

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
The Establishment of Policies) IB Docket No. 99-81
and Service Rules for the)
Mobile Satellite Service in the)
2 GHz Band)
)

OPPOSITION TO PETITIONS FOR RECONSIDERATION

ICO Services Limited (“ICO”) hereby opposes the Petitions for Reconsideration filed in this proceeding by Globalstar, L.P. (“Globalstar”) and Final Analysis Communication Services, Inc. (“Final Analysis”). Both Petitions are without support and request results that are contrary to the efficient use of 2 GHz mobile satellite service (“MSS”) spectrum. Accordingly, those Petitions should be denied.

I. Globalstar’s Petition For Reconsideration Is Without Merit and Must Be Rejected

The Globalstar Petition merely reprises Globalstar’s proposal, first made in its comments on the Commission’s Notice of Proposed Rulemaking, for an “all shared band plan” under which “all licensed 2 GHz MSS systems would be authorized to operate across the entire available spectrum,” subject to pre-operational coordination among licensees.¹ Adoption of Globalstar’s plan, which contemplates arduous preliminary negotiations among all applicants and effectively requires all 2 GHz MSS systems to adopt CDMA technology in order to share the band, would eliminate the chief advantage of the Commission’s adopted hybrid band plan: *i.e.*, the ability of operators to commence service, using technological designs of their own choosing, without awaiting the outcome of lengthy coordination among

¹ Globalstar Petition for Reconsideration at 9 (Nov. 3, 2000) (“Globalstar Petition”).

systems. Accordingly, the Commission correctly concluded in its *Report and Order* that “if we [the FCC] were to adopt [the Globalstar] proposal, deployment of all 2 GHz MSS systems could be delayed indefinitely.”² For this reason, the Commission decisively rejected Globalstar’s proposal, pointing out that Globalstar’s approach would result in unacceptable delay in 2 GHz MSS system deployment and “would potentially require the Commission to mandate that all 2 GHz MSS providers use the same technology . . . in order to facilitate co-frequency sharing among the 2 GHz MSS providers.”³ Nothing in Globalstar’s Petition supports a different finding.

A. The Commission Should Provide for Automatic Redistribution of Unused Frequencies

ICO does concur with one of Globalstar’s concerns: *i.e.*, the need for prompt redistribution of frequencies assigned to non-implementing systems. Specifically, spectrum abandoned by non-implementing systems should be made available, with a minimum of delay, to systems that have met the Commission’s implementation milestones. Accordingly, ICO strongly urges the Commission, in accordance with paragraph 18 of the *Report and Order*, to redistribute abandoned Selected Assignment spectrum among implementing systems as soon as practicable after the occurrence of each implementation milestone date.⁴ Such action would increase the available Selected Assignment spectrum at 2 GHz, and would do so without the delay and loss of technical flexibility that would result if the Commission adopted Globalstar’s all shared band plan.

² *Establishment of Policies and Service Rules for the Mobile-Satellite Service in the 2 GHz Band* (Aug. 25, 2000) FCC 00-302, at ¶ 26 (“*Report and Order*”).

³ *Id.*

⁴ For example, Inmarsat recently withdrew its Letter of Intent to provide 2 GHz MSS. To promote efficient use of 2 GHz MSS spectrum, the Commission now should reduce the number of applicants to 8. The Commission then should recompute the Selected Assignments’ radiofrequency bandwidth as 35 MHz/9, or 3.88 MHz per applicant. Similar recomputations should be made as other systems withdraw their applications or fail to meet implementation milestones.

B. Globalstar's All Shared Band Plan Is Critically Flawed

Globalstar claims that “because the Commission specifically declined to require 2 GHz MSS systems to adopt system designs that can be coordinated [,] . . . an operational system can be limited to its Selected Assignment indefinitely, and can be blocked from using spectrum outside its Selected Assignment because it has an incompatible design as to other operational systems.”⁵ Globalstar also claims that under the Commission’s plan, even technically compatible systems may choose non-contiguous band segments upon launch of their initial satellites, with the result that “systems that want to share [will not enjoy] the benefits of increased spectrum bandwidths.”⁶

These arguments, which amount to nothing more than a rehash of Globalstar’s rejected all-shared band plan, ignore the flexibility that is an integral part of the Commission’s hybrid band plan. Notably, there is no reason to expect, under the Commission’s plan, that any 2 GHz MSS operator will be relegated to its Selected Assignment spectrum indefinitely because of inter-system coordination difficulties. Because the Commission does not require 2 GHz MSS operators to coordinate with other, “paper” systems that are not prepared to commence operations, the need for inter-system coordination will arise - if at all - only when a later entrant launches its first satellite into its intended orbit and picks, as its Selected Assignment, spectrum that an earlier entrant already is using on a secondary basis.⁷ Depending upon the number of 2 GHz MSS systems that become operational and the Selected Assignment decisions that later-entrant systems make, the need for earlier entrants to vacate spectrum or engage in inter-system coordination with later entrants may never arise. The Commission’s flexible, common sense approach contrasts sharply with Globalstar’s plan, under which inter-system coordination will occur before there is any need for it and will delay operational systems’ access to *any* spectrum.

⁵ Globalstar Petition at 8.

⁶ *Id.*

⁷ *Report and Order* at ¶ 21.

There also is no support for Globalstar’s claim that even technically compatible systems may be unable, under the Commission’s plan, to obtain contiguous spectrum assignments and therefore may not enjoy “the benefits of increased spectrum bandwidths.”⁸ As the Commission points out in paragraph 22 of the *Report and Order*, the Commission “will permit operators to aggregate Selected Assignments by reaching agreement for sharing of those assignments among themselves.” For example, as the Commission suggests, “several CDMA operators could agree to select and operate in adjacent Selected Assignments and design their spectrum use to overlap each other.”⁹ Globalstar has not identified a single, real-world obstacle to implementation of the Commission’s efficient, flexible plan.

II. The Final Analysis Petition Is Without Basis And Must Be Rejected

In its Petition for Reconsideration, Final Analysis, a non-voice, non-geostationary MSS licensee (a “Little LEO”), requests the Commission to permit new applicants, including Little LEOs, to apply for the portion of the 2 GHz MSS spectrum that is reserved for service to unserved areas or that becomes “available” in the event that an existing 2 GHz MSS system proponent fails to obtain authorization or meet its construction milestones.¹⁰ In support of its Petition, Final Analysis argues that the allocation of the 2 GHz band to MSS was intended to be limited to systems offering primarily voice services.¹¹ Final Analysis further contends that while Little LEOs are prohibited from using their authorized spectrum to provide voice services, 2 GHz MSS system proponents such as ICO and Globalstar are revising their business plans to provide primarily data service offerings.¹²

⁸ Globalstar Petition at 8.

⁹ *Report and Order* at ¶ 22.

¹⁰ *See* Final Analysis Petition for Reconsideration at 2-9 (Nov. 3, 2000) (“Final Analysis Petition”).

¹¹ *Id.* at 3.

¹² *Id.* at 4.

As ICO previously stated in its April 19, 2000 *ex parte* letter submitted to the Commission in this proceeding, Final Analysis's underlying premises are flatly wrong.¹³ Final Analysis offers no evidence to suggest that ICO intends to abandon voice services and focus on data services. In fact, ICO has affirmed that, although it intends to offer high-quality wireless data applications, voice services "remain central to its objective of providing affordable service to unserved and underserved areas."¹⁴

Furthermore, contrary to Final Analysis's unsubstantiated claims, the Commission has never expressed any intent to devote 2 GHz MSS or "Big LEO" spectrum exclusively or even primarily to voice services. As ICO noted in its April 19th *ex parte* letter, the Commission consistently has adhered to its policy that the marketplace will best decide how assigned spectrum may serve the public interest.¹⁵ Even more, the Commission expressly contemplated that 2 GHz MSS and Big LEO spectrum would be used to provide a broad range of services, including data services.¹⁶

Final Analysis and other Little LEOs had the same opportunity as the 2 GHz MSS system proponents to submit timely applications or letters of intent to access the 2 GHz MSS band. Permitting new applicants to apply for "available" 2 GHz MSS spectrum not only would undermine the Commission's policy objectives in establishing cut-off filing deadlines, but also would seriously impair the ability of the existing 2 GHz MSS system proponents to obtain access to sufficient spectrum. In view of this need for sufficient spectrum, the

¹³ See *ex parte* letter from C. Tritt to Chairman W. Kennard *et al.* of Apr. 19, 2000.

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 3 (citing *Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band*, 14 FCC Rcd 4843, 4848 (1999); *Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems and DBSC Petition for Declaratory Rulemaking Regarding the use of Transponders to Provide International DBS Service*, 11 FCC Rcd 2429, 2433 (1996)).

¹⁶ *Id.* at 3-4 (citing *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 Bands*, 9 FCC Rcd 5936, 5940 (1994); *Establishment of Polices and Service Rules for the Mobile Satellite Service in the 2 GHz Band*, 14 FCC Rcd 4843 (1999)).

Commission should ensure that, in the event that a proposed 2 GHz MSS system does not proceed toward authorization, the “available” 2 GHz MSS spectrum will be redistributed among the remaining 2 GHz MSS system proponents, rather than among new applicants.

Conclusion

Of the arguments and concerns raised in the Globalstar and Final Analysis Petitions for Reconsideration, ICO agrees only that abandoned Selected Assignment spectrum should be redistributed promptly among implementing systems - action that is consistent with, and requires no change to, the language of the *Report and Order*. The Petitions provide no basis, however, for adopting Globalstar's all shared band plan or permitting new applicants to apply for portions of 2 GHz MSS spectrum that are reserved for service to unserved areas or that become potentially available for redistribution because of a system proponent's failure to meet an implementation milestone. Accordingly, those Petitions should be denied.

Respectfully submitted,

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Dated: December 28, 2000

CERTIFICATE OF SERVICE

I, James S. Bucholz, hereby certify that I have on this the 28th day of December, 2000, served true and correct copies of the foregoing **OPPOSITION TO PETITIONS FOR RECONSIDERATION** via hand delivery, or U.S. Mail where indicated, upon the following:

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