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The Secretary,
Office of the Secretary,
Federal Communications Commission,
445 12th Street S.W.,
Washington, D.C. 20554
U.S.A.

Dear Ms. Dortch,

In the matter of **IB Docket No. 06-160 :** *Amendment of the Commission's Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service, and the Feasibility of Reduced Orbital Spacing for Provision of Direct Broadcast Satellite Services in the United States*

Reply Comments of the Department of Telecommunications[1], Bermuda

In its Comments, this Department suggested that the Commission should not place an absolute value on the amount of orbital separation between DBS satellites. We also suggested that it should be for the respective satellite operators, through internationally-recognised technical co-ordination methods, to establish whether two similar systems can (or could) co-exist. Our reasoning was that this would not only promote competition and innovation, but would do so by allowing the prospective operators of such systems to work together to reach co-ordination or compromise agreements themselves, according to the particular characteristics of their respective systems, rather than in accordance with domestic, externally-defined technical reference points which might be unsuitable to the circumstances of those systems.

In their Comments, Spectrum Five LLC ("Spectrum Five") and ManSat Ltd. ("ManSat") both advanced arguments which support the adoption of rules to allow DBS satellites to be located at less than 9° separation. In addition, during the period for comments on this rulemaking, the Commission took decisions on applications by Spectrum Five and by EchoStar Satellite LLC. Whilst we agree with the Commission's decision, and we broadly support the arguments in favour of reduced separation, put forward by Spectrum

[1] This letter describes the comments and observations of this Department, and we do not try to represent the views of the Ministry of Environment, Telecommunications and E-Commerce, or the Government of Bermuda as a whole, or the collective or individual views of those satellite operators who are incorporated in Bermuda.

Five and ManSat, the Department is concerned that these arguments could persuade the Commission to adopt a rule requiring 4.5° separation between DBS satellites.

The Department would like to repeat its view that the Commission should not make a rule defining the amount of separation between DBS satellites' orbital locations, but should allow the amount of separation, and other factors affecting the ability of similar systems to co-exist, to be determined by the satellite operators themselves, during the course of negotiations in good faith, and subject to adequate safeguards against speculation, "hoarding" and unreasonable behaviour during co-ordination negotiations.

The Department believes that it is difficult to determine an appropriate absolute value for orbital separation since the amount of orbital separation may differ. There are planned assignments in the ITU's Region 2 Plan which are separated by 9°, for which it might be appropriate to allow a "tweener" satellite to operate with 4.5° separation (that is, equidistant) between each neighbour. Where this separation is greater than 9° (such as between the US DBS orbital locations of 61.5° WL and 101° WL, or 119° WL and 148° WL) or where it is proposed to locate a satellite beyond the existing DBS arc (that is, east of 61.5° WL or west of 175° WL), then there is even less reason to impose an absolute value of orbital separation. If a separation distance is imposed, then it should be made clear that under those circumstances, it is a minimum distance rather than an absolute distance.

Any such rule, if adopted, should also make clear how provisions for clustering and station-keeping would be applied, and whether a predetermined amount of separation would apply to the respective nominal orbital locations of the satellites, to their respective authorised orbital locations, or to the position at the edges of the satellites' respective station-keeping limits. ManSat allude to this matter in part C of their Comments at page 6, where they suggest that "appropriate accommodations" may need to be made within any orbital spacing rule, to take account of other countries' filings and to take account of "offsets" from nominal positions.

The Department, in filing these Reply Comments, does not alter its views as described in its Comments, and we continue to advocate the use of technical co-ordination methods, including those contained in the ITU's Radio Regulations, rather than absolute values and standards, in determining whether satellite networks can co-exist.

The Department is grateful to the Commission for the opportunity to submit this letter containing these Reply Comments, and for the extended time period granted by the Commission in response to the motion of SES Americom.

Yours faithfully,

William G. Francis, CCP
Director of Telecommunications