

September 3, 2010

Via Electronic Submission

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

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Re: Notice of Ex Parte Communication

**WT Docket No. 02-55; ET Docket Nos. 00-258, 95-18;
New DBSD Satellite Services G.P., Debtor-in-Possession, Applications for
Transfer of Control of Earth Station Licenses and Authorizations, File
Nos. SES-T/C-20091211-01575, SES-T/C-20091211-1576, SAT-T/C-
0091211-00144.**

Dear Ms. Dortch:

Sprint Nextel Corporation (“Sprint Nextel”) briefly responds to a September 1, 2010 *ex parte* communication submitted by ICO Global Communications (Holdings) Limited (“ICO Global”) in the above-captioned proceedings.¹

As a stockholder in the entity emerging from bankruptcy, ICO Global will directly benefit from the hundreds of millions of dollars that Sprint Nextel spent clearing the 2 GHz MSS spectrum nationwide. Yet, ICO Global would rather not pay its fair share of the relocation expenses as the Commission’s rules and policies require. After raising a host of other dubious arguments against the reimbursement obligation, ICO Global now reaches back to an ICO Global debt financing transaction in 2005 that ICO Global never highlighted until this moment to assert: (1) ICO Global effectively operated as a common enterprise until the 2005 debt investment, and (2) as part of the 2005 debt investment, ICO Global allegedly agreed to certain covenants not in the record restricting its ability to be involved in the

¹ See ICO Global Notice of *Ex Parte* Presentation, WT Docket No. 02-55, ET Docket Nos. 00-258, 95-18; New DBSD Satellite Services G.P., Debtor-in-Possession, Applications for Transfer of Control of Earth Station Licenses and Authorizations, File Nos. SAT-T/C-0091211-00144, *et al.* (filed Sept. 1, 2010) (“*ICO Global September 1 Ex Parte Presentation*”).

Ms. Marlene H. Dortch
September 3, 2010
Page 2

operations of its subsidiary, New DSBD Satellite Services G.P. (with its affiliates, “DBSD”). Further, ICO Global refers to the unexercised convertible interests held by the lenders on a *fully diluted basis*, which misleadingly implies that ICO Global’s 99.84% equity stake in DBSD was reduced to 56% by the 2005 financing.²

DBSD’s application, organization charts,³ public filings, and subsequent attestations are far more credible than ICO Global’s latest uncorroborated assertions about its post-2005 behavior.⁴ Sprint Nextel has already noted the numerous instances since 2005 where ICO Global has conducted itself as a common enterprise with DBSD before federal government agencies, investors and business partners.⁵ Rather than entertain these allegations further, the

² As the Commission is aware, DBSD’s own transfer of control applications in this proceeding state that ICO Global “currently holds 99.84 percent of the outstanding equity of [the indirect DBSD parent company of the DBSD licensee].” *New DBSD Satellite Services G.P., Debtor-in-Possession, Applications for Transfer of Control of Earth Station Licenses and Authorizations*, Nos. SES-T/C-20091211-01575, SEST/C-20091211-1576, SAT-T/C-0091211-00144, Exhibit E, at 1.

³ The organization chart used by DBSD in its transfer of control applications in Attachment 1 to Exhibit E is attached here to as Exhibit A.

⁴ As for ICO Global’s contention that debt covenants (which still have not been introduced into the record) ostensibly constrained ICO Global’s operation of its 99.84% subsidiary DBSD, any such covenants cannot change the facts which clearly show ICO Global’s continued involvement with the MSS system at issue. Moreover, the covenants described by ICO Global are common in loan transactions and are generally designed to prevent the borrower (in this case DBSD) from being held liable for the actions of a corporate affiliate. Financial covenants that are designed to prevent DBSD from being held liable for the actions of ICO Global do nothing to prevent ICO Global from being directly liable for its own actions.

⁵ See, e.g., Sprint Nextel Written *Ex Parte* Presentation, WT Docket No. 02-55, ET Docket Nos. 00-258, 95-18; New DBSD Satellite Services G.P., Debtor-in-Possession, Applications for Transfer of Control of Earth Station Licenses and Authorizations, File Nos. SES-T/C-20091211-01575, SES-T/C-20091222-1576, SAT-T/C-0091211-00144 (July 28, 2010), at 3-8 (“*Sprint Nextel July 28 Written Ex Parte Presentation*”); Sprint Nextel Notice of *Ex Parte* Communication, WT Docket No. 02-55, ET Docket Nos. 00-258, 95-18; New DBSD Satellite Services G.P., Debtor-in-Possession, Applications for Transfer of Control of Earth Station Licenses and Authorizations, File Nos. SES-T/C-20091211-01575, SES-T/C-20091222-1576, SAT-T/C-0091211-00144 (Sept. 1, 2010), at 4-8 (“*Sprint Nextel September 1 Notice of Ex Parte Communication*”).

Ms. Marlene H. Dortch
September 3, 2010
Page 3

Commission should see ICO Global's latest claims for what they are: yet another ploy – flatly contradicted by record evidence and the company's own behavior – to pretend that ICO Global had no involvement with the MSS system at issue in an attempt to avoid paying its own fair share of the costs to clear the 2 GHz broadband spectrum.

Pursuant to Section 1.1206 of the Commission's Rules, a copy of this letter is being filed electronically in the above-referenced dockets and electronic copies are being submitted to Commission staff listed below. If you have any questions, please feel free to contact me at (202) 778-9859.

Sincerely,

/s/ Marc S. Martin

Marc S. Martin

Counsel for Sprint Nextel Corporation

cc: Austin Schlick
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Paul Murray
John Leibovitz
Mindel DeLaTorre
Roderick Porter
Charles Mathias
John Giusti
Louis Peraertz
Angela Giancarlo
Edward Lazarus

EXHIBIT A

ATTACHMENT 1: PRE-TRANSACTION OWNERSHIP STRUCTURE

