



~~CONFIDENTIAL~~

Lon C. Levin
Vice President and
Regulatory Counsel

PHONE: 703 758 6150
FAX: 703 758 6189
EMAIL: lon.levin@ammobile.com

February 12, 1999

VIA HAND DELIVERY

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

RECEIVED

FEB 12 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: *Ex Parte* Presentation
File Nos. 47-SAT-WAIV-97; 548-SSA-97(50); 1281-DSE-P/L-96
(Call Sign E960327); ITC-95-341; IB Docket No. 96-111, CC Docket
No. 93-23, RM-7931; CC Docket No. 87-75; IB Docket No. 95-41/730-
DSE-P/L-98; 647-DSE-P/L-98; 1217-SSA-98

Dear Ms. Salas:

AMSC Subsidiary Corporation ("AMSC") hereby responds to the *ex parte* presentations made by TMI Communications and Company, L.P. ("TMI") and SatCom Systems, Inc. ("SatCom") on December 4, 1998. AMSC urges the Commission to dismiss as irrelevant the applicants' proposal for a grant limited to the upper L-band. In telephone conference calls, counsel for TMI and SatCom, both of which have pending applications to provide Mobile Satellite Service ("MSS") in the United States in the upper and lower L-band (1545-1559 MHz/1646.5-1660.5 MHz and 1525-1544 MHz/1626.5-1645.5 MHz), informed the Commission that they would not object to an initial license grant for operating authority in the upper L-band only, given various outstanding issues regarding the provision of service in the lower L-band.

Separate treatment of the upper and lower L-band would not resolve the critical spectrum availability issues raised by AMSC. As AMSC has explained repeatedly in this proceeding, the licensing of additional MSS systems to use any portion of the L-band to provide service in the United States would substantially and adversely affect ongoing efforts to coordinate AMSC's long-term, stable access to sufficient L-band spectrum, and limiting the operation of these new systems to the upper L-band would not mitigate the effects of such a grant. *See, e.g.*, Letter from Bruce D. Jacobs, Counsel to AMSC, to Magalie Roman Salas, Secretary, Federal Communications Commission, FCC File Nos. 647-DSE-P/L-98, 730-DSE-P/L-98 (December 1, 1998). (*See attachment*). Spectrum is spectrum. Even with the proposed limitation, AMSC will suffer a reduction in its ability to access its licensed spectrum. Indeed, the recent request by the Japanese government for 2 MHz of spectrum in the upper L-band exacerbates the difficulty of focusing on the upper L-band only. In the absence of any new, reasonable Commission strategy

Ms. Magalie Roman Salas

February 12, 1999

Page 2

for helping AMSC to coordinate access to its licensed spectrum, the Commission should adhere to its established spectrum management policy and not grant operational authority anywhere in the L-band to additional MSS systems.

Please direct any questions regarding this matter to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lon C. Levin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lon C. Levin

cc: Linda Haller
Fern Jarmulnek
Cassandra Thomas
Thomas Tycz

RECEIPT COPY

FISHER WAYLAND COOPER LEADER & ZARAGOZA L.L.P.
2001 PENNSYLVANIA AVENUE, N.W.
SUITE 400
WASHINGTON, D. C. 20006-1851
TELEPHONE (202) 659-3494

BRUCE D. JACOBS
(202) 775-3543

FACSIMILE
(202) 296-6518

December 1, 1998

INTERNET
bjacobs@fwclz.com

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

RECEIVED

DEC - 1 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

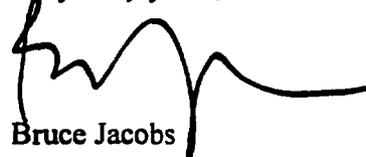
Re: *Ex Parte* Presentation
File Nos. 47-SAT-WAIV-97; 548-SSA-97(50); 1281-DSE-P/L-96
(Call Sign E960327); ITC-95-341; IB Docket No. 96-111, CC Docket
No. 93-23, RM-7931; CC Docket No. 87-75; IB Docket No. 95-41; 730-
DSE-P/L-98; 647-DSE-P/L-98; 1217-SSA-98

Dear Ms. Salas:

On Monday, November 30, 1998, Lon C. Levin, Vice President and Regulatory Counsel for AMSC Subsidiary Corporation ("AMSC") and Bruce D. Jacobs, counsel for AMSC, met with Ari Q. Fitzgerald, Legal Advisor to Chairman Kennard, to discuss the adverse impact on AMSC's access to spectrum if the Commission were to grant pending applications to use foreign-licensed satellite systems that operate on frequencies assigned to AMSC. The substance of AMSC's views are a matter of record in these proceedings. A summary of AMSC's position is attached.

Two copies of this notice for each of the above-captioned proceedings are being submitted to the Secretary of the FCC in accordance with the Commission's Rules. Please direct any questions regarding this matter to the undersigned.

Very truly yours,



Bruce Jacobs

cc: Ari Fitzgerald
Daniel Connors
Karen Gulick
Linda Haller
Paul Misener
Peter Tenhula
Thomas Tycz

Any grant of applications to use foreign-licensed MSS systems to provide U.S. service in the L-band (1.5/1.6 GHz) will undermine the integrity of the FCC's spectrum management function.

As spectrum manager, the Commission allocated spectrum to MSS in the L-band, decided that there was enough spectrum in the band to license only a single system to provide service in the United States, required the 12 applicants to form a single consortium, granted the consortium license to AMSC to build and operate the system, and undertook to coordinate 10-14 MHz internationally for that system -- an amount of spectrum that the FCC consistently has said is appropriate for the license it granted to AMSC. The Commission's coordination strategy has been based on reaching temporary, annual arrangements with foreign-licensed systems until AMSC's traffic has developed to its expected levels, which will be so much greater than those of the other systems that those systems will concede the right of the U.S. system to access its minimum amount of spectrum. The strategy also has been based on the view that the foreign systems involved in coordination have overstated their need for spectrum, particularly since they do not have authority to operate in the United States.

By its own admission, the Commission so far has been unsuccessful in coordinating AMSC's access to its minimum amount of spectrum. AMSC's system is still young, and traffic, while growing, has not yet reached the point where foreign-licensed systems that overstated their long-term reasonable demand will concede that AMSC is entitled to stable access to at least 10 MHz. If the Commission adheres to its existing policies, its coordination strategy may yet be a success; but at least through 1999, in terms of coordinating AMSC's stable access to at least 10 MHz of spectrum, it has not yet succeeded.

AMSC's actions since its licensing have been based on an expectation of stability in the Commission's policies, including the Commission's continued support for the coordination of long-term access to at least 10 MHz of L-band spectrum. AMSC would not have agreed to the current approach to coordination if it had understood that the Commission would abandon its existing policies before AMSC had an opportunity to develop the demand necessary to implement the strategy. AMSC has recognized that the Commission might eventually permit additional systems to operate in the U.S. in its spectrum, including foreign-licensed systems, but such entry would be only after AMSC has coordinated long-term access to its minimum licensed spectrum.

If the Commission changes its established spectrum management policies now, and permits additional, foreign-licensed systems to operate in AMSC's bands in the United States, it will do so without any record evidence for variance from its established policies. There is no record for concluding that AMSC needs less than 10-14 MHz or that there will be a surplus of spectrum in the L-band. The evidence, of course, strongly indicates that AMSC still needs 10-14 MHz and that coordination of the L-band is becoming more difficult over time, as new systems must be coordinated (such as that of Japan) and as Inmarsat fails to become more efficient.

The simple but powerful truth is that the licensing of additional systems to use the L-band to provide service in the United States will substantially and adversely affect

ongoing efforts to coordinate AMSC's long-term, stable access to a minimum amount of L-band spectrum. The other systems that are capable of operating in the band will remain at least as aggressive in their coordination demands and the U.S. will lose whatever leverage is provided by the incentive that, once AMSC achieves stable access to the minimum amount of spectrum, the U.S. market may be opened to additional systems operating in the band. The dynamic of the coordination is already fragile and difficult; even minor retrenchment by the Commission is very damaging to the long-term effort. Moreover, there is apparently no new Commission strategy for helping AMSC to coordinate access to that minimum amount of spectrum.

If the Commission changes its policies now, it will be favoring foreign-licensed systems over domestic entities, including the 12 original MSS applicants that were forced into the consortium and the Big LEO licensees that have indicated an interest in applying to use any surplus spectrum. The right way to authorize operation by foreign-licensed systems is the one the Commission is taking in the 2 GHz bands, in which all potential system operators are treated equally if they submit an application by an appropriate cut-off.

Therefore, based on the overwhelming record evidence, the Commission should dismiss these applications and reaffirm its long-standing spectrum management policies in these bands.

CERTIFICATE OF SERVICE

I, Elinor W. McCormick, a secretary to the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., hereby certify that on this 12th day of February 1999, served a true copy of the foregoing "**LETTER REGARDING EX PARTE PRESENTATIONS OF TMI COMMUNICATIONS AND COMPANY, L.P. AND SATCOM SYSTEMS, INC.**" by first class United States Mail, postage prepaid, upon the following:

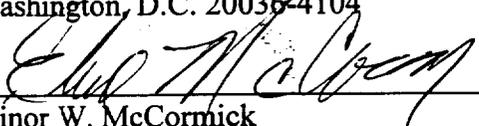
Philip L. Malet
James M. Talens
Maury D. Shenk
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036

Patricia A. Mahoney
Assistant General Counsel
Regulatory and Trade Policy
Brent H. Weingardt
Counsel, Regulatory and Trade Policy
Iridium, L.L.C.
1575 Eye Street, N.W.
Washington, D.C. 20005

William D. Wallace
Crowell & Moring LLP
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Tom Davidson
Phil Marchesiello
Akin, Gump, Strauss, Hauer
& Feld, L.L.P.
1333 New Hampshire Ave., N.W., Ste 400
Washington, DC 20036

Gregory C. Staple
Koteen & Natfalin, L.L.P.
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036-4104



Elinor W. McCormick