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

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RM No. 9328
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re)
)
ICO SERVICES LIMITED)
)
Petition for Expedited Rule Making)
to Establish Eligibility Requirements)
for the 2 GHz Mobile Satellite)
Service)
)
)

COMMENTS OF
NORTH AMERICAN GSM ALLIANCE LLC

North American GSM Alliance LLC¹ hereby comments on ICO's petition for an expedited, bifurcated rulemaking to facilitate prompt licensing of 2 GHz MSS systems. The GSM Alliance supports ICO's request for such a rulemaking and urges the Commission to adopt the broad outlines of ICO's proposed rules. In particular, the Commission should

- favor new entrants over applicants who are already licensed to provide MSS in other bands; and

¹ The North American GSM Alliance represents the interests of leading PCS carriers in the United States and Canada. Members of the Alliance are currently providing digital wireless PCS services in more than 1,500 cities and towns in the U.S. and Canada, using the "Global Systems for Mobile" or "GSM" technical standard. GSM companies provide customers with superior voice clarity, unparalleled security, and leading-edge wireless voice, data, and fax features. In the United States, more than 2 million customers in 41 states and the District of Columbia use GSM services, and the markets actively served by members of the Alliance cover nearly sixty percent of the population.

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- authorize global proposals in globally available spectrum and regional proposals in regionally available spectrum.

While the GSM Alliance differs with certain details of ICO's proposed service rules, there should be no doubt about the key point made by ICO: the need for expedited Commission action in both the licensing and rulemaking phases of the various 2 GHz proceedings. The Commission should swiftly incorporate ICO's proposed service rules into a Notice of Proposed Rulemaking, and address questions about the tentative proposal in a First Report and Order.

I. The Public Interest Favors Increased Competition over Increased Concentration

The various applications and letters of intent describing 2 GHz MSS proposals offer the Commission a stark public policy choice. On the one hand, the Commission has the opportunity in this proceeding to stimulate the MSS marketplace by authorizing new entrants. Alternatively, the Commission can assign even more spectrum to licensees (or affiliates of licensees) who already have access to grossly underutilized MSS spectrum. ICO correctly recognizes that the public interest requires the Commission to favor new entrants. The GSM Alliance agrees.²

² The GSM Alliance also commends ICO for recognizing that unless there is mutual exclusivity *among new entrants*, these applicants should not be required to make final financial showings until one year after licensing. ICO Petition, Attachment A, at 3.

The preference for multiple competing providers has deep roots in U.S. satellite regulation. The original *Open Skies* decision was based on this policy,³ as was the approval of the first U.S.-licensed “separate systems,”⁴ and the Commission’s watershed “DISCO II” order.⁵ In addition, as ICO notes, the Commission has embraced recently the “new entrant” criterion as a pro-competitive means of processing applications that would otherwise be mutually exclusive.⁶

All the applicants who are not “new entrants” can be expected to oppose this criterion, of course. But no matter how they attempt to entrench themselves and “warehouse” even more spectrum, they cannot obscure the fact that the Commission has expressed a policy preference for multiple competing satellite operators since even before it licensed the first private commercial satellite. It is difficult to imagine an argument that would justify a departure from a policy so firmly established.

³ *Establishment of Domestic Communication Satellite Facilities by Nongovernmental Entities*, 22 F.C.C. 2d 86 (1970).

⁴ *Establishment of Satellite Systems Providing International Communications*, 101 F.C.C. 2d 1046 (1985), *recon.*, 61 Rad. Reg. 2d 649 (1986), *further recon.*, 1 F.C.C. Rcd 439 (1986).

⁵ *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*, 12 F.C.C. Rcd. 24094, 24099 (1997).

⁶ *Amendment of Part 25 of the Commission’s Rules to Establish Rules and Policies Pertaining to the Second Processing Round of the Non-Voice, Non-Geostationary Mobile-Satellite Service*, 11 F.C.C. Rcd. 19841, 19846 (1996). In formulating processing rules for 2 GHz MSS, the Commission should pay particular attention to the definition of “new entrant” proposed in the Little LEO proceeding. Unlike the definition proposed by ICO, the Little LEO proposal extended to affiliates, appropriately defined. 11 F.C.C. Rcd. at 19846-48.

II. The Regional Spectrum Should Be Used Regionally.

ICO also notes that not all of the 2 GHz MSS spectrum is available globally. ICO therefore proposes the eminently sensible idea that global, non-geostationary systems should be licensed in globally available spectrum, while the spectrum that is only available in ITU Region 2 should be used for geostationary systems capable of operating only in Region 2.

The GSM Alliance agrees that the 2 GHz MSS band should be segmented into global and regional portions, both for sound policy reasons and for practical reasons. The policy reasons are that there are a variety of different MSS customer profiles, and not all potential MSS customers will be globetrotting executives who need full global roaming and are willing to carry special phones in order to get it. Although this is a valuable service for certain types of customers, there are other types of customers who will be content to confine their roaming to a single continent, and a regional architecture would serve these customers more economically than a global one.

For example, the GSM Alliance has supported Celsat's 2 GHz proposal because it would extend the benefits of GSM service throughout the entire United States and most of Canada and northern Mexico, including even the most remote and sparsely populated areas. Nearly twenty years after the introduction of cellular service, there are still large geographic areas in the United States where there is simply no handheld mobile voice service of any kind. Celsat's geostationary system would remedy this problem for most of North America, regardless of terrain or population density, initially with just one

satellite. Celsat could therefore provide economical wireless service to millions of North Americans who otherwise would remain unserved by terrestrial technologies. In addition, GSM Alliance members are intrigued with the idea that their customers would have true continental wireless mobility at pennies per minute. This unparalleled roaming capability would benefit millions of North Americans and visitors.

The practical reason for segmenting the band is equally compelling: Any system licensed to use spectrum that is only available in Region 2 is, *ipso facto*, not a global system. Thus, even if global systems could somehow be shown to be of greater public benefit than regional systems, it would be pointless to attempt to license (or build) a global system in spectrum that is unavailable over two-thirds of the globe. Instead, the Commission should make a virtue of necessity and authorize both global and regional systems, in appropriate parts of the band.

The details of any band plan will need to be determined in the course of the rulemaking ICO requests. One question arises from the fact that the amount of regional spectrum available is different in the uplink band than in the downlink band. As ICO appears to recognize, the uplink and downlink assignments should be symmetrical, according to conventional channel-pairing principles. Since 15 MHz of the uplink spectrum is limited to regional use, and cannot be used globally, it would appear reasonable to use 15 MHz in each direction for regional systems.⁷

⁷ ICO appears to contemplate a band plan in which the geostationary and non-geostationary segments would overlap, but this is not clear. The text of ICO's petition

III. Conclusion

The Commission should promptly grant ICO's petition and propose initial eligibility and processing rules that favor new applicants and segment the 2 GHz MSS band into global and regional portions.

Respectfully submitted,

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speaks only of geostationary and non-geostationary architectures, but the proposed rules appear to require that any system licensed at 2015-2020 MHz (uplink) and 2170-2175 MHz (downlink) must employ a "hybrid" architecture comprising both geostationary and non-geostationary elements. *ICO Petition, Attachment A, at 2* (proposed section (d)(2)). In addition, ICO proposes to designate the 2010-2020 MHz segment for non-geostationary (or perhaps "hybrid") systems even though these frequencies are available only in the U.S. and Canada until 2005, and only in Region 2 thereafter. *Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, 12 F.C.C. Rcd. 7388, 7392 (1997)*. Again, this seems to conflict with the text of the petition, which suggests that non-geostationary systems will only be using globally allocated spectrum.

CERTIFICATE OF SERVICE

I, Mark A. Grannis, with the law firm of Harris, Wiltshire & Grannis LLP, do hereby certify that the foregoing "Comments of North American GSM Alliance LLC" were served on the parties listed below by first-class U.S. mail, postage prepaid, on this 27th day of August, 1998.

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