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BY ELECTRONIC FILING

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

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

Dear Ms. Dortch:

In October 2004, Nextel Communications, Inc. proposed that the Commission mitigate the problem of harmful interference between Broadcast Auxiliary Service (BAS) and Broadband Radio Service (BRS) operations by authorizing a partial rebanding of BAS A8-A10 operations. No action was taken on this proposal in the last five years; consequently, Nextel's successor-in-interest, Sprint Nextel Corporation (Sprint Nextel), formally withdrew its predecessor's proposal in September of this year.¹ In a recent *ex parte* letter filed in this proceeding, Globalstar mischaracterized the record in several significant respects.² This letter seeks to correct three of Globalstar's false or misleading statements.

First, contrary to Globalstar's suggestion, Sprint Nextel is in no way responsible for funding the relocation of BAS Channels A8-A10 to protect BAS licensees against interference. As Globalstar fully knows, the assignment of BRS spectrum to AWS forced incumbent BRS licensees from the 2150-2160/62 MHz band to the 2496-2502 MHz band. Under well-established Commission policies, new entrants and other parties who stand to benefit from the reallocation bear the cost of providing the displaced incumbents with comparable spectrum. Neither Sprint Nextel, which is no longer a BRS licensee in any case,³ nor any other BRS incumbent explicitly or implicitly assumed responsibility for the costs of ensuring BRS licensees are made whole in their new spectrum assignment.

¹ Letter from Trey Hanbury, Director, Sprint Nextel Corporation, to Marlene H. Dortch, FCC Secretary, IB Docket No. 02-364 (Sept. 23, 2009).

² Letter from Samir C. Jain, Counsel to Globalstar, Inc., to Marlene H. Dortch, FCC Secretary, IB Docket No. 02-364 (Oct. 9, 2009) (Globalstar Letter).

³ Sprint Nextel transferred all of its 2.5 GHz licensees and leases, including its BRS-1 licenses, to Clearwire Corporation in 2008.

Second, Globalstar's letter incorrectly suggests that the Commission has fully resolved the issue of whether Globalstar's satellite and Ancillary Terrestrial Component (ATC) services can share spectrum with BAS, BRS, and Part 18 Industrial, Scientific and Medical (ISM) devices on a co-primary basis. It has not. Both Sprint Nextel and broadcast parties continue to contend that sharing among all of the co-primary services is infeasible. Sprint Nextel has appealed the Commission's 2006 sharing plan to the U.S. Court of Appeals for the D.C. Circuit.⁴ This appeal, which goes unmentioned in Globalstar's letter, remains pending. Globalstar's letter also ignores a number of petitions for reconsideration still pending regarding the Commission's 2006 decision. Of particular significance is a still-pending petition filed by the Society of Broadcast Engineers (SBE) which requests the Commission to relocate and convert BAS Channels A8-A10 from three analog channels at 2450-2500 MHz to three digital channels at 2450-2486 MHz.⁵ The Commission has emphasized that its decision to permit Globalstar to provide ATC service in the 2483.5-2495 MHz band is "not intended to prejudice or otherwise affect the outcome of our consideration of SBE's petition."⁶

Third, Globalstar is incorrect in suggesting an "absence of any potential interference concerns" between its operations and BAS systems.⁷ Even under existing rules, Globalstar, prior to construction and operation of its ATC base stations, must consult with BAS licensees and "take such steps necessary to avoid causing brute force overload interference to previously licensed facilities. If a mutual agreement to this effect cannot be reached, the Commission must be notified and it will take such action as may be necessary to ensure that a mutually acceptable arrangement is arrived at."⁸ These requirements, along with the broadcast industry's filings in this proceeding, demonstrate that the potential for ATC-to-BAS interference remains a real concern that must be addressed.

The Commission authorized BAS systems to operate in the 2.4 GHz band decades before Globalstar obtained authority to provide ATC service in the S-band.⁹ As a new entrant, Globalstar must take steps to ensure that its new services in the band do not cause interference to incumbent BAS systems. If, in response to SBE's petition or Sprint Nextel's appeal, the Commission determines that the reconfiguration of BAS Channels A8-A10 is necessary to prevent interference among users of the band, Globalstar would be required to fund this reconfiguration along with Advanced Wireless Service (AWS) new entrants. This funding obligation is consistent with Commission policies and is fair and reasonable given that both AWS new entrants and Globalstar benefit from the reallocation decisions that have prompted the interference concerns in the first place. Indeed, Globalstar at one point indicated that

⁴ See *Sprint Nextel Corp. v. FCC*, No. 06-1278 (D.C. Cir. filed July 21, 2006), petitioning for review of *Review of Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands*, Order on Reconsideration, 21 FCC Rcd. 5606 (2006).

⁵ Society of Broadcast Engineers, Inc., Petition for Reconsideration, IB Docket No. 02-364 (May 22, 2006).

⁶ *Spectrum and Service Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands; Globalstar Licensee, LLC, Authority to Implement an Ancillary Terrestrial Component*, Report and Order and Order Proposing Modification, 23 FCC Rcd. 7210, ¶ 3 n.10 (2008).

⁷ Globalstar Letter at 2.

⁸ *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, ¶ 203 (2003); see also 47 C.F.R. § 25.255.

⁹ See *Amendment of the Commission's Rules to Allocate Spectrum for and Establish Other Rules Pertaining to a Radiodetermination Satellite Service*, Report and Order, 58 Rad.Reg.2d 1416, 1421 (1985) (grandfathering BAS stations licensed to operate in the S-band).

“relocation” of BAS systems may be “an appropriate remedy” and acknowledged its obligation to fund this relocation under certain conditions.¹⁰

Sprint Nextel remains optimistic that the Commission will reach an equitable solution and provides these corrections to assist the Commission in its deliberations.

Sincerely,

/s/ Trey Hanbury
Trey Hanbury, Esq.
Director, Sprint Nextel Corporation

¹⁰ Opposition of Globalstar, L.P. and Globalstar USA, L.L.C., IB Docket No. 01-185, at 3-4 (March 3, 2004).