

MORRISON & FOERSTER LLP

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LOS ANGELES
DENVER
PALO ALTO
WALNUT CREEK
SACRAMENTO
CENTURY CITY
ORANGE COUNTY
SAN DIEGO

ATTORNEYS AT LAW

2000 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C. 20006-1888
TELEPHONE (202) 887-1500
TELEFACSIMILE (202) 887-0763

NEW YORK
WASHINGTON, D.C.
NORTHERN VIRGINIA
LONDON
BRUSSELS
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HONG KONG
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TOKYO

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Writer's Direct Contact
(202) 887-1510
CTritt@mofocom

By Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: **EX PARTE**
IB Docket No. 01-185

Dear Ms. Dortch:

ICO Global Communications (Holding) Ltd. ("ICO") responds to the June 18 and 20, 2003 ex parte filings by AT&T Wireless Services, Inc., Cingular Wireless LLC, and Verizon Wireless ("Terrestrial Carriers").¹ The Terrestrial Carriers urged the Commission to clarify the *ATC Order*² to state that the Commission will consider and grant ancillary terrestrial component ("ATC") authority only after a mobile satellite service ("MSS") licensee has met all gating criteria. ICO is compelled to point out once again, however, that the Commission clearly and expressly contemplated that MSS licensees could seek ATC authority, as well as construct and test ATC facilities, at any time prior to commercial MSS operations, provided that ATC services must not be offered until the licensee's satellite system is commercially operating and the gating criteria met.³

To facilitate expeditious deployment of integrated ATC services, MSS licensees must be allowed to submit at the earliest possible date ATC proposals providing full information about the licensee's intended ATC operations and architecture. Those proposals may include a showing and supporting documentation that ATC will be integrated into the licensee's satellite

¹ See Letter to Marlene H. Dortch, Secretary, FCC, from Kathryn A. Zachem & Adam D. Krinsky, Counsel for the Terrestrial Carriers, IB Dkt. 01-185, SAT-MOD-20030604-00110 & SAT-MOD-20030604-00111 (June 20, 2003); Letter to Marlene H. Dortch, Secretary, FCC, from Kathryn A. Zachem, Counsel for the Terrestrial Carriers, IB Dkt. 01-185 (June 18, 2003)

² *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands*, 18 FCC Rcd 1962 (2003) ("ATC Order").

³ *Id.* ¶¶ 3, 85, 86, 250, App. B (adopting 47 C.F.R. § 25.143(i), (j)).

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operations in compliance with the integration gating condition set forth in the *ATC Order*. Permitting early submission of this information is certainly consistent with the Commission's encouragement that MSS licensees file "integrated service showings as early as possible to allow full evaluation without compromising the timing of ATC deployment."⁴ ICO again acknowledges, however, that Commission approval of an ATC proposal, including an integrated service showing, will not authorize the MSS licensee to offer commercial ATC until it certifies that all gating criteria set forth in the *ATC Order* have been met, including, of course, an operational MSS system.

ICO also questions whether any substantive changes to rules adopted in the *ATC Order* should be made immediately prior to the due date for any petitions for reconsideration or clarification of those rules.⁵ The Commission issued an Errata on March 7, 2003, to correct or clarify certain technical matters.⁶ The Errata, issued more than a month after the Commission adopted the *ATC Order* on January 29, 2003, apparently was intended, after a careful review of the *ATC Order*, to make editorial corrections and clarifications. Any substantive changes to the *ATC Order* at this late date should be addressed during the publicly announced clarification and reconsideration phase of the ATC proceeding, rather than by the Commission acting informally and without public notice.⁷

In accordance with section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed.

Very truly yours,

/s/ Cheryl A. Tritt

Cheryl A. Tritt

Counsel to ICO Global Communications (Holdings) Ltd.

cc: Bryan Tramont Anna Gomez
 Jennifer Manner Breck Blalock
 Paul Margie Alexandra Field
 Samuel Feder Richard Engelman
 Barry Ohlson
 Donald Abelson

⁴ *Id.* ¶ 88.

⁵ The *ATC Order* was published in the Federal Register on June 5, 2003. See 68 FR 33640 (June 5, 2003). Petitions for reconsideration of the *ATC Order* are due on July 7, 2003. See 47 C.F.R. § 1.429(d).

⁶ See Errata, IB Dkt. Nos. 01-185 & 02-364 (Mar. 7, 2003).

⁷ In fact, the Commission lacks authority under Section 1.108 of its rules to reconsider and revise, on its own motion, substantive portions of the *ATC Order*. See *Sprint Corp. v. FCC*, 315 F.3d 369, 375 (D.C. Cir. 2003) (rejecting Commission's invocation of Section 1.108 of its rules to support rule modification and noting that "[a]lthough [a prior] holding might assist the Commission were it merely setting aside an existing rule, in the instant case the Commission....changed the payment and reporting obligations of affected parties.").