

Samir C. Jain

+1 202 663 6083 (t)
+1 202 663 6363 (f)
samir.jain@wilmerhale.com

October 9, 2009

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

*Re: Review of the Spectrum Sharing Plan among Non-Geostationary Orbit Mobile
Satellite Service Systems in the 1.6/2.4 GHz Bands – IB Docket No. 02-364 and
ET Docket No. 00-258*

Dear Ms. Dortch:

Globalstar submits this brief response to the September 23, 2009, *ex parte* filing by Sprint Nextel Corporation (“Sprint”) in the above-referenced proceedings.^{1/} In its letter, Sprint informs the Commission that it is withdrawing its 2006 proposal to replace the equipment of certain Broadcast Auxiliary Services (“BAS”) licensees operating on channel A10 in the 2495-2500 MHz band in order to prevent interference that may occur between Sprint and those licensees. Sprint also suggests that now that it is unwilling or unable to take steps to address the potential interference, the burden should fall on Globalstar to pay to relocate the BAS channel A10 licensees.

Sprint is flatly wrong in its assertion that Globalstar has any financial obligations arising from BAS licensees’ decision whether or not to continue operating in this spectrum. To the contrary, after having considered and reconsidered this issue on multiple occasions, the Commission repeatedly has found that Globalstar and the limited number of operational grandfathered BAS channel A10 licensees can coexist in this spectrum and that relocation of BAS licensees as a result of Globalstar’s use of the spectrum is not necessary. It would be perverse to require that Globalstar pay to address interference issues arising not from its own operations, but from those of *BRS* licensees.

The Commission first addressed the possibility of interference between Big LEO MSS and MSS/ATC systems and BAS channel A10 licensees’ operations as early as 2003, when it

^{1/} See Sprint Nextel Ex Parte Filing in IB Docket No. 02-364 and ET Docket No. 00-258 (Sept. 23, 2009).

October 9, 2009

Page 2

adopted the rules governing MSS licensees' deployment of ATC services in the Big LEO S-band. After reviewing the parties' substantial technical submissions for the record, the Commission correctly found that any potential treat of interference from MSS/ATC services to BAS operations could easily be avoided through coordination.^{2/} The Commission affirmed that conclusion in 2004, when it once again found that coordinated sharing of the 2483.5-2500 MHz band by MSS/ATC and BAS operators was fully achievable.^{3/} The Commission most recently reached the same conclusion in 2006, when it once again rejected further requests by BAS licensees to be relocated. In doing so, the Commission unequivocally explained that it had considered "the potential for mutual interference between ATC operations and the grandfathered [BAS] operations in the band, but...ultimately determined that these services *would be able to share spectrum and that any potential interference concerns could be mitigated through coordination.*"^{4/} The absence of any potential interference concerns is made even more clear by the fact that the Commission has not permitted ATC operations in the 2495-2500 MHz band at issue.^{5/}

Because the Commission has repeatedly rejected the notion that Globalstar's MSS/ATC operations in any way require the relocation of BAS channel A10 licensees, Sprint's efforts to shift to Globalstar any financial burden for relocating such licensees is wholly unjustified. To the extent that Sprint's now withdrawn offer to provide BAS channel A10 licenses with replacement equipment was intended to prevent interference between BAS operations and Sprint's own operations, this is a matter more appropriately left to the BAS licenses and Sprint

^{2/} 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, *Report and Order and Notice of Proposed Rulemaking*, 18 FCC Rcd 1962 (2003) at ¶¶ 201-206 (2003) ("ATC Report and Order").

^{3/} See Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands, *Report and Order, Fourth Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 13356, 13389-90 ¶ 75 (2004).

^{4/} See Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands, *Order on Reconsideration and Fifth Memorandum Opinion and Order and Third Memorandum Opinion and Order and Second Report and Order*, 21 FCC Rcd 5606 (2006) at ¶ 41 (citing *ATC Report and Order*, 18 FCC Rcd at 2060-2063 ¶¶ 201-206) (emphasis added).

^{5/} See, e.g., Spectrum and Service Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands, *Report and Order and Order Proposing Modification*, 23 FCC Rcd 7210 (2008) at ¶ 23.

October 9, 2009

Page 3

itself. Sprint has not pointed to – nor does there exist – any Commission precedent that would hold Globalstar responsible for addressing interference concerns that do not result directly or indirectly from its own operations.

Respectfully submitted,

/s/ Samir C. Jain

Samir C. Jain

Counsel to Globalstar, Inc.