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555 Eleventh Street, N.W., Suite 1000  
Washington, D.C. 20004-1304  
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www.lw.com

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November 16, 2005

Via Hand

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

RECEIVED

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Federal Communications Commission  
Office of Secretary

Re: File No. SAT-PPL-20050926-00184  
IB Docket Nos. 05-220, 05-221

Dear Ms. Dortch:

In this letter, Inmarsat responds to the four *ex parte* submissions made by TerreStar/TMI and MSV in these proceedings on October 12, 17, and 25, 2005.

In its *ex parte* submissions, TerreStar/TMI and its economist, Dr. Bruce Owen, largely repeat assertions made during the formal pleading cycle in IB Docket Nos. 05-220 and 05-221. Significantly, TerreStar/TMI still fails to demonstrate that it currently has an inadequate 2 GHz spectrum assignment. Nor does TerreStar/TMI address the nascent and unique nature of the 2 GHz band that cautions against licensing a duopoly in the band. MSV's *ex parte* letter largely rehashes arguments made in its September 14, 2005 submission, to which Inmarsat already has responded.

Below, Inmarsat (i) corrects a number of factual and historical mischaracterizations in TerreStar/TMI's and MSV's recent filings, (ii) reiterates the importance of licensing at least one additional MSS competitor at 2 GHz, and (iii) identifies three alternatives to licensing TerreStar/TMI and ICO to duopoly at 2 GHz.

**I. TERRESTAR/TMI HAS NO ENTITLEMENT TO MORE 2 GHZ SPECTRUM**

TerreStar/TMI's submissions reflect a theme that it has some entitlement to a 250% increase in its current spectrum assignment, to a total of 2 x 10 MHz. TerreStar/TMI is simply wrong.

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As an initial matter, if MSV and TerreStar/TMI got as much of the 2 GHz band as they seek, those soon-to-be-sister subsidiaries of Motient Corporation<sup>1</sup> would have almost twice as much MSS spectrum over the Americas as anyone else: ~ 46 MHz

- 20 MHz at 2 GHz (2 x 10 MHz)
- ~26 MHz at L Band (2 x ~13 MHz)

In comparison, no one else comes even close. Specifically, over the Americas:

- Inmarsat has ~28 MHz (2 x ~14 MHz) (L Band)
- Globalstar has ~28 MHz (11.35 MHz & 16.5 MHz) (Big LEO)
- Iridium has ~8 MHz (1 x 8.25 MHz) (Big LEO)
- ICO would have 20 MHz (2 x 10 MHz at 2 GHz) (if the Commission provides ICO what it seeks)

TerreStar/TMI and MSV had no legitimate expectation that they would increase their considerable spectrum holdings by gaining access to even more of the 2 GHz band. At the beginning of this year, TerreStar/TMI shared the 2 GHz band with four other MSS entities (each with a 2 x 4 MHz assignment). TerreStar/TMI entered into a spacecraft construction contract and related financing arrangements based on that 2 x 4 MHz assignment, and it has indicated that this spacecraft will be launched in just two years. Moreover, the Commission last determined that 2 x 2.5 MHz is adequate to commence 2 GHz MSS service,<sup>2</sup> and recently reminded TerreStar/TMI that no decision had been made whether it would get additional 2 GHz spectrum if other 2 GHz providers turned in their authorizations.<sup>3</sup>

The opportunity for TerreStar/TMI to increase its assignment beyond 2 x 4 MHz arose early this year once three companies turned in their 2 GHz MSS authorizations. Just four months ago, the Commission commenced a public process to determine what to do with the 2 x 12 MHz of 2 GHz spectrum that became available, and it inquired about a number of options, including authorizing additional MSS providers in the band. In response to that request for comment, many commenters, including a variety of industries and companies, joined Inmarsat in urging the Commission not to provide TerreStar/TMI and ICO with a duopoly at 2 GHz, and a windfall 250% increase in their current 2 x 4 MHz spectrum assignments.<sup>4</sup> In short, the record is

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<sup>1</sup> See Exhibit 1. MSV and TMI have been incumbent MSS operators for almost a decade. Bell Canada's parent company, BCE Inc., controls both TMI and Telesat Canada.

<sup>2</sup> *The Establishment of Policies and Service Rules for Mobile Satellite Service in the 2 GHz Band*, 15 FCC Rcd 16127, 16138 ¶ 17 (2000).

<sup>3</sup> *TMI and TerreStar*, 19 FCC Rcd 12603, 12621 at ¶ 52, n.97 (2004).

<sup>4</sup> See, e.g., the following submissions in IB Docket No. 05-221: Comments of RF Marketing, Inc., at 7 (Jul. 29, 2005); Comments of United States Cellular Corp., at 6 (Jul. 27, 2005); Comments of CTIA – The Wireless Association, at 9-12 (Jul. 29, 2005); Comments of Sirius Satellite Radio Inc., at 14-16 (Jul. 29, 2005); Comments of the American Petroleum Institute (Jul. 29, 2005); Comments of the Society of Broadcast Engineers Inc. (Jul. 29, 2005); Comments of Globalstar LLC, at i-ii (Jul. 29, 2005); Letter from Intel Corporation (Jul. 29,

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clear that a diverse group of commenters strongly oppose TerreStar/TMI's request to split the 2 GHz band between them.

Moreover, TerreStar/TMI is not, as it suggests, entitled to more spectrum because it is building a larger, higher-powered spacecraft than the Commission authorized. The FCC's anti-bootstrapping policy is clear that when (as here) an entity builds a substantially different spacecraft at its own risk, the Commission will not take those efforts into consideration when reviewing a request for modified Commission authority.<sup>5</sup> TerreStar/TMI simply may not use its construction efforts for such a spacecraft to bootstrap its way into a larger spectrum assignment. If "build at your risk" has any meaning, it means that TerreStar/TMI's showing about its larger, higher-powered spacecraft is not probative in TerreStar/TMI's quest for more spectrum.

## II. TERRESTAR/TMI DOES NOT SHOW THAT 2 X 4 MHZ IS INADEQUATE

TerreStar/TMI simply does not demonstrate that it needs 2 x 10 MHz (or anything more than 2 x 4 MHz for that matter) in order to have a viable 2 GHz MSS system. TerreStar/TMI has represented to the Commission that, under any set of circumstances, (i) its 2 GHz spacecraft is well under construction, (ii) it has raised substantial capital and is spending billions of dollars based on its 2 x 4 MHz MSS authorization, (iii) there is no question whether it will deploy its system, and (iv) TerreStar/TMI will meet its remaining milestones, including a launch milestone in just two years (by November 2007).<sup>6</sup> Thus, by TerreStar/TMI's own account, the design of TerreStar/TMI's MSS system is long-finalized, construction is well under way, and the resolution of this proceeding will not affect the completion of its spacecraft.

Rather than base its spectrum request on its core MSS requirements, TerreStar/TMI focuses on the need for more spectrum to support its desire to provide ATC. In fact, the revised statement of Dr. Owen, submitted on October 17, 2005, hinges on the *presumption* that TerreStar/TMI needs more than 2 x 4 MHz of 2 GHz MSS spectrum so that it can offer an ATC service as a close substitute for cellular/PCS service. Putting aside for the moment the Commission policy that precludes ATC plans from being used to warrant a greater

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2005); Reply Comments of the United Telecom Council (Aug. 15, 2005); Reply Comments of Sprint Nextel Corporation, at ii (Aug. 15, 2005).

<sup>5</sup> See *Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures*, 11 FCC Rcd 21581, 21585 ¶ 9 (1996) ("*1996 Streamlining Order*") (unauthorized construction will be at the applicant's own risk, and "we will not in any way consider the status of construction or expenditures made when acting on the underlying application.").

<sup>6</sup> *Ex parte* letter from Jonathan D. Blake, Counsel for TerreStar Networks, Inc., to Marlene H. Dortch, Secretary, FCC, IB Dockets Nos. 05-220 and 05-221 & File No. SAT-PPL-20050926-00184 (filed October 17, 2005), at 2. TerreStar/TMI's launch milestone is November 2007, a year before it is required to bring the spacecraft into service.

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spectrum assignment,<sup>7</sup> neither the record of this proceeding, nor prior Commission decisions, supports Dr. Owen's presumption.

Dr. Owen accepts without question TerreStar/TMI's "view" that it needs more 2 GHz spectrum so it may develop handsets that are cost-competitive with cellular/PCS equipment.<sup>8</sup> This premise---that it will be necessary for MSS/ATC to compete with cellular/PCS providers on handset pricing alone---is simply not substantiated. To the contrary, consumers should be attracted to an MSS/ATC service because of the benefits MSS/ATC can offer that the cellular/PCS industry will not be in a position to offer, such as ubiquitous coverage of all rural areas in America, reliability when disasters render the terrestrial network useless or unreliable, and (with the launch of Inmarsat's global 2 GHz network) seamless service around the world. It is not surprising that the Commission twice concluded (once as recently as eight months ago) that an MSS/ATC system will likely compete more directly with other MSS/ATC systems than with the cellular/PCS industry.<sup>9</sup>

Dr. Owen's analysis is more significant for what he is not willing to conclude, and for the absence of supporting data, than for the general theories on which he relies. Dr. Owen provides very guarded suggestions about certain things that "could" occur, and risks that "may" arise, if the Commission authorized three or more 2 GHz MSS providers. However, Dr. Owen *does not conclude* that the presence of an additional MSS operator *in this specific set of circumstances* would lead to three non-viable MSS providers at 2 GHz.<sup>10</sup> Nor does Dr. Owen reconcile his position with the general observation by courts that a duopoly can afford both the opportunity and the incentive for the two participants to coordinate and increase prices.<sup>11</sup> Moreover, Dr. Owen's suggestions are not based on any quantitative analysis: in one case, Dr. Owen simply assumes the correctness of a wholly unsubstantiated comment Boeing made about the amount of 2 GHz spectrum that is desirable for an MSS network,<sup>12</sup> while ignoring the

<sup>7</sup> See Inmarsat Reply Comments, IB Docket No. 05-221, at 36-37 (filed August 15, 2005).

<sup>8</sup> *Ex parte* letter from Jonathan D. Blake, Counsel for TerreStar Networks, Inc., and Gregory C. Staple, Counsel to TMI, to Marlene H. Dortch, Secretary, FCC, IB Docket Nos. 05-220 and 05-221 & File No. SAT-PPL-20050926-00184 (filed October 17, 2005), Owen Statement at 9.

<sup>9</sup> See *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, 2072, at ¶ 229 (2003); *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*, 20 FCC Rcd 4616 (2005) at ¶ 10.

<sup>10</sup> Cf. TerreStar/TMI October 17 *ex parte*, Owen Statement at Executive Summary, 12-14 ("Two strong firms *in some markets may* compete more effectively than three weaker ones . . .") (emphasis supplied).

<sup>11</sup> See *FTC v. H.J. Heinz Co. and Milnot Holding Corp.*, 246 F.3d 708, 725 (D.C. Cir. 2001).

<sup>12</sup> TerreStar/TMI October 17 *ex parte*, Owen Statement at 13.

In the Boeing comments that Dr. Owen cites, Boeing expressly "does not take a position on whether the Commission should redistribute the remaining 2 GHz MSS spectrum to the two

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Commission's more studied conclusion that 2 x 2.5 MHz is adequate to commence service in this band. Furthermore, Dr. Owen's general abstractions do not address the reality that with a 2 x 4 MHz spectrum assignment, TerreStar/TMI (by its own admission) has been able to raise sufficient funds from the capital markets to construct its 2 GHz spacecraft, and to be in a position to deploy it by 2007, and already is spending "billions of dollars" to do so.<sup>13</sup>

Any given company would prefer to have access to more spectrum, and arguably would be better situated the more spectrum it has. But it simply does not follow that the public interest would be best served by limiting the 2 GHz band to two competitors. To the contrary, authorizing at least one additional 2 GHz provider would ensure that the public would have more competitive choices among providers of the services that can most effectively be provided using the 2 GHz band. Inmarsat, as a company with a demonstrable track record and commitment to MSS, would greatly enhance the competitive choices available to consumers, first responders and other Homeland Security users if it were to have access to the same types (and the same quantity) of MSS spectrum resource as the incumbent TerreStar/TMI and its affiliate, MSV, will control.

### III. THE COMMISSION SHOULD PROVIDE FOR AT LEAST THREE INITIAL 2 GHZ MSS COMPETITORS

There are compelling policy reasons to authorize at least one additional entity to provide MSS at 2 GHz. First, and foremost, as the Commission itself has recognized, courts have generally condemned mergers that result in duopoly, particularly where additional market entry would be difficult.<sup>14</sup> Indeed, "[t]he creation of a durable duopoly affords both the opportunity and incentive for both firms to coordinate to increase prices."<sup>15</sup>

TerreStar/TMI tries to dismiss these concerns about likely competitive harms by citing as potential future competition Globalstar's and Inmarsat's future ATC plans (in the Big LEO band and the L-Band, respectively).<sup>16</sup> That argument entirely misses the point. TerreStar/TMI fails to address the fact that the 2 GHz band is *unique* among MSS bands in its ability to support high-data-rate, next-generation multimedia and broadband MSS offerings over mobile handheld devices, including in rural areas that may otherwise be unserved or underserved.

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remaining licensees or reassign the spectrum to one or more new MSS licensees."  
Comments of The Boeing Company, IB Docket No. 05-221 at 4 (filed July 29, 2005).

<sup>13</sup> See TerreStar October 17, 2005 *ex parte* at 2.

<sup>14</sup> *Application of EchoStar Communications Corporation, General Motors Corporation, and Hughes Electronics Corporation*, 17 FCC Rcd 20559, 20604 (2002).

<sup>15</sup> See *FTC v. H.J. Heinz Co. and Milnot Holding Corp.*, 246 F.3d 708, 725 (D.C. Cir. 2001); see also *id.* at 724 n.23 ("supracompetitive pricing at monopolistic levels is a danger in a market with only two competitors") (citing Edward Hastings Chamberlin, *The Theory of Monopolistic Competition: A Re-orientation of the Theory of Value* 46-55 (8th ed. 1962)).

<sup>16</sup> See TerreStar/TMI October 17 *ex parte*, Owen Statement at 5-8.

As Inmarsat has explained before, the greenfield that is 2 GHz promises exciting new opportunities for U.S. consumers. Specifically, the unique nature of the 2 GHz band—the large, contiguous spectrum segments that support wide-band channels, and the complete absence of existing satellite services—supports a range of new and innovative broadband and multimedia services that cannot be provided today (or in the foreseeable future) in other MSS bands.

In stark contrast to the L-Band, the 2 GHz band is not currently used for MSS. The following chart contrasts the developed nature of the L-Band with the greenfield that is 2 GHz MSS:

Frequency Band	In-Orbit Spacecraft	Number of Operators
L-Band	>20	10
2 GHz	0	0

This means that MSS services that are still being planned for 2 GHz are entirely unconstrained by (i) existing spectrum sharing arrangements entered into around the world that govern the operations of the more than twenty in-orbit L-Band spacecraft, (ii) the resulting high level of band segmentation at L-Band, (iii) the unavailability of large contiguous spectrum segments to support wide-band channels, and (iv) the need to protect the operations of hundreds of thousands of MSS customers who, in the aggregate, have invested billions of dollars in their terminal equipment and related communications infrastructures.

A 2 GHz MSS system therefore is uniquely positioned to support new multicast, broadcast and video-on-demand applications, delivered seamlessly to low cost terminal equipment, and with the efficiencies inherent in “piggybacking” on technological developments that are being made to support terrestrial 3G networks. That is Inmarsat’s motivation for deploying a 2 GHz MSS system---bringing forth new services that are simply not feasible to deploy in other MSS bands.<sup>17</sup>

Under these circumstances, both the Commission’s Hearing Designation Order in the DIRECTV/EchoStar proceeding,<sup>18</sup> and its subsequent Space Station Licensing Reform Order,<sup>19</sup> require that TerreStar/TMI and ICO demonstrate that licensing only TerreStar/TMI and ICO in the 2 GHz band would provide “extraordinarily large, cognizable, and non-speculative efficiencies.”<sup>20</sup> That burden simply has not been met. To the contrary, the nascent nature of the

<sup>17</sup> Cf. Letter from Randy S. Segal, MSV, to Marlene H. Dortch, FCC, IB Docket Nos. 05-220, 05-221 (filed Oct. 25, 2005).

<sup>18</sup> *Application of EchoStar Communications Corporation, General Motors Corporation, and Hughes Electronics Corporation*, 17 FCC Rcd 20559 (2002).

<sup>19</sup> *Amendment of the Commission’s Space Station Licensing Rules and Policies; Mitigation of Orbital Debris*, 18 FCC Rcd 10760 (2003)

<sup>20</sup> See *id.* at 10789-90.

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2 GHz band, and the complete absence of any MSS services in the band today, provide significant obstacles to concluding, at this juncture, that licensing only two initial competitors would not result in competitive harm. A complete absence of record support for such efficiencies does not overcome the presumption that a 2 GHz duopoly will not serve the public interest.<sup>21</sup>

Regardless of what may have been the case four or five years ago when Inmarsat withdrew its initial 2 GHz proposal, intervening technological developments make clear that access to the L-Band is not a substitute for the 2 GHz band today.<sup>22</sup> If it were, TerreStar/TMI itself would not be seeking access to 2 x 10 MHz of 2 GHz spectrum on top of the approximately 2 x 13 MHz of L-Band spectrum to which it and its affiliates currently have access, and which they demonstrably are not fully using.<sup>23</sup>

#### IV. INMARSAT'S 2 GHZ PLANS

Well before the June 29, 2005 Public Notices in this matter, Inmarsat met with Commission staff to discuss its interest in the 2 GHz band, and worked through its regulator, Ofcom, to submit appropriate 2 GHz filings at the ITU.<sup>24</sup> In September, Inmarsat applied for Commission authority to deploy a 2 GHz system in accordance with the Commission's five-year milestone schedule. And Inmarsat's CEO has confirmed the Company's intention to proceed with this system in personal meetings with Chairman Martin, Commissioners, and Commission staff over the past few weeks. Inmarsat has detailed why its application is consistent with the Commission's rules and precedent, and why the Commission can and should grant Inmarsat's request outside a processing round.<sup>25</sup> Moreover, Inmarsat's record of launching almost a dozen

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<sup>21</sup> See *id.*

<sup>22</sup> Cf. *Ex parte* letter from Jonathan D. Blake, Counsel for TerreStar Networks, Inc., and Gregory C. Staple, Counsel to TMI, to Marlene H. Dortch, Secretary, FCC, IB Docket Nos. 05-220 and 05-221 & File No. SAT-PPL-20050926-00184 (filed October 12, 2005), at 2; TerreStar/TMI October 17 *ex parte*, Owen Statement at 7-8.

<sup>23</sup> Despite having access to approximately 40% of the L-Band over North America, the combined TMI/MSV venture is on pace to generate only some \$30M of revenue from that spectrum in 2005, as it has done for each of the prior three years. Motient Corp., Quarterly Report on Form 10-Q, for the period ended June 30, 2005, at 38, Securities and Exchange Commission File No. 0-23044 (filed Aug. 15, 2005); Amendment No. 1 to Registration Statement on Form S-1, at M-3, Securities and Exchange Commission File No. 333-121862 (filed Feb. 14, 2005).

<sup>24</sup> TerreStar/TMI's assertions that Inmarsat's interest developed after the June 29 Public Notices issued are simply wrong. TerreStar/TMI October 12, 2005 *ex parte* at 4.

<sup>25</sup> Thus, TerreStar/TMI's assertions that this proposal is a "lawyer's drafting exercise" is patently false. See TerreStar/TMI October 12, 2005 *ex parte* at 2. TerreStar/TMI's assertion that Inmarsat's application is procedurally deficient ignores the demonstrations to the contrary in Inmarsat's October 17, 2005 Consolidated Response to TerreStar/TMI's and ICO's objections in File No. SAT-PPL-20050926-00184.

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spacecraft over the past two decades demonstrates that it is feasible for Inmarsat to deploy that system by the end of 2010. Contrary to Mr. Brumley's mischaracterization of Inmarsat's plans,<sup>26</sup> the only "if" about Inmarsat's 2 GHz plans that needs to be resolved involves the dismissal of TerreStar/TMI's spurious procedural challenges to the competitive alternative that Inmarsat seeks to offer.

TerreStar/TMI questions the impact of the passage of the ORBIT Act on Inmarsat's ability to have deployed a 2 GHz system before now. Coming from an entity that blamed *Canadian laws* for its failure to meet *U.S. milestone requirements*,<sup>27</sup> this is more than ironic. To set the record straight, Inmarsat withdrew its 2 GHz proposal in 2001, in the midst of a dead IPO market, and after the ORBIT Act mandated that Inmarsat conduct an IPO prior to deploying a 2 GHz system. Inmarsat indicated that it could not implement at 2 GHz under the Commission's milestones, withdrew its application, and reserved the right to refile "if market conditions and regulatory policies should warrant it."<sup>28</sup> Both circumstances have now occurred. Inmarsat hardly can be criticized for withdrawing an application, rather than accepting an authorization and asking for milestone extensions based on market or regulatory circumstances, as TerreStar/TMI and ICO have done. That Inmarsat declined to play that game for the past five years does not preclude it from seeking to deploy at 2 GHz today.

The Commission can and should consider Inmarsat's 2 GHz application, both on its own merits, and in IB Docket Nos. 05-220 and 05-221. The filing of Inmarsat's market access application puts to rest TerreStar/TMI's prior arguments that Inmarsat's 2 GHz plans were too inchoate to be considered. Inmarsat's 2 GHz MSS market access application, containing a detailed system architecture and specific implementation schedule, has been submitted into the record in IB Docket Nos. 05-220 and 05-221 and should be taken into account.

## V. MSV'S ALLEGATIONS ABOUT THE L-BAND

MSV's unsubstantiated claims about the design of the I-4 L-Band spacecraft are mere fabrications. The Inmarsat-4 L-Band spacecraft that launched on November 8, 2005, and which will begin providing broadband service to the U.S. early next year, is the most powerful and advanced spacecraft in its class to date. With 200 narrow spot beams, 19 wide spot beams, and a single global beam, and the ability to reconfigure the service areas of the beams in orbit, I-4 is uniquely suited to adjust to changing market demands. This spacecraft is more than an order of magnitude more spectrum efficient and powerful than Inmarsat's previous generation. The I-4 design therefore is able to provide MSS service at data rates of approximately half a megabit per second, to terminals one third the price, weight and size of existing Inmarsat terminals.

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<sup>26</sup> TerreStar October 17, 2005 *ex parte* at 2.

<sup>27</sup> *TMI and TerreStar*, 19 FCC Rcd at 12618, ¶41.

<sup>28</sup> See Letter from Kelly Cameron, Powell, counsel to Inmarsat, to Magalie Roman Salas, Secretary, FCC, File No. 190-SAT-LOI-97 (Nov. 21, 2000).

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Unlike MSV, who has been promising a second generation spacecraft since 1998, and who has been warehousing L-Band spectrum in the meantime, Inmarsat is not waiting to test the ATC marketplace before it invests further in its MSS infrastructure. Rather, Inmarsat is completing a \$1.5 billion capital expenditure program to ensure the future of MSS. Inmarsat fully intends, as a next step, to move forward with ATC plans using the I-4 design, and MSV has simply no basis on which to speculate about how Inmarsat may choose to satisfy the ATC gating criteria in the future.

In actuality, MSV's complaints about the unresolved issues that exist in the L-Band are nothing more than a self-indictment. MSV's concerns should be addressed in the context of the multi-national agreement that governs the use of the L-Band over North America. This is a process in which MSV historically has refused to participate, because MSV is hoarding L-Band spectrum that it is afraid to lose but has yet to use.<sup>29</sup> The gridlock that exists in the L-Band cannot be overcome unless MSV ends its intransigence and complies with the L-Band spectrum assignment policies and procedures that the U.S. championed.<sup>30</sup>

## VI. 2 GHZ MSS LICENSING SOLUTIONS

The Commission has far better options than creating a duopoly at 2 GHz. There are three main alternatives to providing TerreStar/TMI and ICO with more spectrum before they have completed construction of, or launched, a single satellite:

1. The Commission could open the newly available 2 GHz MSS spectrum (2 x 12 MHz) for a processing round to accommodate new entrants.
  - The first step would be to examine the amount of MSS spectrum that should be assigned to any MSS system before it is launched.
  - If the Commission were to determine that the appropriate amount of spectrum is more than 2 x 4 MHz, the Commission could allow TerreStar/TMI and ICO to

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<sup>29</sup> MSV has a history of holding on to licenses for L-Band spacecraft that it never launches. See, e.g., Letter from Lon C. Levin, Vice President, Mobile Satellite Ventures, to Marlene H. Dortch, Secretary, FCC (Jun. 30, 2003) (surrendering authorizations for L-Band MSS spacecraft at 62° W.L. and 139° W.L).

<sup>30</sup> The Commission has a clear policy that access to the L-Band is to be revisited annually, based on actual usage and short-term projections of future need. See *Public Notice*, FCC Hails Historic Agreement on International Satellite Coordination, Report No. IN 96-16 (rel. June 25, 1996). Despite Inmarsat's urging, MSV has doggedly refused to participate in that annual process for the past seven years. For example, in October 2001, Inmarsat urged MSV (then Motient) and the Commission, in writing, to reinstate the annual operator meetings. See Comments of Inmarsat Ventures, FCC IB Docket No. 01-185, at 23 (filed Oct. 22, 2001). Inmarsat also suggested a meeting of all operators in three letters to MSV over the past two years.

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increase their current holdings through the same licensing process to be used to accommodate new entrants.

- In order to authorize the limited number of new entrants that likely could be accommodated in the available 2 x 12 MHz of spectrum, the Commission could use a modified licensing process to award spectrum rights, based on the first entities to actually launch, until the band is fully subscribed by launched spacecraft.

2. Should the Commission determine to award TerreStar/TMI and ICO 2/3 of the 2 GHz band now, as proposed in the June 29 Public Notice in IB Docket No. 05-221, the Commission has two alternative ways to license the remaining 1/3 for MSS:

- Provide Inmarsat access to that remaining 1/3 (an amount equal in size to TerreStar/TMI's and ICO's), for the reasons stated in Inmarsat's pending market access request to provide U.S. MSS service at 2 GHz;<sup>31</sup> or
- Open a "modified" processing round for the final 1/3, assigning that remaining third of the band to the first applicant to actually launch a 2 GHz MSS system.

3. Alternatively, the Commission could simply initiate a rulemaking proceeding to determine how best to assign the returned 2 GHz unlicensed spectrum in the future.

- Developing a full record for assigning this spectrum would make sense, given how valuable this band is, and given that neither TerreStar/TMI nor ICO has yet completed construction of its spacecraft.

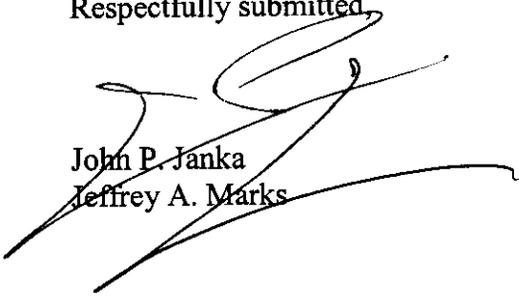
Under no circumstance, however, should the Commission create a 2 GHz duopoly by dividing the entire band between TerreStar/TMI and ICO. The Commission's spectrum management and competition policies warrant providing a chance for meaningful MSS competition to develop in the 2 GHz band. There simply is no basis for the "parade of horrors" that TerreStar/TMI asserts might result both in the U.S. and abroad if the Commission does not immediately provide TerreStar/TMI and ICO each with access to 2 x 10 MHz of the 2 GHz band.

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<sup>31</sup> See Inmarsat Global Limited, Petition for Declaratory Ruling to Provide Mobile Satellite Service to the United States Using the 2 GHz and Extended Ku Bands, File No. SAT-PPL-20050926-00184 (filed Sep. 26, 2005).

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Respectfully submitted,



John P. Janka  
Jeffrey A. Marks

cc: Chairman Kevin J. Martin  
Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Commissioner Jonathan S. Adelstein  
Daniel Gonzalez  
Emily Willeford  
Fred Campbell  
John Branscome  
John Giusti  
Barry Ohlson  
Sam Feder  
Donald Abelson  
Bruce A. Franca  
Roderick Porter  
Anna Gomez  
Richard Engelman  
Gardner Foster  
Cassandra Thomas  
Robert Nelson  
Fern Jarmulnek  
Karl Kensinger  
Steve Spaeth  
William Bell

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Exhibit 1

## Motient Announces Transaction with Owners of Mobile Satellite Ventures and TerreStar Network

Thursday September 22, 5:21 pm ET

### Restructuring and Simplification of Ownership Structure to Provide MSV and TerreStar Enhanced Access to Capital and Strategic Partners

LINCOLNSHIRE, Ill., and RESTON, Va., Sept. 22 /PRNewswire-FirstCall/ – Motient Corporation (Pink Sheets: MNCP - News) and Mobile Satellite Ventures LP (MSV), announced today that Motient had executed a non-binding letter of intent with SkyTerra Communications Inc. (OTC Bulletin Board: SKYT - News) and TMI Communications & Company, among others, to consolidate the ownership of MSV and TerreStar Networks Inc. within Motient. The parties anticipate that these transactions, if consummated, will simplify the ownership and governance of each of MSV and TerreStar, better enabling each of them to pursue more effectively their deployment of separate hybrid satellite and terrestrial based communications networks providing ubiquitous wireless coverage across all of North America in the L-band and S-band, respectively.

Christopher Downie, Chief Operating Officer of Motient said, "We are taking these steps to simplify the ownership structure of these assets and improve their ability to build value for shareholders. We believe that this transaction positions Motient's shareholders into a more direct and immediate ownership position of MSV and TerreStar, and brings with it significant resulting benefits."

Alex Good, Chief Executive Officer and Vice Chairman of MSV said, "We are at a critical stage in the development of a truly ubiquitous wireless communications network for North America. The simplification of MSV's ownership structure provides MSV much greater visibility, and will enhance access to capital while improving our ability to accommodate potential strategic partners. MSV enthusiastically applauds the restructuring and its direct and immediate benefits to the buildout of the nation's first, and best, hybrid networks."

The letter of intent sets out the basic terms of the proposed transaction, which include, among other things, the following:

- In connection with all the transactions contemplated by the letter of intent, Motient would issue or commit to issue approximately 77 million shares of common stock in exchange for the outstanding MSV interests not already owned by Motient, and approximately 16 million shares for the outstanding TerreStar shares not already owned by Motient.
- All of the outstanding MSV and TerreStar interests not already owned by Motient, other than those held by TMI, would be transferred to Motient at closing.
- TMI would receive the right to exchange its interests in MSV and TerreStar at any time at the same exchange ratios that are being offered to the other shareholders and would subscribe for shares of a new class of Motient preferred stock with nominal economic value but having voting rights in Motient equivalent to those TMI would receive upon exchange of its MSV and TerreStar interests for Motient common stock.
- SkyTerra would dividend to its securityholders shares of a newly formed company that would hold all of its assets other than its interests in MSV and TerreStar, and then SkyTerra, which would then consist only of its stakes in MSV and TerreStar, would merge in a tax-free reorganization with and into a subsidiary of Motient. As a result, in addition to the dividend, SkyTerra's stockholders would receive Motient common stock at an exchange ratio reflecting equivalent economic value for MSV/TerreStar as received by the other MSV/TerreStar stockholders. In total, SkyTerra common and preferred stockholders would receive approximately 26 million shares of Motient common stock. SkyTerra's preferred stock would be retired in exchange for Motient common stock with a value equal to the liquidation preference of the preferred stock and SkyTerra's common stockholders would receive the balance of the Motient shares.

- \* The parties anticipate that, after the closing of the transaction, TerreStar would likely be spun-off to the shareholders of Motient (including those receiving shares in connection with these transactions). However, this spin-off would be evaluated following the closing of the other transactions, and would only be executed if it is judged by Motient's Board of Directors to be in the best interests of its shareholders at that time. In the event of a spin off of TerreStar, the exchange ratios applicable to TMI's exchange right would be modified accordingly.
- The boards of Motient and MSV would be reconstituted with nine members mutually acceptable to the parties and in compliance with the independence rules and regulations of NASDAQ. TerreStar would have a similarly structured board after the completion of the transaction, separate of Motient and MSV.
- The parties anticipate that Alex Good, CEO of MSV, would become Motient's new CEO after the transaction. The parties also anticipate that Robert Brumley, CEO of TerreStar, would continue in that role after the transaction with TerreStar maintaining its own management team.

Consummation of the transactions will require successful completion of due diligence, negotiation and execution of definitive documentation, Motient and SkyTerra board and shareholder approval, and various regulatory approvals. Because the letter of intent is non-binding, the parties have no obligation to negotiate such documentation or otherwise consummate the transactions. Therefore, the parties can provide no assurances that the transactions will be consummated on the currently proposed terms or will ever be consummated, or that the required corporate or regulatory approvals will be obtained.