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March 7, 2008

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VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: **Ex Parte Notice**
IB Docket No. 02-364

Dear Ms. Dortch:

On March 6, 2008, Donna Bethea-Murphy, Vice President, Regulatory Engineering of Iridium Satellite LLC ("Iridium"), and R. Michael Senkowski and Gregg Elias of Wiley Rein LLP, counsel to Iridium, met with Aaron Goldberger of Chairman Kevin J. Martin's office. In this meeting, the participants reviewed the Commission's decision to modify the Big LEO L-Band to allow both Iridium and Globalstar exclusive access to 7.775 MHz of Big LEO L-band spectrum in the 1610-1626.5 MHz band.[1]

As an initial matter, Iridium expressed strong support for the Commission's directive to the International Bureau to modify Iridium's and Globalstar LLC's ("Globalstar") licenses consistent with its *Second Order on Reconsideration* in this proceeding. On November 9, 2007, the FCC released a *Second Order on Reconsideration* modifying the Big LEO bandplan to provide CDMA and TDMA systems each exclusive access to 7.775 megahertz of L-band spectrum. In this *Order*, the Commission directed the International Bureau to "modify Iridium's and Globalstar's licenses as set forth in this *Second Order on Reconsideration*."[2] Iridium noted that the International Bureau's prompt release of the license modifications would facilitate Iridium's and Globalstar's ability to conform their current operations and future satellites plans to their new spectrum assignments.

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[1] Additionally, Iridium and Globalstar share 0.95 MHz of spectrum in the 1610-1626.5 MHz band.

[2] *Spectrum and Serv. Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands, Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Serv. Sys. in the 1.6/2.4 GHz Bands*, Second Order on Reconsideration, Second Report and Order, and Notice of Proposed Rulemaking, 22 FCC Rcd 19,733, 19,752 (¶ 45) (2007).

Iridium also addressed Globalstar's claim that the FCC's decision to narrow Globalstar's spectrum use in the *Second Order on Reconsideration* has no impact internationally. Since the release of this *Order*, Globalstar has publicly questioned whether the *Order* has any effect outside the United States. Specifically, Jay Monroe, Globalstar's CEO and Chairman, has stated that "the FCC's ruling on the L-band spectrum assignments has no effect outside the United States where Globalstar still has access to 27.85 megahertz of satellite spectrum."[3]

Globalstar's claim about of the scope of the Commission's space station licensing authority conflicts with well-established International Telecommunication Union ("ITU") treaty obligations, U.S. statutory authority and FCC precedent. The United States, as the ITU notifying and licensing administration for Globalstar, is responsible for the coordination and operation of Globalstar's satellites worldwide.[4] Both the FCC's initial decision to license Globalstar to use 27.85 MHz of spectrum and its more recent decision to reduce that spectrum amount implements this international responsibility. Indeed, neither Globalstar's own space station authorizations nor those of any FCC authorized entity would have any practical force or effect if other administrations were free, as claimed by Globalstar's CEO, to authorize conflicting and interfering space systems on the same spectrum.

Similarly, the Communications Act confers on the Commission jurisdiction to regulate satellite spectrum usage pursuant to, *inter alia*, 47 U.S.C. §§ 151, 152, 301, 303(r). Pursuant to this authority and Section 25.102 of the Commission's rules, the International Bureau routinely specifies both transmit and receive frequencies in satellite licenses.[5] The International Bureau also has authorized a

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[3] Jeffrey Silva, *FCC grants Globalstar, Iridium L-band spectrum, ATC plans out for comment*, RCR News (Nov. 12, 2007) *at* http://www.rcrnews.com/apps/pbcs.dll/article?AID=/20071112/FREE/71112003/1005/home.rcrnews.com&template=printart.

[4] ITU Radio Reg., Sec. 18.1 ("No transmitting station may be established or operated by a private person or by any enterprise [such as Globalstar] without a licence issued in an appropriate form and in conformity with the provisions of these Regulations by or on behalf of the government of the country to which the station in question is subject ").

[5] *See, e.g., KaStarCom. World Satellite, LLC; Application for Authority to Construct, Launch, and Operate a Ka-Band Satellite Sys. in the Fixed-Satellite Serv.*, Order and Authorization, 16 FCC Rcd 14,322, 14,330 (¶ 27) (2001) ("KaStarCom World Satellite, LLC IS AUTHORIZED to

satellite system to use frequencies to transmit signals to or to receive signals from earth stations located outside the United States.[6]

Finally, the International Bureau unequivocally has confirmed that satellite orders have effect outside the United States:

> The fact that a satellite is located in space, and thus outside of U.S. territory, does not alter our statutory authority to prescribe restrictions and conditions concerning its operations that are in the public interest. The Communications Act gives the Commission the authority to regulate ". . . communication by wire and radio so as to make available [a] . . . Nation-wide, and world-wide wire and radio communication service with adequate facilities . . . for the purpose of the national defense [and] promoting safety of life and property . . . ." The Communications Act also clearly contemplates that radio stations authorized by the Commission may be used for international communications, and does not limit the Commission's authority to condition the operations of such stations. Further, the Communications Act provides the Commission greater discretion where international radio-frequency issues, particularly those involving treaty obligations,

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(Continued . . .)
launch and operate one GSO FSS satellite, to provide fixed-satellite service in the 18.3-18.8 GHz and 19.7-20.2 GHz, 28.35-28.60 GHz and 29.25- 30.0 GHz frequency bands and frequency bands at the 111° W.L. orbital location.") Under Globalstar's view that satellites need not be licensed for the reception of signals, there would be no need to ever specify the receive frequencies in a satellite license. The Commission's well-established licensing practice recognizes that space stations need the rights to receive transmissions free from harmful interference which Globalstar alleged would happen here if spectrum was shared – an argument upon which the Order granting Globalstar's reconsideration is premised.

[6] *Modification of Licenses held by Iridium Constellation, LLC, and Iridium, US LP; For a Mobile Satellite Sys. in the 1.6 GHz Frequency Band*, Order, 18 FCC Rcd 11,480, 11,483 n.18 (Int'l Bur. 2003) (authorizing Iridium's satellites to use additional spectrum in the Middle East).

> are involved. The United States, as the licensing administration for Iridium, is responsible for its global operations in accordance with International Telecommunication Union treaty obligations.[7]

Thus, the FCC's decision to change the spectrum amount authorized for operation on Globalstar's satellites applies to its use of frequencies globally (*i.e.*, regardless of the geographic location of the corresponding earth station). Should the Commission's spectrum authorization decision not have international effect, satellite operations in other markets would be able to interfere with a licensed U.S. satellite system, an outcome not in keeping with ITU goals nor the goals of effective spectrum management.

In sum, the FCC's decision requires Globalstar to conform its use of spectrum to the new band plan adopted by the agency – both domestically and internationally. Simply stated, Globalstar cannot ignore the spectrum limitations to be implemented in upcoming license modifications and, to do so, would expose Globalstar to agency sanctions up to and including revocation of its satellite authorizations granted by the Commission.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, an electronic copy of this letter is being filed for inclusion in the above-referenced dockets. Please direct any questions regarding this filing to the undersigned.

Sincerely,

/s/ *R. Michael Senkowski*

R. Michael Senkowski

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[7] *Modification of Licenses held by Iridium Constellation, LLC, and Iridium, US LP; For a Mobile Satellite Sys. in the 1.6 GHz Frequency Band*, Order, 18 FCC Rcd 20,023, 20,027-28 (¶ 12) (Int'l Bur. 2003) (citations omitted).