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September 15, 1998

Hand Delivery

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W.
Room 832
Washington, D.C. 20554

RECEIVED
SEP 15 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: ***EX PARTE***
ET Docket No. 95-18; RM-7927; PP-28

Dear Commissioner Ness:

Representatives of ICO Services Limited,[1] an applicant[2] in the Commission's 2 GHz mobile satellite service ("MSS") initial processing round, this week attended a U.S. Chamber of Commerce-sponsored briefing on the bilateral discussions conducted last month between the United States and the European Community to address, among other issues, U.S. global satellite licensing policies. In the State Department meeting summary that was distributed to briefing participants, it was reported that you noted during the bilateral discussions that ICO was the only 2 GHz applicant to oppose the Commission's decision to impose relocation costs on 2 GHz MSS licensees. I write this letter to bring to your attention certain documents in the Commission's record in this

[1] ICO Services Limited, a company established under the laws of England and Wales, is a wholly owned subsidiary of ICO Global Communications (Holdings) Limited, which is the ultimate parent of a wholly owned group of companies (referred to herein collectively as "ICO") that is developing a global MSS system.

[2] ICO uses the word "applicant" herein to refer both to U.S. licensed system's requests for assignment of spectrum and to letters of intent for non-U.S. licensed systems seeking access to 2 GHz spectrum in the United States, unless the context indicates otherwise.

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proceeding that demonstrate opposition to the Commission's relocation polices in the 2 GHz spectrum from numerous satellite industry members, including a majority of 2 GHz MSS applicants.

In its Report and Order and Further Notice of Proposed Rulemaking in the above referenced proceedings ("Order"), the Commission concluded that 2 GHz MSS operators must bear the costs of relocating incumbent users in both the MSS allocated uplink (1990-2025 MHz) and downlink (2165-2200 MHz) frequency bands.[3] ICO, as part of a coalition of parties, filed a Petition for Partial Reconsideration of that decision, opposing, among other issues, the Commission's decision regarding the imposition of relocation costs on 2 GHz MSS operators.[4] ICO, however, does not stand alone in its opposition to the relocation payment obligation set forth in the Order. Specifically, on July 2, 1997, the Satellite Industry Association, a trade association of several leading U.S. satellite manufacturers, service providers and launch service companies, filed an *ex parte* letter in ET Docket No. 95-18 expressing its concern that the Commission's Order could result in "unnecessarily high relocation costs so onerous as to make impossible the initiation of new satellite services."[5] Noting that "alternatives are currently the subject of reconsideration requests in this proceeding," the SIA urged the Commission to "seek a better approach" than its current proposal.[6]

On May 22, 1998, the Mobile Satellite Services Ad Hoc Industry Group ("Industry Group"), consisting of a majority of the 2 GHz MSS applicants and several business partners thereof, filed an *ex parte* letter in the above-referenced dockets urging the Commission to reverse its decision to require MSS providers to pay relocation costs.[7] The imposition of such costs, the Industry Group argued, "would lead to higher prices, reduced competition, delay in introduction of a new technology and the

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[3] *Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service*, 12 FCC Rcd 7388, 7402 (1997).

[4] Petition for Partial Reconsideration of the MSS Coalition, ET Docket 95-18; RM-7927; PP-28 (May 20, 1997).

[5] *See* attached Letter from Clayton Mowry, Director, SIA, to Mr. William F. Caton, Acting Secretary, Federal Communications Commission (July 2, 1997) at 1.

[6] *Id.* at 2.

[7] *See* attached Letter from Mobile Satellite Services Ad Hoc Industry Group to Ms. Magalie Roman Salas, Secretary, Federal Communications Commission (May 22, 1998) ("Industry Group Letter").

imposition of similar relocation burdens on both U.S. and non-U.S. MSS operators in other countries."[8]

In short, a majority of 2 GHz applicants, as well as other members of the satellite industry, oppose the imposition of relocation costs on 2 GHz MSS operators. ICO continues to urge the Commission to encourage the development of competitive 2 GHz MSS in the United States by reversing its initial decision imposing relocation payment burdens on MSS competitors.

Two copies of this letter have been submitted to the Secretary of the Commission for inclusion in the public record, as required by Section 1.1206 of the Commission's rules.

Very truly yours,

Francis D.R. Coleman
Director Regulatory Affairs -
North America

Attachments

[8] Industry Group Letter at 2.

SIA
SATELLITE INDUSTRY ASSOCIATION

Executive Member Companies

American Mobile Satellite Corp.
AT&T Vanderbilt
Bowling Commercial Space Co.
COMSAT Corp.
CTA, Inc.
CE American Communications, Inc.
Globalstar LP
Hughes Communications, Inc.
CC Satellite Services, Inc.
Iridium LLC
Lockheed Martin Corp.
Loral SKYNET
Motorola SSTG
Orbital Sciences Corp.
Orion Network Systems, Inc.
PanAmSat Corp.
Space Systems/LORAL
Teledesic Corp.
TRW, Inc.
Vyvx, Inc.

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Marc Newman
Globalstar LP
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Clayton Mowry
Satellite Industry Association
Director

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An Operating Entity of the
Satellite Broadcasting and Communications Association

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JUL - 2 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 2, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

Ref: ET Docket No. 95-18, released March 14, 1997

Dear Mr. Caton:

In its first Report and Order and further Notice of Proposed Rulemaking, ET Docket No. 95-18, released March 14, 1997, the Commission allocated spectrum at 2 GHz to Mobile Satellite Services (MSS). In doing so, the Commission also modified allocations for the Broadcast Auxiliary Service, the Cable Television Relay Service, and the Local Televisions Transmission Services, requiring MSS licensees to bear the costs of those relocations. The Satellite Industry Association (SIA) wishes to convey its concerns regarding some aspects of the Commission's decision.

SIA is a national trade association formed in the Spring of 1995 by several leading U.S. satellite manufacturers, service providers and launch service companies. SIA was established to serve as an advocate for the U.S. commercial satellite industry on regulatory and policy issues common to its members. With 19 current executive member companies providing a broad range of the manufactured products and services, SIA represents the unified voice of the U.S. commercial satellite industry.

It is SIA's view that the Commission awarded the Broadcast Auxiliary Service (BAS) more spectrum than necessary for its relocation. The phenomenon of digitization alone should enable the BAS to meet its requirements with less spectrum. If the lesser amount were applied, that reduction would eliminate the necessity of other consequential relocations of Fixed Service users, the costs of which also have to be borne by MSS providers further increasing the costs of MSS entry. Moreover, it is not clear that the Commission considered alternative, less costly approaches to this relocation problem.

By failing to avoid the dislocation of multiple services where that would have been feasible and justifiable, the Commission's decision may set a precedent for other countries regarding spectrum allocations for international satellite services. The requirements could create market entry conditions in the form of unnecessarily high relocation costs so onerous as to make impossible the initiation of new satellite services. That result would be contrary to the public interest, in terms of consumer choice, price competition, and implementation of new technologies. For that reason, the Commission's decision applied to international satellite services jeopardizes the interests of all SIA members.

SIA urges the Commission to explore alternative approaches which would accomplish the laudable objective of allowing MSS entry without the potentially adverse consequences outlined above. We believe that there are alternative ways in which 2 GHz spectrum incumbents can be accommodated in a fair and equitable manner by the Commission. Such alternatives are currently the subject of reconsideration requests in this proceeding. SIA urges the Commission to seek a better approach that will not risk having the contradictory effect of making spectrum available to new satellite services only on economic terms that would make their implementation much more difficult or impossible.

Sincerely,

Clayton Mowry
Director

cc: Peter Cowhey
Thomas Tycz

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May 22, 1998

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Via Hand Delivery

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

Re: **EX PARTE**
ET Docket No. 95-18; RM-7927; PP-28

Dear Ms. Salas:

We write on behalf of the undersigned Mobile Satellite Services ("MSS") Ad Hoc Industry Group ("Industry Group") members to urge the Commission to reverse its decision to require mobile satellite service ("MSS") providers to pay the costs to relocate incumbent users in the 2 GHz MSS spectrum band.[1] As set forth in the FCC's March 1997 2 GHz MSS allocation order ("2 GHz Order"),[2] MSS operators would be required to bear the cost of relocating: (1) broadcast auxiliary services ("BAS") licensees located in the MSS uplink band at 1990-2025 MHz; and (2) where sharing is not possible, fixed services ("FS") operators located in the MSS downlink band at 2165-2200.[3] The development of MSS will be seriously impaired if MSS

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[1] The Industry Group consists of applicants in the Commission's 2 GHz mobile satellite service ("MSS") initial processing round and several business partners of certain applicants. Participating members of the Industry Group include: Celsat America, Inc.; COMSAT Corporation; Constellation Communications, Inc.; Globalstar, L.P.; Hughes Electronics Corporation; ICO Global Communications Services, Inc.; Inmarsat and Mobile Communications Holdings, Inc.

Celsat notes, as it has in previous FCC rulemaking proceedings, that it can operate in the 1990-2025 MHz and 2165-2200 MHz bands without causing harmful interference either to broadcast auxiliary service ("BAS") facilities/electronic newsgathering ("ENG") equipment or fixed services ("FS") facilities. (Other applicants in this proceeding have not reached Celsat's conclusion.)

[2] *Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service*, 12 FCC Rcd 7388, 7402 (1997) ("2 GHz Order").

[3] 2 GHz Order at 7401-02, 7407. The Balanced Budget Act of 1997 requirement that the Commission auction the 2110-2150 MHz frequency band, in which many fixed incumbents are paired with fixed service links in the 2165-2200 MHz frequency band, should relieve MSS

operators are forced to bear the significant relocation expenses contemplated by the Commission's proposal. Moreover, the imposition of relocation expenses on MSS operators likely will create a cascading effect in other countries, to the detriment of both U.S. licensed and non-U.S. MSS operators.

The Commission's stated policy for BAS and FS relocation in its 2 GHz Order presents 2 GHz applicants with unknown and potentially devastating relocation costs. This relocation policy, rather than mitigating hardships of a handful of incumbents, would constitute a windfall of potentially huge proportions.

In the case of the BAS licensees, for example, the Commission proposes that MSS providers incur the full costs to relocate these incumbent operators even though (1) many BAS licensees are expected to convert to digital electronic newsgathering ("ENG") equipment in any event, and (2) likely are using fully depreciated analog ENG equipment. Essentially, the Commission's current approach to BAS relocation provides no incentives for incumbent BAS operators to use spectrum effectively or efficiently. For example, recent filings submitted to the Commission by Nucomm, Inc. and COMSAT demonstrate that broadcasters' capacity requirements for seven TV analog channels within the 2 GHz band actually can be met with 70 MHz of spectrum using available off-the-shelf digital technology, while achieving comparable quality to analog ENG using 8.5 MHz digital ENG channels.[4]

In sum, the Industry Group urges the FCC to reconsider its relocation policies for the emerging MSS systems accessing 2 GHz spectrum frequencies. The Commission's proposed policies run counter to the public interest because the proposed relocation requirements would lead to higher prices, reduced competition, delay in introduction of a new technology and the imposition of similar relocation burdens on both U.S. and non-U.S. MSS operators in other countries.

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providers from any obligation to pay for relocating such paired frequency operations. Moreover, individual applicant members of the Industry Group also are members of the Joint Working Group under the auspices of the Telecommunications Industry Association ("TIA") that has been exploring MSS sharing capabilities with FS licensees.

[4] Broadcast licensees currently provide analog ENG services in the 1990-2110 MHz frequency band but must vacate the 1990-2025 MHz frequencies to allow for MSS operations. The broadcasters thus would have up to 85 MHz of spectrum to continue operations. Ex Parte of Nucomm, Inc., ET Docket No. 95-18, RM-7927, PP-28 (Feb. 11, 1998); "Digital Video Microwave Systems for STL and ENG Applications & Test Results"; Ex Parte of COMSAT Corp., ET Docket No. 95-18, RM-7927, PP-28 (Mar. 18, 1998); "Digital ENG Tests Using Noisecom Microwave Emulator Performed by COMSAT Laboratories, Clarksburg, Maryland;" Ex Parte of Diana Choi, ET Docket No. 95-18, RM-7927, PP-28 (Apr. 24, 1998); "Digital ENG Equipment Survey Summary."

Two copies of this letter have been submitted to the Secretary of the Commission for inclusion in the public record, as required by Section 1.1206(b)(1) of the Commission's rules.

Very truly yours,

Antoinette Bush/sjf
Celsat America, Inc.

Bruce A. Henoch/sjf
COMSAT Corporation

Bruce Kraselsky/sjf
Constellation Communications, Inc.

William F. Adler/sjf
Globalstar, L.P.

Loretta Denny/sjf
Hughes Electronics Corporation

Francis D. R. Coleman/sjf
ICO Global Communications Services, Inc.

Donald M. Kennedy/sjf
Inmarsat

Gill Abeshouse Stern/sjf
Mobile Communications Holdings, Inc.

cc: Chairman William E. Kennard
Commissioner Harold Furchtgott-Roth
Commissioner Michael Powell
Commissioner Gloria Tristani
Commission Susan Ness
Richard Smith
Bruce Franca
Dale Hatfield
Roy Stewart
Daniel Phythyon
Rosalind Allen
Regina Keeney
Robert Calaff
Tom Tycz

bcc: Communications Daily
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