

**EXHIBIT B**

**REQUEST FOR CONFIDENTIALTY**

Telesat Canada respectfully seeks confidential treatment of its application on FCC Form 442 and the associated supporting statement submitted under the above-referenced file number seeking special temporary authority ("STA") to test and demonstrate a prototype VSAT Ku-band satellite system.

As demonstrated below, confidential treatment is essential to protect sensitive proprietary and confidential business information from potential competitors and to protect the interests and identity of the users participating in the experimentation.

**A. Background:**

As discussed in its supporting statement, Telesat Canada is engaged in the design and development of new and innovative satellite-based communications systems. The experimental authority requested herein will allow the Company to (a) test compliance and performance of the system, (b) demonstrate system operation and functionality to potential corporate purchasers and resellers, and (c) determine customer acceptability. Thus, the test will allow Telesat Canada to ensure the system meets the needs of users before it obtains all necessary regulatory and business approvals and appropriate equipment authorizations for the system.

The technical aspects of operations will at all times comply with FCC rules and requirements and will be conducted under the auspices of Telesat Canada. The VSATs will operate in the Ku-band (14000-14500 MHz transmit and 11700-12200 MHz receive). The peak transmit power (TPO) would not be higher than 2W and the peak effective radiated power (ERP) would not be higher than 17.0 W. All power levels will comply with the limits set forth in the FCC's rules, including those relating to human exposure to radiation. The emissions designators for the operations are 194KG7W and 610KG7W. The modulation is QPSK. Other emission modes and modulation techniques may be utilized, but in no event will the emissions extend beyond the frequency bands requested.

**B. Request for Confidentiality:**

Telesat Canada respectfully requests that the underlying application and supporting statement be withheld from public inspection and afforded confidential treatment in accordance with Section 552(b)(4) of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and Sections 0.457(d)(2) and 0.459(b) of the Commission's Rules, 47 C.F.R. §§ 0.457(d)(2), 0.459(b).

Section 552(b)(4) of the Freedom of Information Act permits an agency to withhold from public disclosure information that qualifies as "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4). Section 0.457(d)(2) of the Commission's rules allows persons submitting materials that they wish withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure. 47 C.F.R. § 0.457(d)(2). The requirements governing such requests are set forth in Section 0.459(b).

In support of this request, the following is shown in accordance with Section 0.459 of the Commission's rules:

**1. Identification of the specific information for which confidential treatment is sought:**

Telesat Canada respectfully seeks confidential treatment of its application on FCC Form 442 and the associated supporting statement submitted to FCC's Office of Engineering and Technology under File No. 0652-EX-ST-2005.

**2. Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission:**

The above-referenced information was submitted to the FCC's Office of Engineering and Technology under File No 0652-EX-ST-2005 to obtain special temporary authority ("STA") to test and demonstrate a prototype VSAT Ku-band satellite system.

**3. Explanation of the degree to which the information is commercial or financial or contains a trade secret or is privileged:**

The application and its attachment contain information about the Company's business plans that is clearly "commercial" and "financial" in nature. See *Board of Trade v. Commodity Futures Trading Comm'n*, 627 F.2d 392, 403 & n.78 (D.C. Cir. 1980) (courts have given the terms "commercial" and "financial," as used in Section 552(b)(4), their ordinary meanings). In addition, the information provided on the Form is "confidential." Under well-settled case law, such material "is 'confidential' . . . if disclosure of the information is likely to have either of the following effects: (1) to impair the government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained." *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 764, 770 (D.C. Cir. 1974) (footnote omitted); see also *Critical Mass Energy Project v. NRC*, 975 F.2d 871 (D.C. Cir. 1992), *cert. denied*, 113 S. Ct. 1579 (1993).

**4. Explanation of the degree to which the information concerns a service that is subject to competition:**

The application and its attachment contain information about the Company's business plans to provide services and capabilities in the highly competitive telecommunications industry and, in particular, the competitive satellite services marketplace.

**5. Explanation of how disclosure of the information could result in substantial competitive harm:**

Public disclosure of the application and associated materials will cause substantial harm to the Company's competitive position. Given the highly competitive nature of the telecommunications industry - and the satellite services marketplace in particular - this information could easily be used by competitors to enhance their market position or gain knowledge of the Company's business plans at the Company's expense. Under these circumstances, it is "virtually axiomatic" that the information qualifies for withholding under Exemption 4 of the Freedom of Information

Act, see *National Parks and Conservation Ass'n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976), and under Sections 0.457(d)(2) and 0.459(b).

**6. Identification of any measures taken by the submitting party to prevent unauthorized disclosure:**

The application and the narrative contain detailed information concerning the Company's and users' efforts to design and develop a next generation satellite system. The confidential information provided is sensitive commercial data of the type that businesses normally keep confidential and that the Company in fact keeps confidential. See 5 U.S.C. § 552(b)(4). Neither the Company nor the users have announced or advertised these efforts to the public and all previous disclosures of such information to third parties has been limited. For example, all participants in the trial are subject to non-disclosure agreements.

**7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:**

As noted above, neither the Company nor the users have announced or advertised these efforts to the public and all previous disclosures of such information to third parties has been limited. For example, all participants in the trial are subject to non-disclosure agreements.

**8. Justification of the period during which the submitting party asserts that material should not be available for public disclosure:**

Telesat Canada does not expect to make public disclosures regarding this test until after it has completed its experimentation and distilled the test data. Accordingly, it requests that the underlying application and associated documentation be withheld from public disclosure until the Company notifies the Commission of the announcement of the system under test.

**9. Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.**

Should the Commission deny the request for confidentiality, the Company respectfully requests that its application and associated material be returned in accordance with Section 0.459(e) of the Commission's Rules, 47 C.F.R. §§ 0.459(e)(2004).

**C. Conclusion:**

Based on the foregoing, Telesat Canada submits that it has justified the need for confidential treatment in accordance with Section 552(b)(4) of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and Sections 0.457(d)(2) and 0.459(b) of the Commission's Rules, 47 C.F.R. §§ 0.457(d)(2), 0.459(b)(2004).