

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Application of)

INTELSAT LLC)

Amendment to Application to Modify)
Space Station Authorization to Operate the)
INTELSAT 702 Satellite at 54.85° E.L.)

File No. SAT-AMD-20031118-00331

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Policy Branch
International Bureau

REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION

In its Petition for Reconsideration, New Skies Satellites N.V. ("New Skies") demonstrated that Intelsat LLC's operation of the INTELSAT 702 satellite at the 54.85° E.L. orbital location pursuant to the unprecedented authorization granted by the International Bureau will not conform to parameters agreed to in coordination agreements between the Administrations of India and the Netherlands, and that such operations present a significant risk of harmful interference into New Skies' operations at the adjacent 57° E.L. slot.¹ For example, the coordination agreement between India and the Netherlands covers only territory within India, while Intelsat is currently providing service in areas throughout the Middle East. In its Opposition, Intelsat argues that (1) India's ITU filings include service areas outside India, (2) the Partial Modification Order

¹ The Bureau granted a limited and conditioned Partial Modification Order that specifically incorporated the requirement that Intelsat operate its satellite in conformance with parameters agreed to between India and other affected administrations. See Public Notice, Rep. No. SAT-00196, DA No. 04-576 (rel. Feb. 27, 2004); Grant Stamp with attached conditions, File No. SAT-AMD-20031118-00331 (issued Feb. 23, 2004) ("Partial Modification Order").

effectively prevents harmful interference, and (3) grant of the authorization serves the public interest because Intelsat serves U.S. government customers from this slot.² New Skies briefly addresses each of these arguments in turn.

Intelsat correctly notes that India has filed Advance Publication Information (“API”) with the ITU that indicates a Ku-band service area extending outside India.³ However, that filing is still at the API stage and according to the latest information available from the ITU no request for coordination has yet been filed for this network. Thus, it is not clear that there will ever be an attempt to coordinate that filing, much less that such coordination will be successful and cover the services Intelsat is currently providing. To date, the Ku-band filings where coordination has been requested and achieved cover only Indian territory. As for the C-band, while India has submitted requests for coordination for beams covering territories outside India, coordination of the operations over these beams has not been achieved. Given that Condition 5 of the Partial Modification Order requires Intelsat to “conform its operations to parameters agreed to in coordination agreements” between India and other administrations, it would seem that services outside of India fall outside the authorization. The Commission surely did not intend to grant Intelsat a license, using a non-coordinated system, that permits Intelsat to alter its operations any time desired; in that case interference could be caused to the current or planned operations of other, coordinated systems located only a few degrees away where co-frequency, co-coverage usage may be anticipated.⁴

² See Opposition to Petition for Reconsideration (filed Apr. 2, 2004) (“Opposition”).

³ *Id.* at p. 4.

⁴ To permit Intelsat to operate outside the bounds of *any* coordination agreement, and without requiring *a priori* coordination with New Skies would lead to great technical uncertainty that would, in practice, not be addressable by operators in a commercially reasonable manner. The FCC’s experience in licensing C- and Ku-band satellite systems demonstrates that such *a priori* coordination should be

Intelsat also contends that the requirement that it operate on a non-harmful interference basis effectively moots New Skies' concerns that harmful interference may arise, and that technical limitations on its operations will ensure this result.⁵ However, the Ku-band operating levels authorized in the Partial Modification Order exceed the downlink levels agreed to between India and the Netherlands to protect New Skies' operations at 57° E.L. – and Intelsat's operations outside the territory covered by the coordination agreement further exacerbates the potential for interference. This is also a concern with respect to uplink transmissions to INTELSAT 702 from earth stations operating outside of India, where spatial isolation had been anticipated but now is no longer the case.

Intelsat's analysis also fails to consider a case in which either Intelsat or New Skies would relocate its spot beam to meet customer requirements, which could result in a significant increase in the adjacent satellite interference to New Skies' customers' links. Intelsat's analysis assumes co-frequency, co-coverage, and co-polarization, but it fails to consider the respective satellite beam isolations that the coordinated parties enjoyed, thus reaching an incorrect conclusion on the impact of the adjacent satellite interference levels for some of New Skies' customers. Such a change in the level of interference is of particular concern, as it may arise unpredictably and without warning through Intelsat's unilateral decisions either to steer its spot beam to cover different areas over time or to change its transmission plans. This uncertainty constrains New Skies' ability to deploy new services. At a minimum, Intelsat should be required not to redirect its spot beams or

required as a matter of policy for its licensees to ensure predictable interference levels and allow robust network designs to be implemented.

⁵ See Opposition at pp. 1-3.

to change its transmission plans without coordinating with New Skies or seeking further Commission approval – or, absent that, to direct the spot beam only within the territory of India operating at levels consistent with the Netherlands-India coordination agreement. New Skies must also be afforded a procedure that ensures that Intelsat take measures to limit the level of interference below the ones it has been authorized to operate if New Skies reasonably anticipates that the deployment of new New Skies services could suffer from harmful interference due to Intelsat’s operations.⁶

In its Petition for Reconsideration, New Skies pointed out some of the potential complications created by the unique structure of the INTELSAT 702 authorization should harmful interference arise. In response, Intelsat argues that New Skies will have recourse through the ITU’s Article 15 process, the FCC’s enforcement of conditions, and from Intelsat itself.⁷ However, it is precisely because of the overlapping and unprecedented jurisdictional issues arising from the Partial Modification Order that New Skies fears no single authoritative source for redress will be available or will have all of the pieces of the puzzle necessary to act.

Lastly, Intelsat argues that the Partial Modification Order serves the public interest because INTELSAT 702 is being used by U.S. government customers.⁸ New Skies also serves U.S. government customers from 57° E.L., and the public interest clearly would be *disserved* if those communications were disrupted by Intelsat’s operations. Intelsat has made no attempt to show that there is a dearth of satellite

⁶ See fn. 5, *supra*.

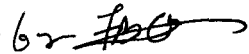
⁷ See Opposition at p. 3.

⁸ *Id.* at pp. 5-6.

operators with C- and Ku-band capacity to serve the needs of U.S. government agencies operating in the Middle East that would justify the unprecedented authorization it has requested.

Respectfully submitted,

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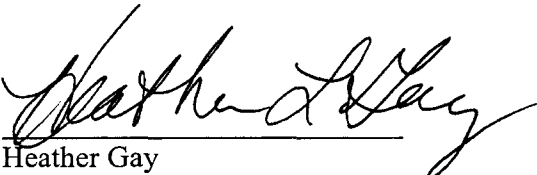
Counsel for New Skies Satellites N.V.

Dated: April 12, 2004

CERTIFICATE OF SERVICE

I hereby certify that, on this 12th day of April, 2004, a copy of the foregoing
Reply to Opposition to Petition for Reconsideration was served by first class mail,
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