

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Federal Communications Commission	)	
Invites Comment on LightSquared Request	)	IB Docket No. 12-296
For Relief from Build-Out Conditions	)	
	)	
International Bureau Invites Comment on	)	IB Docket No. 11-109
NTIA Letter Regarding LightSquared	)	
Conditional Waiver	)	
	)	
LightSquared Subsidiary LLC	)	File No. SAT-MOD-20101118-00239
Request for Modification of its Authority	)	
For an Ancillary Terrestrial Component	)	
	)	
Fixed and Mobile Services in the Mobile	)	
Satellite Service Bands at 1525-1559 MHz	)	
And 1626.5-1660.5 MHz, 1610-1626.5	)	ET Docket No. 10-142
MHz and 2483.5-2500 MHz, and	)	
2000-2020 MHz and 2180-2200 MHz	)	
	)	
SkyTerra Communications, Inc., Transferor	)	
And Harbinger Capital Partners Funds,	)	
Transferee, Applications for Consent to	)	IB Docket No. 08-184
Transfer of Control of SkyTerra Subsidiary,	)	
LLC	)	

**COMMENTS OF THE COALITION TO SAVE OUR GPS**

The Coalition To Save Our GPS, along with its members Trimble Navigation Limited and Garmin International, Inc. (collectively referred to herein as the “Coalition”), hereby submits its comments in response to the Public Notice issued by the Federal Communications Commission (“FCC” or “Commission”) on October 10, 2012 seeking comment on the request of

LightSquared Subsidiary LLC and One Dot Six Corp. (collectively, “LightSquared”) that the FCC declare that certain build-out milestones applicable to LightSquared no longer apply.<sup>1/</sup>

The Coalition notes that the milestones were not specifically tied to use of LightSquared’s L-Band Mobile Satellite Service (“MSS”) spectrum which has been found to be highly problematic after extensive technical study. LightSquared should therefore provide a detailed accounting of its available spectrum resources to support the Commission’s consideration of any modification of these milestones. Moreover, instead of addressing LightSquared’s recent request in isolation, the public interest would be better served by the resolution of the outstanding questions presented by the FCC in its February 15, 2012 public notice with respect to LightSquared’s continued ability to use L-Band MSS spectrum to provide terrestrial services.<sup>2/</sup>

## **I. BACKGROUND**

The Coalition, which consists of representatives from a broad range of industries, including aviation, agriculture, transportation, construction, engineering, and surveying, as well as GPS-based equipment manufacturers and service providers, was formed in March 2011 to safeguard the reliability and viability of GPS. It has over 70 major members and 130 associate members representing more than 100,000 companies and millions of employees.<sup>3/</sup> The Coalition

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<sup>1/</sup> See *Federal Communications Commission Invites Comment on LightSquared Request for Relief from Build-Out Conditions*, Public Notice, IB Docket No. 12-296, DA 12-1604 (rel. Oct. 10, 2012) (“October 10 Public Notice”).

<sup>2/</sup> See *International Bureau Invites Comments on NTIA Letter Regarding LightSquared Conditional Waiver*, Public Notice, IB Docket No. 11-109, DA 12-214 (rel. Feb. 15, 2012) (“February 15 Public Notice”).

<sup>3/</sup> A full list of members and associate members can be found on the Coalition’s website at <http://www.saveourgps.org/coalition-members.aspx>, and a description of certain of the Coalition’s most active members can be found in the Coalition’s comments responding to the report of the FCC-mandated technical working group. See *Comments of the Coalition to Save Our GPS*, IB Docket No. 11-109, IBFS File No. SAT-MOD-20101118-00239, at 3-7 (filed Aug. 1, 2011) (“Coalition Comments”).

and its members have actively engaged in every step of the proceedings designed to evaluate whether LightSquared should be permitted to proceed with its planned nationwide terrestrial network using L-Band MSS spectrum that is directly adjacent to the spectrum used by GPS.

As the October 10 Public Notice states, as part of the Commission's approval of the transfer of control of SkyTerra Communications, Inc. and its subsidiaries and affiliates ("SkyTerra") to investment funds managed by Harbinger Capital Partners ("Harbinger"), the Commission imposed a set of conditions on SkyTerra (later renamed LightSquared), one of which was a series of build-out and coverage milestones.<sup>4/</sup> In a September 24, 2012 letter, LightSquared requested "confirmation from the Commission that the build-out milestones contained in the *Harbinger Transfer Order* no longer apply, and LightSquared is relieved of those milestones until they are reassessed once the status of LightSquared's ATC [ancillary terrestrial component] authorizations is clarified."<sup>5/</sup>

The build-out obligations apply, in part, to LightSquared's use of L-Band spectrum in a terrestrial network, a matter in which the Coalition has been actively engaged. The Coalition, therefore, submits these comments to respond to the October 10 Public Notice.

## II. COMMENTS

The Commission should not act on the *Milestone Relief Request* without taking action on the outstanding issues before it with respect to LightSquared's ability to use the L-Band for terrestrial operations. A piecemeal approach to resolving LightSquared's use of the band is not

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<sup>4/</sup> See *SkyTerra Communications, Inc., Transferor, and Harbinger Capital Partners Funds, Transferee, Applications for Consent to Transfer of Control of SkyTerra Subsidiary, LLC*, Memorandum Opinion and Order and Declaratory Ruling, 25 FCC Rcd 3059, ¶ 72, Appendix B, at Attachment 2 (2010) ("*Harbinger Transfer Order*").

<sup>5/</sup> Letter from Jeffrey J. Carlisle, Executive Vice President, Regulatory Affairs and Public Policy, LightSquared Inc., to Ms. Marlene H. Dortch, Secretary, FCC, IB Docket Nos. 08-184, 11-109; ET Docket No. 10-142; IBFS File No. SAT-MOD-20101118-00239 (filed Sept. 24, 2012) ("*Milestone Relief Request*").

in the public interest and merely continues to create uncertainty both for LightSquared and the GPS community. As LightSquared notes, the uncertainty that prompted it to submit the *Milestone Relief Request* arises from the FCC's failure to act on its February 15 Public Notice in which the International Bureau proposed to revoke LightSquared's ATC authority and the Conditional Waiver under which LightSquared would have been permitted to operate.<sup>6/</sup> Therefore, the FCC should resolve the questions raised by the February 15 Public Notice. As part of that process, the FCC could resolve any issues that still remain with respect to LightSquared's build-out obligation. Indeed, as LightSquared itself recognizes, due process favors resolution of the matters raised in the February 15 Public Notice first.<sup>7/</sup>

LightSquared argues that the uncertainty created by the FCC's failure to act on the February 15 Public Notice has compromised its ability to proceed. The GPS community has been similarly affected. As the Commission is aware, there is a significant embedded base of GPS units that may be adversely affected by LightSquared's possible terrestrial use of the MSS L-Band.<sup>8/</sup> The Commission should resolve those basic issues instead of addressing only one aspect of the various issues before it.

If the Commission believes it must address the *Milestone Relief Request* out of order, before it resolves the underlying issues raised in the February 15 Public Notice, it should also consider LightSquared's available alternative spectrum to determine whether LightSquared is necessarily precluded from meeting its build-out requirements merely because of the uncertainty

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<sup>6/</sup> See *id.* at 1-3 (citing February 15 Public Notice).

<sup>7/</sup> See *Milestone Relief Request* at 5.

<sup>8/</sup> See, e.g., Coalition Comments at 12-19; Reply Comments of the Coalition to Save Our GPS, IB Docket No. 11-109, IBFS File No. SAT-MOD-20101118-00239, at 2-5 (filed Aug. 15, 2011); see also Letter from Lawrence E. Strickling, Assistant Secretary for Communications and Information, U.S. Dep't of Commerce, to Julius Genachowski, Chair, FCC (dated Feb. 14, 2012), available at <http://apps.fcc.gov/ecfs/documents/view?id=7021860324>.

regarding its terrestrial L-Band authority. Prior to approval of the transfer of control of LightSquared's predecessor SkyTerra to its new owners Harbinger, Harbinger represented, and the Commission recognized, that LightSquared had alternative spectrum available to it, and the milestones may be satisfied using any such alternative spectrum.<sup>9/</sup> The *Harbinger Transfer Order* therefore provided that LightSquared may meet its build-out requirements with three categories of spectrum, only one of which is its L-Band spectrum.<sup>10/</sup> LightSquared did not state that it required terrestrial use of its L-Band MSS spectrum to meet those requirements, and the FCC did not specify that L-Band MSS use was required in order for the condition to be met. As the recent request by OP LLC makes clear, LightSquared continues to have access to the 1670-1675 MHz band.<sup>11/</sup> If LightSquared can only meet the build-out milestones by using its MSS L-Band spectrum, this was not made clear to the FCC at the time of the *Harbinger Transfer Order*.

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<sup>9/</sup> See Letter from Henry Goldberg and Joseph A. Godles, Counsel for Harbinger, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 08-184, at Attachment, at 1 (filed Feb. 26, 2010) (stating that it “plans to develop a nationwide terrestrial broadband mobile 4G LTE network” and that “[a]t the outset, the network will have no less than 23 MHz of spectrum, consisting of 8 MHz of 1.4 GHz terrestrial spectrum, access to 5 MHz of 1.6 GHz terrestrial spectrum and 10 MHz of MSS/ATC L-band spectrum. . .”); *Harbinger Transfer Order* at Appendix B, at Attachment 2 (noting that the build-out requirement can be satisfied using “(a) SkyTerra’s L-band spectrum used by its terrestrial network; (b) other terrestrial spectrum that SkyTerra is the licensee of or has access to under a spectrum manager lease or *de facto* transfer lease and deploys to provide the coverage and level of service requirements described [herein]; and (c) any other terrestrial spectrum that is used by SkyTerra’s terrestrial network or is made available to SkyTerra for pooling with its spectrum and that SkyTerra deploys to provide the Coverage and level of service requirements . . .”).

<sup>10/</sup> See *Harbinger Transfer Order* at Appendix B, at Attachment 2.

<sup>11/</sup> See OP LLC Request for a Limited Extension or Waiver of the Section 27.14 Substantial Service Deadline for the 1670-1675 MHz Band, FCC ULS File No. 0005438821 (filed Oct. 9, 2012); see also *Wireless Telecommunications Bureau Seeks Comment on Request by OP LLC for Extension or Waiver of the Construction Deadline Concerning its 1670-1675 MHz Band License*, Public Notice, WT Docket No. 12-327, DA 12-1776 (rel. Nov. 5, 2012). Indeed, the OP LLC request appears also to be linked to the uncertainty regarding LightSquared’s ability to use its L-Band MSS spectrum for terrestrial purposes. Commission delay in resolving the questions raised by the February 15 Public Notice has also now affected the use of other spectrum – an additional reason for the Commission to act on the February 15 Public Notice.

### III. CONCLUSION

The Coalition To Save Our GPS and its members Trimble Navigation Limited and Garmin International, Inc. ask that the FCC address the important issues raised in the February 15 Public Notice regarding LightSquared's ability to use its MSS L-Band spectrum. It is only because the Commission has failed to address the issues presented in the February 15 Public Notice that there is uncertainty regarding LightSquared's build-out obligations. In any case, it is not clear that relief is necessary if LightSquared can meet those build-out obligations using other spectrum to which it has access, as represented in the *Harbinger Transfer Order*.

Respectfully submitted,

/s/ Joel Jankowsky

Joel Jankowsky  
COALITION TO SAVE OUR GPS  
1333 New Hampshire Avenue, N.W.  
Washington, D.C. 20036-1564  
(202) 887-4075

Howard J. Symons  
Russell H. Fox  
Angela Y. Kung  
MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY AND POPEO, P.C.  
701 Pennsylvania Avenue, N.W.  
Suite 900  
Washington, DC 20004  
(202) 434-7300

*Counsel for Trimble Navigation Limited*

M. Anne Swanson  
Jason E. Rademacher  
DOW LOHNES PLLC  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, DC 20036  
(202) 776-2534  
*Counsel for Garmin International, Inc.*