

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Amendment of Parts 2 and 95 of)	ET Docket 99-255
the Commission's Rules to Create a)	PR Docket 92-235
Wireless Medical Telemetry Service)	

Directed to: The Commission

PETITION FOR RECONSIDERATION

THE SATELLITE INDUSTRY ASSOCIATION

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August 16, 2000

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PETITION FOR RECONSIDERATION

The Satellite Industry Association ("SIA")¹ hereby respectfully petitions the Commission to reconsider its Report and Order, FCC 00-211 ("*WMTS Order*"), released July 12, 2000,² in the above-captioned proceeding to the extent that it allocates the 1429-1432 MHz band on a primary basis to the new Wireless Medical Telemetry Service ("WMTS"). In support whereof, the following is submitted:

PRELIMINARY STATEMENT

The allocation of the 1429-1432 MHz band on a primary basis to the new WMTS and the rationale articulated in support of that allocation adversely affect the interests of

¹ SIA is a national trade association representing the leading U.S. satellite manufacturers, service providers, and launch service companies. SIA serves as an advocate for the U.S. commercial satellite industry on regulatory and policy issues common to its members. With member companies providing a broad range of manufactured products and services, SIA represents the unified voice of the U.S. commercial satellite industry. SIA's members include: Boeing Commercial Space Company; COMSAT Corporation; Ellipso Inc.; Final Analysis Inc.; GE American Communications, Inc.; Globalstar, L.P.; Hughes Electronics Corp.; Lockheed Martin Corp.; Loral Space & Communications Ltd.; Motient Corp.; Motorola Inc.; Orbital Sciences Corporation; PanAmSat Corporation; Teledesic Corporation; TRW Inc.; and Williams Vyvx Services.

² The *WMTS Order* was published in the Federal Register on July 17, 2000. See 65 FED. REG. 43995. Pursuant to Sections 1.4(b) and 1.429(d) of the Commission's Rules, the instant petition is timely filed.

SIA's members, the U.S. satellite industry generally, and the U.S. non-voice, non-geostationary mobile-satellite service ("NVNG MSS") operators (also known as "Little LEOs"). The *WMTS Order* reflects a disregard and lack of understanding about the international allocations process and its impact on the development of the satellite communications industry. While SIA understands and respects the Commission's efforts to address the needs of the medical telemetry industry for access to usable spectrum, SIA herein petitions the Commission to reconsider the primary allocation of the 1429-1432 MHz band to WMTS.

As is discussed below, the Commission's decision to allocate the 1429-1432 MHz band to WMTS is inexplicably contrary to the U.S. position at the recently concluded International Telecommunication Union ("ITU") World Radiocommunication Conference ("WRC") to obtain dedicated international feeder link allocations in these frequencies for the NVNG MSS industry. At WRC-2000, which concluded shortly before the Commission's adoption of the *WMTS Order*, the U.S. delegation took the lead, building on years of effort and successful sharing studies, and succeeded for the first time in getting the majority of the world to support the U.S. proposal to place on the agenda for the very next WRC (in 2003) allocation of the 1390-1393 MHz and 1429-1432 MHz bands on a global basis for NVNG MSS feeder links. Notwithstanding the extensive effort and resources that have been expended by the U.S. satellite industry and the U.S. government to obtain support for this global allocation, the Commission's *WMTS Order* allocates the very same spectrum (1429-1432 MHz) to a very different service and acknowledges that this may limit the possible use of the band by the NVNG MSS in the U.S. See *WMTS Order*, slip op. at 9, ¶21.

This apparent disregard in a domestic rulemaking proceeding for the positions that the U.S. is concurrently taking in an international forum undermines U.S. influence and credibility in the ITU and internationally and thus will have severe repercussions for the U.S. telecommunications industry and particularly the U.S. satellite industry, which must depend on the cooperation and support of Administrations outside the U.S. in any effort to obtain spectrum on a regional or global basis. Moreover, the apparent rationale for the Commission's decision to allocate the 1429-1432 MHz band to WMTS, i.e., because medical telemetry has an immediate need for new spectrum, whereas the proposed NVNG MSS allocation is only being studied and tested to validate sharing between NVNG MSS feeder links and other existing and planned services, is not based on a full and complete record.

The NVNG MSS industry has long suffered from the lack of sufficient spectrum, particularly spectrum for dedicated feeder links. Even assuming that alternative spectrum for global NVNG MSS feeder link allocations could be found, the long lead time that is involved in obtaining such an allocation (at least six to seven years) renders any new solution unworkable, particularly since the industry's needs are more immediate and since there is no assurance that a future Commission would not allocate away that spectrum as well.

THE IMMEDIATE NEED FOR ADDITIONAL FEEDER LINK SPECTRUM IN THE 1429-1432 MHZ BAND

Although NVNG MSS systems utilize a relatively small amount of spectrum overall, there is far from enough spectrum allocated internationally and in the U.S. to NVNG MSS to accommodate all of the licensees' current requirements. Largely for this reason, the process of licensing the current NVNG MSS systems and assigning specific

frequencies to particular licensees has spanned nearly a decade, delaying the introduction of competition in the industry and forcing several license applicants to abandon proposed services. This process also has involved intensive efforts and extraordinary measures to permit joint operation on so little spectrum. It has included the development of innovative and technically complex frequency sharing techniques.

Despite the critical need for dedicated feeder links, insufficient unencumbered spectrum is currently allocated to NVNG MSS feeder link operations. Indeed, none of the NVNG MSS second round licensees has been assigned any dedicated downlink feeder link spectrum, which forces them to share downlink feeder spectrum.

The particular frequency band around 1.4 GHz was identified for the NVNG MSS by the NVNG MSS industry and the United States only after thorough evaluations of the availability and suitability of various bands below 1 GHz were performed as part of extensive efforts in the WRC process to obtain additional global allocations for feeder link spectrum for NVNG MSS. After two years of studies, the NVNG MSS industry identified the 1429-1432 MHz band as most suitable for downlink feeder link operations. This band contains the same allocations, fixed and mobile, in all regions throughout the world and thus is particularly suitable for global allocation.³ Most importantly, the frequencies in this band also are not heavily occupied in other countries and regions by other services that are highly sensitive to potential interference. Consequently, this frequency band has the least international opposition to an allocation to NVNG MSS and represents the most likely possibility for success in obtaining badly needed additional frequencies for dedicated NVNG MSS feeder downlinks.

³ Also, these types of terrestrial uses can most easily share with NVNG MSS systems for uplink and downlink operations.

The experience of the NVNG MSS industry with the difficulties in obtaining even small international allocations has demonstrated that essential ingredients to success include the unwavering support of the U.S. government, a focus on proposed spectrum allocations in bands that have compatible incumbent systems on a world-wide basis, and a focus on bands that are not likely to engender international opposition. Because the 1429-1432 MHz band represents the only possible spectrum in which an international allocation might be achieved for critically needed NVNG MSS downlink feeder links, the Commission's decision in the *WMTS Order* to allocate this particular band on a primary basis to WMTS is extremely harmful to the interests of NVNG MSS operators.

**THE ALLOCATION TO WMTS IN THE 1429-1432 MHZ BAND DIRECTLY
UNDERMINES AND CONFLICTS WITH THE U.S. GOVERNMENT'S POSITION
AT WRC-2000**

As noted above, the *WMTS Order* is directly inconsistent with the U.S. government's international position and efforts concerning the 1429-1432 MHz band and undermines the years of hard work and resources that the U.S., the Commission, and the satellite industry have invested in securing a global allocation in this band for critically needed NVNG MSS feeder downlink operations. At WRC-2000, the U.S. government and members of the U.S. delegation worked tirelessly to obtain global support to place on the agenda of the next WRC a global primary allocation of 1429-1432 MHz for NVNG MSS. The primary allocation to WMTS of the exact same frequencies that the U.S. government and industry have strongly promoted for international allocation to NVNG MSS severely undermines the credibility of that effort and makes it extremely difficult to retain international support for this important NVNG MSS feeder link allocation.

The *WMTS Order* observes that “a domestic allocation for Little Leo feeder links would be of little value without an international allocation due to the international nature of this service.” At this time, there is no reason to believe that an international allocation will not be forthcoming unless the Commission’s allocation of the frequencies to the WMTS stands. There would be little likelihood of the U.S. government and U.S. satellite industry obtaining an international allocation if the Commission refuses to make the allocation domestically. Thus, the *WMTS Order* will significantly adversely impact any chance of success in obtaining the necessary NVNG MSS global allocation at WRC-03.

The industry efforts and United States government actions in support of global allocation of the 1390-1393 MHz and 1429-1432 MHz frequency bands to NVNG MSS for feeder links are the latest steps in a long (over four years) and difficult process to secure additional spectrum for NVNG MSS. A decision by the Commission that is contrary to the U.S. international position severely undermines the credibility of the U.S. delegation and officials and makes it difficult, if not impossible, to retain international support for these important NVNG MSS feeder link allocations. Because it is the United States that has promoted these bands for NVNG MSS feeder links, the international community could very reasonably conclude that a decision by the Commission to allocate these bands on a primary basis domestically to another service, with a dubious ability to share with NVNG MSS feeder links, indicates that the United States no longer supports international allocation of these bands for NVNG MSS feeder links. Due to the intensive complexity of finding spectrum suitable for global allocations, and the long lead times needed to perform technical studies for such allocations, any domestic allocation that chills domestic and international support for a global allocation in the

same bands around 1.4 GHz for NVNG MSS feeder links may preclude additional global allocations for NVNG MSS services.

Moreover, if the Commission takes an action domestically that is in clear disregard of its activities in the international arena, it is very likely that it will become increasingly difficult in the future for U.S. satellite companies that propose to provide global services to obtain the spectrum allocations they need outside the U.S. SIA is very concerned that the Commission's *WMTS Order* may adversely impact the interests of all of its members.

THE COMMISSION'S DECISION IS NOT BASED ON A FULL AND COMPLETE RECORD

In its *WMTS Order*, the Commission does not explain why it has seemingly abandoned its support for the allocation of 1429-1432 MHz to NVNG MSS, except to note that WMTS has an immediate need for spectrum and to suggest that NVNG MSS's need for a domestic allocation of this spectrum is a more remote and uncertain possibility. This conclusion is not supported by the record.⁴ More importantly, it appears to erect a barrier that all satellite applicants and licensees will have difficulty meeting. As the Commission is aware, there is an unavoidably long lead-time for satellite services between the time spectrum is identified as usable and the time it can be put into service. Therefore, in any comparison between a service that will only need spectrum for use domestically and a satellite service, the satellite service will automatically suffer a disadvantage if the basis of that comparison is related to when the spectrum will be used, which is apparently what the Commission did in its *WMTS*

⁴ The American Hospital Association study claimed a need for 6 MHz of spectrum now and at least 12 MHz in the future. The Commission allocated 14 MHz.

Order. SIA is very concerned about how the Commission reached the result it did and what that result portends for all satellite services.

Moreover, it appears that the timing and sequence of events leading up to the adoption of the *WMTS Order* prevented the Commission from achieving a reasoned decision on a full and complete record. The decision was reached at the very same time that WRC-2000 was addressing allocation issues concerning the very same frequencies. Technical experts from the Commission's International Bureau and parties with significant and demonstrated interests in the proceeding, including the spectrum experts of NVNG MSS licensees, were out of the country participating on behalf of and in support of U.S. government positions at WRC-2000 at the same time decisions in this proceeding were being made. This may explain why the *WMTS Order* erroneously characterizes the outcome of WRC-2000 regarding the spectrum of concern here. The *WMTS Order* incorrectly states: "We recognize that the recently completed World Radiocommunications [sic] Conference adopted a resolution calling for tests and demonstrations to validate sharing between Little Leos' feederlinks and existing and planned services in the 1390-1393 MHz and 1429-1432 MHz bands." See *WMTS Order* at 21. In fact, rather than merely calling for additional tests and demonstrations, the resolution that was adopted specifically calls for the placement on the agenda for the very next WRC the allocation on a global basis of the 1390-1393 MHz and 1429-1432 MHz bands for NVNG MSS feeder link uplinks and downlinks, respectively.⁵

⁵ It should be noted that the Agenda for WRC-03 was subsequently approved by the ITU Council last month, and the allocation of 1429-1432 MHz band for NVNG MSS is on the Agenda. This is a necessary step before the global allocation can be made. There is no way that the satellite industry can expedite the allocation through the ITU process.

CONCLUSION

In light of the successful U.S. international efforts to allocate this band for NVNG MSS feeder downlinks, and in recognition of how difficult it has been and how long it has taken the NVNG MSS industry to get to this point within the processes of the ITU, the Commission should carefully reconsider that part of the *WMTS Order* in which it granted WMTS a primary allocation in the 1429-1432 MHz band. Failure to revise the WMTS allocation of this band will seriously undermine the longstanding and nearly completed efforts of the United States government and the NVNG MSS industry to secure international allocation of this frequency band for downlink feeder links and will establish a poor precedent with adverse consequences for the U.S. satellite industry and all U.S. telecommunications interests.

For the foregoing reasons, the Commission must reconsider and reverse its decision to allocate the 1429-1432 MHz band to WMTS.

Respectfully submitted,

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August 16, 2000

CERTIFICATE OF SERVICE

I, Beatriz Viera, hereby certify that a true and correct copy of the foregoing **Petition for Rulemaking**, on behalf of the Satellite Industry Association was delivered by regular mail this 16th day of August 2000, to the individuals on the following list:

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