

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment to the National Table of Frequency)	RM-11341
Allocations to Provide Allocation Status for)	
Federal Earth Stations Communicating with)	
Non-Federal Satellites		

COMMENTS OF THE SATELLITE INDUSTRY ASSOCIATION

The Satellite Industry Association (“SIA”) hereby files these Comments in the above-captioned proceeding in which the National Telecommunications and Information Administration (“NTIA”) requests that the Commission initiate a rulemaking to amend the National Table of Frequency Allocations to upgrade to co-primary status Federal earth station operations communicating with commercial satellites in certain satellite frequency bands. SIA supports initiation of the rulemaking advocated by NTIA, provided (i) the Commission also ensures that Federal earth stations accessing commercial satellites are subject to the same regulatory obligations as non-Federal earth station licensees with respect to the Commission’s licensing, interference, and enforcement requirements; and (ii) commercial and experimental earth station operations in bands shared between Federal and non-Federal users are not subject to any additional approval process by NTIA, the Commission, or any other government entity as a result of the co-primary status afforded Federal earth station operations in this proceeding.

Background

SIA is a U.S.-based trade association providing worldwide representation of the leading satellite operators, service providers, manufacturers, launch services providers, remote sensing

operators, and ground equipment suppliers. SIA is the unified voice of the U.S. satellite industry on policy, regulatory, and legislative issues affecting the satellite business.¹

On August 4, 2006, NTIA filed a Petition asking the Commission to initiate a rulemaking to amend the National Table of Frequency Allocations to upgrade to co-primary regulatory status Federal earth stations operating with commercial satellites in the following frequency bands: 3600-4200, 5850-6725, 10700-12200, 12700-13250, 13750-14500, 18300-19300, 19700-20200, 27500-30000, 37500-39500, and 47200-50200 MHz.² NTIA explains that Federal earth stations operating with commercial satellites in these bands are currently required to operate on a non-interference basis, which means a Federal earth station must cease operations immediately in the event it causes interference to a non-Federal spectrum user. *NTIA Petition* at 2. To establish parity between Federal and non-Federal earth stations in these bands, NTIA asks the Commission to initiate a rulemaking to provide Federal earth stations communicating with commercial satellite systems with the same regulatory status as non-Federal earth stations communicating with commercial satellite systems. NTIA states that a footnote similar to US319, which currently applies in certain satellite frequency bands, is sufficient to provide Federal agencies with the co-primary status they seek. *NTIA Petition* at 2.³ In these bands, satellite

¹ SIA's Executive Members include: Artel Inc.; The Boeing Company; The DIRECTV Group; Globalstar, Inc.; Hughes Network Systems LLC; ICO Global Communications; Integral Systems, Inc.; Intelsat, Ltd.; Iridium Satellite LLC; Lockheed Martin Corp.; Loral Space & Communications, Inc.; Mobile Satellite Ventures LP; Northrop Grumman Corporation; SES Americom, Inc.; and TerreStar Networks Inc. Its Associate Members include: ATK Inc.; EMC Inc.; Eutelsat Inc.; Inmarsat Inc.; IOT Systems; Marshall Communications Corp.; SES NEW SKIES; Spacecom Corp.; Stratos Global Corp.

² See National Telecommunications and Information Administration, Petition for Rulemaking, RM No. 11341 (August 4, 2006) ("*NTIA Petition*").

³ 47 C.F.R. § 2.106 n.319 ("In the bands 137-138 MHz, 148-149.9 MHz, 149.9-150.05 MHz, 399.9-400.05 MHz, 400.15-401 MHz, 1610-1626.5 MHz, and 2483.5-2500 MHz, Federal stations in the mobile-satellite service shall be limited to earth stations operating with non-Federal space stations.").

spectrum is allocated on a co-primary basis to Federal and non-Federal users communicating with commercial satellites, but the footnote limits Federal users to the operation of earth stations only with non-Federal (*i.e.*, commercial) satellites.

Discussion

SIA supports initiation of the rulemaking advocated by NTIA. As NTIA notes, commercial satellites have become a critical means of communications for Federal government agencies. *NTIA Petition* at 3. Commercial satellite capacity is being used today to enable and/or supplement communications capabilities for numerous federal agencies, such as the United States Coast Guard, the Federal Emergency Management Agency (“FEMA”), and the Center for Disease Control and Prevention (“CDC”), among many others.⁴ As NTIA explains, upgrading Federal earth stations accessing commercial satellites to co-primary status will provide those agencies with the same regulatory protections enjoyed by commercial earth station operators. *NTIA Petition* at 2.⁵ Such protection is crucial given the increasing dependency of Federal agencies upon commercial satellite capacity for mission-critical operations.

At the same time, the Commission must ensure that Federal earth stations are not provided with “super-primary” status relative to non-Federal earth stations.⁶ Parity between

⁴ See Remarks of FCC Commissioner Michael J. Copps, SIA/SBCA Folger Library Dinner (March 22, 2005) (“I appreciate the critical role satellites are already fulfilling with our government using satellites as primary communications systems and to back-up other critical communications and to provide diversity and redundancy. Over 80% of federal agencies are using satellites to communicate, from FEMA to the Coast Guard to our customs and border control agents. With satellites, our communications infrastructure is more resilient and more difficult to undermine.”).

⁵ NTIA’s Petition does not seek -- nor does SIA support -- to upgrade the regulatory status of government space stations to co-primary in bands allocated for non-Federal use.

⁶ For example, the Federal Aviation Administration (“FAA”) has issued a Notice of Proposed Rulemaking seeking to adopt new rules that would require notification of transmitters in the frequency bands 3700 to 4200 MHz, 5925 to 6425 MHz and 14.2 to 14.4 GHz in an effort ostensibly to provide additional protection for FAA facilities. See Notice of Proposed Rule

Federal and non-Federal earth station operations is consistent with the NTIA Petition, which states that “the agencies only seek the same rights and obligations that are afforded non-Federal earth station licensees when they access commercial satellites.” *NTIA Petition* at 2. Among the critical obligations of non-Federal earth station licensees are the Commission’s licensing and technical rules, as well as enforcement procedures, all of which are necessary to mitigate the potential for harmful interference among spectrum users, among other things. For example, as required of commercial earth station operators, Federal earth station operators seeking primary status should be required to provide the Commission with the location and technical parameters of their proposed operations prior to commencing service. This information is needed for commercial operators to assess potential interference and for coordination. The Commission should place this information on Public Notice and provide interested parties with an opportunity to comment/oppose. If no comments/oppositions are received, the Commission can notify NTIA that it concurs with the operation of the Federal earth station. If comments/oppositions are received, the Federal earth station operator and the commenting entity, in conjunction with NTIA and the Commission, should be required to resolve any issues before the Commission concurs with the operation of the Federal earth station. Once the Commission concurs with the operation of the Federal earth station on a primary basis, the approved location and technical parameters of the earth station should be made available in a publicly accessible database on the Internet in order to facilitate coordination of future commercial earth station operations.⁷ In addition, requiring Federal earth station operators to comply with the Commission’s technical rules in Part

Making on Safe, Efficient Use and Preservation of the Navigable Airspace, Docket No. FAA-2006-25002.

⁷ Non-Federal earth station license information is placed in the public domain through a Public Notice summary which is published in the Commission’s Daily Digest and by making the entire application and license available to the general public through the “myIBFS” online search engine.

25 and in any other applicable part of the Commission's rules is essential to mitigate interference to both non-Federal and Federal operators. Federal earth station operators must also be subject to the Commission's enforcement procedures to ensure compliance with the Commission's rules. For example, in the event that harmful interference results from the operation of a Federal earth station, there needs to be an interagency enforcement process in place to ensure that the Federal earth station operator ceases operations immediately upon notification that it is causing harmful interference.

SIA understands that there may be times when compliance with the Commission's rules by co-primary Federal users will not be possible or advisable, such as during times of national emergency. SIA believes that these situations can be handled as they are now on a case-by-case basis, whether through emergency grants of Special Temporary Authority ("STA") or other means. The need to accommodate these extraordinary situations, however, should not be permitted to undermine the general principle that Federal agencies accessing commercial satellites should be subject to the same licensing, interference, and enforcement requirements as non-Federal earth station licensees.

In initiating this rulemaking, the Commission should ensure that the co-primary regulatory status of Federal earth stations adds no complexity or delay to the licensing of commercial and experimental earth stations. In fact, either the addition of new approval processes or changes to existing processes that lead to additional delay in the processing of commercial and experimental earth station applications must be avoided at all costs. SIA is particularly concerned that any rule change could adversely impact the processing of STA or experimental license applications, which are both extensively used for the development of new satellite services and products. The Commission can expeditiously grant experimental license

applications upon verification of compliance with Part 25 of the Commission's Rules. Similarly, STAs are often granted for short-duration activities. Because operations pursuant to an STA or an experimental authorization are on a non-interfering and unprotected basis, these operations, as a result of this rulemaking, will have lesser regulatory status than primary Federal earth stations operating in commercial satellite bands and thus would have to cease operations immediately upon any harmful interference to a primary Federal earth station. SIA is of the view that, as a consequence of this rulemaking, there should be no increased burdens placed on commercial and experimental earth station applicants, such as interagency coordination, a process which could significantly delay grants. Accordingly, as the Commission initiates this rulemaking, it should work to prevent any additional approval process requirements for commercial and experimental earth station operations in bands shared between Federal and non-Federal users.

Conclusion

SIA supports initiation of the rulemaking advocated by NTIA, provided (i) the Commission also ensures that Federal earth stations accessing commercial satellites on a co-primary basis are subject to the same obligations as non-Federal earth station licensees with respect to the Commission's licensing, interference, and enforcement rules; and (ii) commercial and experimental earth station operations in bands shared between Federal and non-Federal users are not subject to any additional approval process by NTIA, the Commission, or any other government entity as a result of the co-primary status afforded Federal earth station operators.

Respectfully submitted,
SATELLITE INDUSTRY ASSOCIATION

A handwritten signature in dark ink, appearing to read "David Cavossa", with a large, sweeping flourish at the end.

September 18, 2006

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CERTIFICATE OF SERVICE

I, David Cavossa of the Satellite Industry Association hereby certify that on this 18th day of September 2006, I served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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