

April 30, 2018

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: *IBFS File Nos. SAT-AMD-20171206-00167 and -00168*

Dear Ms. Dortch:

On April 26, 2018, Patricia Cooper and undersigned counsel on behalf of Space Exploration Holdings, LLC (“SpaceX”) met with Erin McGrath, Legal Advisor to Commissioner O’Rielly for Wireless, Public Safety, and International, and Umair Javed, Legal Advisor to Commissioner Rosenworcel for Wireless and International. In those meetings, we discussed the above referenced proceedings, in which The Boeing Company (“Boeing”) seeks authority to amend two of its pending applications for licenses to launch and operate non-geostationary orbit (“NGSO”) satellite systems by substituting SOM1101, LLC (“SOM1101”) as the applicant. SOM1101 is wholly owned by Gregory Wyler, who is also the Founder and Chairman of another company (OneWeb) that has one licensed-but-unbuilt NGSO system and one pending NGSO application in the same bands as the Boeing applications at issue here.

Consistent with its prior filings in this proceeding,¹ SpaceX argued that the proposed transaction would violate the Commission’s prohibition on one party holding an attributable interest in multiple NGSO systems in a single frequency band, codified Section 25.159(b). The Commission has explicitly adopted rules that make individual directors attributable interest holders for the purposes of this multiple-ownership rule, such that the proposed transaction would give Wyler attributable interests in two NGSO systems in both the Ku/Ka- and V-bands. As the Commission has recognized, the status in the ongoing processing rounds that these applications could confer provides ample motivation for the speculative behavior that Section 25.159 was designed to prevent. Moreover, the applicants have yet to fairly and adequately explain the rationale for Wyler to assume ownership of the quite different Boeing applications while maintaining his interest in the OneWeb system that represents Wyler’s NGSO “vision.”

The applicants also request a waiver of this rule, arguing that the proposed substitution of SOM1101 for Boeing would not harm any other NGSO applicant and would allow Wyler to bring his expertise to the project. However, three NGSO applicants joined SpaceX in opposing

¹ See, e.g., Petition to Deny of of Space Exploration Holdings, LLC (Feb. 12, 2018); Consolidated Reply of Space Exploration Holdings, LLC (Mar. 9, 2018).

these applications, and outlined the many ways in which they would be disadvantaged if the applications were granted. Among other things, allowing affiliated parties to control two NGSO systems in a processing round would not only distort competition overall, but also diminish the prospects for successful operator-to-operator spectrum sharing negotiations that the Commission envisions. Further, the applicants offer no compelling evidence for the claim that Wyler is uniquely situated to undertake the NGSO project outlined in the Boeing applications over other investors without competing applications in the NGSO processing rounds. Indeed, recent press announcements that Wyler has now invested in yet another very large NGSO scheme – this one a large imagery constellation dubbed Earth Now² – calls into question the dedicated focus or the wherewithal necessary to bring any one of these complicated projects to successful execution.

Even if the Commission were to override the clear violation of Section 25.159(b) and the harms it would cause in order to grant a waiver of the multiple-ownership rule, the proposed change of applicant would constitute a major modification under Section 25.116(b). This would require that the underlying applications be considered in a subsequent processing round. Overall, it is imperative that the Commission safeguard the integrity of its processing round system to continue the orderly processing of applications and to provide all NGSO applicants and operators a stable regulatory environment. If the ground rules were changed midway through the round, the Commission would invite an influx of applications from other NGSO applicants, which would endanger the impressive pace at which the Commission has processed NGSO applications to date and create confusion to the detriment of any system moving diligently toward development and deployment.

Respectfully submitted,



William M. Wiltshire
Counsel for SpaceX

cc: Erin McGrath
Umair Javed
Bruce A. Olcott

² See, e.g., Veronica Magan, “EarthNow Aims to Deliver Real-Time Video of Earth Via Satellite,” VIA SATELLITE (Apr. 20, 2018), available at <https://www.satellitetoday.com/innovation/2018/04/20/earthnow-aims-to-deliver-real-time-video-of-earth-via-satellite/>.