commercial satellite service industry, another measure of small business status, can vary widely.⁹⁶

Space Stations (Geostationary). Commission records reveal that there are 37 space station licensees. We do not request nor collect annual revenue information, and thus are

⁹³ 13 CFR § 121.201, Standard Industrial Classification (SIC) Code 4899.

⁹⁴ *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

⁹⁵ See "Financing the Final Frontier: Funding Commercial Space Activities" Bear Stearns, Global Space & Satellite Finance Report.

⁹⁶ For example American Mobile Satellite Corp is reported to have 45 employees by the Satellite Industry Association; 317 employees by Satellite Industry Analyst "BZW."

unable to estimate the number of geostationary space stations that would constitute a small business under the SBA definition.

Space Stations (Non-Geostationary). There are six Non-Geostationary Space Station licensees, of which only one system is operational. We do not request nor collect annual revenue information, and thus are unable to estimate the number of non-geostationary space stations that would constitute a small business under the SBA definition.

We have also recently authorized thirteen commercial GSO FSS satellite systems in the Ka-band and one commercial NGSO FSS system to construct, launch, and operate in the Ka-band, conditioned on compliance with the licensing and service rules we adopt in this *Third Report and Order*. Therefore there are no small businesses currently providing these types of broadband interactive services in the Ka-band.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements:

The Commission's existing rules in Part 25 on FSS operations contain reporting requirements for FSS systems. In this *Third Report and Order*, we adopt no new reporting requirements for FSS operations in the Ka-band and state that we will follow the new Part 25 rules for reporting requirements for FSS systems.⁹⁷ These requirements are specifically stated in paragraph 60 of the *Third Report and Order*. It is likely that the entities filing the reports will require no professional skills for the preparation of such requests.

V. Steps Taken to Minimize Significant Economic Burden on Small Entities, and Significant Alternatives Considered:

As part of our licensing qualifications standard for the FSS, the Commission has in the past applied rigorous financial qualification standards when the authorization of one applicant will not prevent another qualified applicant from going forward with a proposal in the same service. In the *Third NPRM* we proposed to apply the existing FSS rules to the Ka-band, including this strict financial standard. Several of the experienced and well financed satellite service providers such as Hughes Communications, GE Americom and Loral supported this proposal as a way to get service to the public in an efficient manner.

In order to minimize any barriers for entry into this new satellite market for small entities, Commission staff spent months encouraging and working with all of the commercial

⁹⁷ See Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures, *Report and Order*, 11 FCC Rcd 21581 (1996).

GSO FSS applicants to reach agreement on an orbital assignment plan to accommodate all first-round applicants. As discussed in the *Third Report and Order*, the applicants did reach agreement regarding orbit locations. Therefore we are able to waive our financial qualification requirement and not look to current financial ability as a prerequisite to a license grant. By licensing all current commercial system applicants, we enable small entities and start-up companies the opportunity to compete in the capital intensive satellite industry.

VI. Report to Congress

The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this *Third Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.