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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Federal Communications Commission  
Office of Secretary

In the Matter of )  
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Mobile Satellite Ventures Subsidiary LLC ) File No. ITC-MOD- \_\_\_\_\_  
 )  
Application to Modify Regulatory Classification from )  
Dominant to Non-Dominant on the United States-Canada )  
Route )

**Application to Modify Regulatory Classification from  
Dominant to Non-Dominant on the United States-Canada Route**

Mobile Satellite Ventures Subsidiary LLC (“MSV”), pursuant to Section 63.13 of the Commission’s Rules, hereby requests that the Commission modify its regulatory classification from dominant to non-dominant on the United States-Canada route. 47 C.F.R. § 63.13. Because BCE Inc. no longer indirectly holds more than 25 percent of the capital stock of MSV, MSV is not affiliated with a carrier that the Commission deems to possess market power in Canada. Accordingly, the Commission should re-classify MSV as a non-dominant carrier on the United States-Canada route.

**Background**

In November 2001, the Commission approved the application of Motient Services Inc. (“Motient”) and TMI Communications and Company, Limited Partnership (“TMI”) to consolidate their United States Mobile Satellite Service (“MSS”) operations in the L-band into a new company called Mobile Satellite Ventures LP (“MSV LP”).<sup>1</sup> In addition to approving the assignment of various space and earth station licenses to MSV, a wholly owned subsidiary of MSV LP, the Commission also approved the assignment of three facilities-based and resale

<sup>1</sup> *Motient Services Inc., et al., Order and Authorization*, DA 01-2732, File No. SAT-ASG-20010302-00017 *et al.* (November 21, 2001) (“*MSV Assignment Order*”).

international Section 214 authorizations to MSV.<sup>2</sup> In doing so, the Commission classified MSV as a dominant carrier on the United States-Canada route because MSV would be affiliated with BCE Inc. (“BCE”). BCE wholly owns or is affiliated with incumbent local exchange carriers in Canada, including Bell Canada, that the Commission considers to possess sufficient market power to have the ability to affect competition adversely in the United States telecommunications market.<sup>3</sup> Under the Commission’s rules, two entities are “affiliated” with each other if one of them directly or indirectly owns more than 25 percent of the capital stock of the other, one entity controls the other, or the entities are parties to a contractual relation affecting the provision or marketing of international basic telecommunications services in the United States. *See* 47 C.F.R. § 63.09(e). The Commission has found that an interest of greater than 25 percent “represents a level of investment that allows a carrier to provide substantial influence with regard to, and to reap substantial rewards from, anticompetitive conduct.”<sup>4</sup> Because TMI, a wholly owned subsidiary of BCE, would have a greater than 25 percent interest in MSV LP, the Commission deemed MSV and BCE to be affiliated. Because MSV would be

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<sup>2</sup> *Id.* ¶¶ 27-30. The Section 214 authorizations assigned to MSV were: (i) ITC-95-196 (authorization to operate as an international resale carrier); (ii) ITC-95-280 (authorization to use MSS for incidental transborder and international maritime communications); and (iii) ITC-214-19951122-00044 (authorization to use MSS for incidental transborder and international aeronautical communications).

<sup>3</sup> *See Public Notice, The International Bureau Revises and Reissues the Commission’s List of Foreign Telecommunications Carriers that Are Presumed to Possess Market Power in Foreign Telecommunications Markets*, DA 04-1584 (May 28, 2004); *see also Bell Canada Petition for Declaratory Ruling, Order*, IB Docket No. 98-148, DA 01-1421, 16 FCC Rcd 12465, ¶ 10 (2001) (“[W]e find that Bell Canada has the ability to discriminate against and among U.S. carriers seeking to terminate traffic in Canada by, for example, raising the price of, or withholding or degrading the quality of, terminating access in its region.”).

<sup>4</sup> *See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Report and Order and Order on Reconsideration*, FCC 97-398, 12 FCC Rcd 23891, ¶ 223 (1997) (“*Foreign Participation Order*”).

affiliated with a carrier that possesses market power in Canada, the Commission classified MSV as a dominant carrier on the United States-Canada route. 47 C.F.R. § 63.10.

### **Discussion**

Since November 2001, the direct interest of TMI in MSV LP has fallen below 25 percent to a level of 21.8 percent, and thus so too has BCE's indirect interest in MSV LP and MSV. The current ownership of MSV LP and MSV is listed in Exhibit A attached hereto. *See* Exhibit A. BCE thus no longer holds a level of interest in MSV that the Commission deems to afford BCE the ability to influence and benefit from anticompetitive conduct. *See Foreign Participation Order* ¶ 223. Moreover, BCE does not control MSV (or vice versa) and the parties do not have a contractual relationship affecting the provision or marketing of international basic telecommunications services in the United States. As a result, MSV is no longer affiliated with BCE under the Commission's rules. *See* 47 C.F.R. § 63.09(e). MSV accordingly respectfully requests that the Commission modify MSV's regulatory classification from dominant to non-dominant on the United States-Canada route.

## Conclusion

Because BCE no longer indirectly holds more than 25 percent of the capital stock of MSV, MSV is not affiliated with a carrier that the Commission deems to possess market power in Canada. Accordingly, MSV requests that the Commission modify MSV's regulatory classification from dominant to non-dominant on the United States-Canada route.

Very truly yours,



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### Exhibit A

Mobile Satellite Ventures Subsidiary LLC (“MSV”) is a U.S. limited liability company that is a wholly owned subsidiary of Mobile Satellite Ventures LP (“MSV LP”), a U.S. limited partnership. The general partner of MSV LP is Mobile Satellite Ventures GP Inc. (“MSV GP Inc.”). The equity ownership of MSV LP and the voting rights in MSV GP Inc. are as follows:

Motient Corporation and subsidiaries 300 Knightsbridge Parkway Lincolnshire, IL 60609 (U.S. corporation)	48.8%
MSV Investors, LLC c/o MSV Investor Holdings, Inc. 19 West 44 <sup>th</sup> Street Suite 507 New York, NY 10036 (U.S. limited liability company)	22.8%
TMI Communications and Company, Limited Partnership 1601 Telesat Court Gloucester, Ontario Canada K1B 1B9 (Canadian Limited Partnership)	21.8%
Funds affiliated with Columbia Capital, LLC 201 North Union Street Suite 300 Alexandria, VA 22314 (U.S. limited liability company)	5.7%
Funds affiliated with Spectrum Equity Investors L.P. 1 International Place 29 <sup>th</sup> Floor Boston, MA 02110 (U.S. limited partnership)	0.9%