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The *WALT DISNEY* Company

JAN - 8 2001

Marsha J. MacBride
Vice President
Government Relations

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 8, 2001

Hand Deliver

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W., Rm. TWB204
Washington, D.C. 20554

Re: IB Docket No.: 00-203 RM-9649

Dear Ms. Salas:

We are transmitting herewith for filing with the Commission an original and four copies of Comments of The Walt Disney Company in IB Docket No. 00-203.

If there are any questions in connection with the foregoing, please contact the undersigned.

Truly yours,

Marsha J. MacBride

MJM/smk

Enclosures

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

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)	
)	
FWCC Request for Declaratory Ruling on)	
Partial-Band Licensing of Earth)	IB Docket No. 00-203
Stations in the Fixed-Satellite Service)	RM-9649
That Share Terrestrial Spectrum)	
)	
FWCC Petition for Rulemaking to Set)	
Loading Standards for Earth Stations)	
In the Fixed-Satellite Service that)	
Share Terrestrial Spectrum)	
)	
Onsat Petition for Declaratory Order that)	
Blanket Licensing Pursuant to Rule 25.115(c))	SAT-PDR-19990910-00091
Is Available for Very Small Aperture)	
Terminal Satellite Network Operations at C-)	
Band)	
)	
Onsat Petition for Waiver of Rule 25.212(d))	
To the Extent Necessary to Permit Routine)	
Licensing of 3.7 Meter Transmit and Receive)	
Stations at C-Band)	
)	
<i>Ex Parte</i> Letter Concerning Deployment of)	
Geostationary Orbit FSS Earth Stations in the)	
Shared Portion of the Ka-band)	

COMMENTS OF THE WALT DISNEY COMPANY

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Before the
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COMMENTS OF THE WALT DISNEY COMPANY

The Walt Disney Company (“TWDC”), on behalf of itself and its subsidiary ABC, Inc. (“ABC”), submits herewith its Comments in response to the Commission’s request for comment on its proposed rules regarding partial-band licensing of earth stations in the fixed-satellite service that share terrestrial spectrum.

Introduction

The Commission proposes that the operator of a licensed earth station that is subject to a subsequent application from a fixed-service applicant should be required to show that the earth station “is using, has recently used, or has imminent plans to use the requested spectrum.” (NPRM ¶ 8.) This requirement, which would make spectrum unavailable to a licensed earth station unless it has recently been used or is scheduled for immediate future use, could jeopardize the ability of the ABC Television Network to distribute its signal to its affiliates via backup transponders or satellites in case of failure of its primary transponders.

Currently, earth stations sharing spectrum with terrestrial services are coordinated over the entire band of frequencies and over the entire satellite arc, so that the earth station can be swung to point at any satellite and to communicate through any transponder, each of which uses a different group of frequencies. While the typical network-receive earth station receives programming from a single group of transponders on a limited number of satellites most of the time, earth stations must be able to use another transponder on the same satellite or to be able to use another satellite entirely to receive a network feed in the event that the transponder or satellite it is using fails or is replaced. Satellites and transponders fail unexpectedly, and networks and their affiliated stations may not know in advance which back-up satellite or transponder will be usable for the entire network in the event of such a failure. Therefore, earth stations that are part of a network need to be cleared over the entire band of frequencies and over the entire satellite arc.

Argument

The ABC Television Network (the “Network”) has over 200 affiliated stations. Each of those affiliates’ earth stations must be able to receive the Network’s programming for the Network to function.

Typically, the Network’s programming is transmitted to the network affiliates’ earth stations from a transponder on a geo-synchronous or geo-stationary fixed-service satellite: a satellite that is designed to remain above a single point along the equator by orbiting the earth at precisely the same rate as the earth rotates. However, transponders and indeed entire satellites age and die, and need periodic replacement. Networks may also choose to leave one satellite provider and instead to enter into a more beneficial contract with another satellite provider. In addition, satellites and transponders have been known to fail without warning due to meteor showers, orbital debris, launch and deployment failures, and other acts of man and God beyond the control of the earth station operators. When that happens, a back-up transponder or satellite will be used, and each of the affiliates’ earth stations must be correspondingly re-oriented to the appropriate frequency and location of the back-up equipment. The network can continue functioning only if all its affiliates’ earth stations are able to turn toward any one of a number of possible substitute transponders or satellites as needed, often on very short notice.

Transponder or satellite failure is not merely a theoretical problem. Over the past several years, in addition to temporary outages of various satellites and transponders, ABC has experienced the partial but permanent and worsening failure of one satellite; the aging, phase-out and replacement of another satellite; and the unexpected, complete and

permanent failure of two other satellites. The ABC Television Network (the “Network”) originally used two satellites, Telestar 301 and 302, in part to protect itself against the single-satellite failures that regularly occur because of sun outages (when a satellite is temporarily in the wrong position and is “blinded” by the sun). Telestar 301 was replaced by Telestar 401 in September 1993. However, 401 stopped operating suddenly in January 1997, after only a fraction of its rated life, and all of the Network’s affiliates had to shift their earth stations to a back-up satellite at that time. The Network’s other original satellite, Telestar 302, was to be replaced by Telestar 402 in September 1994, but after 402 was launched, it failed to deploy, and thus never went into service at all. As a result, the Network was forced to use 302 well beyond its normal useful life, after its orbit had become “inclined,” which meant it was no longer able to maintain its proper position in the sky, but rather wobbled north and south. This required all of the Network’s affiliates around the country to continually shift their respective earth stations to track Telestar 302’s inclined orbit as it moved northward and southward through the sky. Eventually, 302 was replaced by yet another satellite, Telestar 402R, and the earth stations of the Network’s affiliates once again had to be reoriented accordingly.

Currently, the Network has seven contracted transponders on two satellites. ABC’s contracts with its current satellite provider, LORAL, specifically set out a restoral or disaster plan in the event that any transponder or satellite fails. In the case of three of the transponders, ABC’s restoral plan agreement designates a particular back-up transponder. That back-up plan, however, is subject to change. In the case of the four other transponders, ABC’s restoral plan agreement specifies only that LORAL will use its “best efforts” to find an alternate transponder or satellite, but does not specify which

transponder or satellite will be used. Indeed, the appropriate disaster plan will often depend on the nature, location and breadth of the failure.

In sum, in the event of a satellite or transponder failure, all of ABC's affiliates may be required at a moment's notice to reorient their uplink and downlink earth stations to a different satellite or transponder, typically without foreknowledge of which satellite or transponder is to be the emergency back-up. If this substitute satellite is not already cleared for use at every existing earth station in the system, then the Network cannot be restored. Moreover, if the replacement satellite or transponder itself fails, the substitutes for the replacement must also, in turn, be cleared for use by every earth station in the system. Thus, for the Fixed-Satellite Service to remain viable as a point-to-multipoint service for the ABC Television Network, full arc and frequency clearance is necessary for every earth station that is part of that Network.

We believe that the need for full-frequency clearance for network-receive earth stations is not limited to affiliates of the ABC Television Network. All television, radio and data networks involve point-to-multipoint distribution from a satellite to numerous earth stations and thus presumably require similar flexibility in the event of a satellite or transponder failure. The consequences of making shared spectrum unavailable to earth stations could therefore have costly and disastrous consequences to any broadcast or data network.

Conclusion

For the reasons set forth above, TWDC respectfully submits that the Commission should reject the proposal that earth stations that cannot demonstrate recent use or immediate need for spectrum should forego that spectrum to accommodate terrestrial fixed services. Earth stations involved in multipoint distribution should be exempted from any such rule in order to preserve the viability and restorability of television, radio and data networks.

Respectfully submitted

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