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FILED ELECTRONICALLY

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

Re: Notice of Oral *Ex Parte* Presentation – Assessment and Collection of Regulatory Fees for Fiscal Year 2013; Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2008; MD Docket Nos. 13-140, 12-201 & 08-65

Dear Ms. Dortch:

On December 11, 2013, several satellite company representatives met with Mika Savir of the Enforcement Bureau, Thomas Sullivan of the International Bureau, and Roland Helvajian and Thomas Buckley of the Office of Managing Director to discuss the above-referenced proceedings. Daniel Mah of SES, Karis Hastings, outside counsel for SES, and Christopher Murphy of Inmarsat attended the meeting, and John Forsey of Telesat participated by telephone.

The satellite company representatives discussed arguments made in their written pleadings in this proceeding opposing the suggestion that the Commission should consider requiring non-U.S.-licensed satellite operators serving the U.S. market to pay space station regulatory fees. The companies noted that under statute, regulatory fees are intended to recover the costs of FCC international, enforcement, rulemaking and user information activities. The representatives argued that the fact that the Commission allows foreign-licensed satellites to serve the U.S. has a negligible impact on the Commission's workload in these areas.

Foreign-licensed satellites do not obtain Title III licenses or receive the benefits that come with grant of a U.S. space station license. In fact, when the Commission adopted U.S. market access policies for foreign-licensed satellites, it explicitly decided that such satellites would not be issued duplicative space station licenses.[1] To the extent that Commission staff engages in satellite coordination matters, it is on behalf of U.S. licensees. Foreign-licensed satellites' home administrations handle ITU and international coordination matters on the operators' behalf. The only Commission efforts that are solely focused on foreign satellites involve processing requests

[1] *See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, IB Docket No. 96-111, 12 FCC Rcd 24094, 24174, ¶ 188 (1997) ("DISCO II").

for market access, a one-time expenditure of resources that the satellite companies argued does not justify a recurring regulatory fee.

The Commission's current policy of charging only its own licensees regulatory fee is consistent with U.S. trade commitments under the WTO basic telecom agreement. It is also consistent with the policy in the majority of other countries around the world, many of which assess annual fees on their own satellite licensees but not on satellites seeking only market access. The satellite company representatives re-emphasized their concerns that a change in U.S. policy on this issue could lead to a proliferation of fees around the world that would have a serious impact on the economics of global satellite services.

To the extent that the Commission nevertheless determines that it should pursue a means of recovering the modest costs associated with U.S. market entry by foreign-licensed satellites, the satellite company representatives argued that it should take the form of an across-the-board addition to earth station regulatory fees. In contrast, attempting to impose a fee only on earth stations that communicate with foreign-licensed satellites would be illegal, unjustified, and impractical.

Assessing an extra fee exclusively on earth stations communicating with foreign-licensed satellites would violate U.S. treaty obligations embodied in the WTO basic telecom agreement. That agreement includes a "Most Favored Nation" nondiscrimination commitment that bars action that would put foreign suppliers at a competitive disadvantage to a domestic supplier.[2] A fee that applied only to earth stations communicating with foreign-licensed satellites would clearly create such an unlawful disadvantage.

Furthermore, the Commission has specifically found that allowing foreign-licensed satellites to serve the U.S. broadly benefits consumers in both the U.S. and around the globe. The Commission observed in DISCO II that its market access rules "will facilitate greater competition in the U.S. satellite services market" that would "provide users more alternatives in choosing communications providers and services, as well as reduce prices and facilitate technological innovation."[3] These benefits flow from enhanced competition in the satellite services market and are not dependent on whether an individual user is communicating with a U.S.- or foreign-licensed satellite. Accordingly, there is no factual basis for imposing an additional fee only on earth stations that use foreign-licensed satellites.

In any event, the satellite company representatives explained that the Commission's earth station licensing database does not permit determination of whether an earth station is communicating with foreign-licensed satellites. Most earth stations operating in the conventional C and Ku bands have "ALSAT" designations, allowing them to communicate both with U.S.-licensed satellites and with foreign-licensed satellites on the Commission's Permitted Space Station List. There is simply no way to tell from the licensing database whether or not an individual earth station with ALSAT authority is in fact communicating with one or more foreign-licensed satellites.

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[2] *Id.*, 12 FCC Rcd at 24103, ¶ 22.

[3] *Id.*, 12 FCC Rcd at 24097, ¶ 4.

Please contact the undersigned if you have any questions.

Respectfully submitted,

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