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

In the Matter of	)	
	)	
Motient Services, Inc.	)	File No. SAT-ASG-20010302-00017
	)	
and	)	
	)	
Mobile Satellite Ventures Subsidiary LLC	)	
	)	
Application for Assignment of Licenses and For Authority to Launch and Operate a Next-Generation Mobile Satellite Service System	)	

REPLY COMMENTS OF INMARSAT VENTURES PLC

Inmarsat Ventures plc ("Inmarsat"), by counsel and pursuant to Section 25.154 of the Commission's rules, hereby submits its reply to comments and oppositions filed in response to the above-captioned applications of Motient Services, Inc. ("Motient") and Mobile Satellite Ventures Subsidiary LLC ("MSV Sub")(collectively, "Motient"). It its applications, Motient sought to (i) assign Motient's licenses and pending applications to MSV Sub;[1] (ii) modify Motient's license to permit MSV Sub to operate using certain Canadian-licensed facilities; and (iii) construct and operate a next-generation Mobile Satellite Service ("MSS") system. As part of its next generation service, Motient proposed to employ fill-in base stations to provide co-channel terrestrial mobile service in areas where the satellite signal is attenuated by terrain or morphological features, and to

[1] By separate applications, TMI also proposed to assign its facilities licenses to MSV Sub. *See* File Nos. SES-ASG-20010116-00099; SES-MOD-20010116-00097; SES-MOD-20010116-00098; Report No. SES-000357 (January 31. 2001).

provide in-building coverage.[2] Motient claimed that the proposed operation of terrestrial base stations in the MSS L-Band is consistent with existing rules.[3] To the extent the Commission determines that this is not the case, however, Motient sought a waiver of those rules "in light of the public interest benefits that would be provided by the addition of base stations and the absence of any interference to other users from their operation."[4]

Inmarsat submitted a "Partial Petition to Deny" Motient's application on April 18, 2001. While Inmarsat did not oppose Motient's application with respect to the proposed transfer of assets and licenses to MSV Sub and the grant of authority to construct a next generation MSS system, Inmarsat vigorously opposed Motient's proposal to operate terrestrial base stations in the L-Band. Inmarsat explained that Motient's proposed terrestrial service would cause unacceptable interference to L-Band MSS operations and is inconsistent with FCC rules.[5] Inmarsat also noted that if Motient wishes to deploy a hybrid terrestrial/satellite service, dual-band technology already is capable of accommodating such service.[6]

A number of other parties, including satellite service providers, wireless service providers, equipment manufacturers and end users also filed comments in response to the Motient application. With very few exceptions, the other commenting parties utterly rejected Motient's claim that its terrestrial L-Band service proposal "is consistent" with current rules.[7] These parties further demonstrated that Motient's alternate request for

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[2] Application of Motient at 8.
[3] *Id.* at 9, 15.
[4] *Id.* at 15. Motient does not identify the specific rules it seeks to have waived.
[5] Inmarsat at 4 *et seq.*
[6] *Id.* at 3-4. Dual band technology allows the same terminal to use wireless spectrum for terrestrial applications and satellite spectrum for satellite operations. As Inmarsat noted, Motient and others already have developed such technology and services.
[7] *See, e.g.*, Comments of Cellular Telecommunications and Internet Association ("CTIA") at 3; Comments of AT&T Wireless Services, Inc. ("AT&T") at 3; Opposition of Verizon Wireless ("Verizon") at 2.

waiver of the rules is both legally deficient and factually misleading. Citing the troubles of Motient and several other MSS operators, many of the wireless service providers also reason that L-Band MSS service has failed as a whole and conclude that the Commission should therefore initiate a rulemaking to reallocate the spectrum for 3G CMRS or some other wireless service.[8]

Inmarsat agrees with those parties that argue that Motient's request is legally unsupportable. In its April 18 petition in this proceeding, Inmarsat demonstrated, as other commenters have also done, that Motient has failed to justify its request for authority to operate a terrestrial L-Band system that would fundamentally alter the nature of Motient's service, allowing the wireless tail to wag the satellite dog.[9]

The terrestrial wireless providers' broader argument -- that the L-Band MSS industry is a failure -- is wrong, however. Contrary to the assertions of these parties, the MSS industry is very much alive, providing a multitude of beneficial services to the public, including both commercial applications and crucial aeronautical and maritime safety services. Reallocation of the band to terrestrial service in whole or in part would cause substantial domestic and international disruption and hardship and would not serve the public interest.

Inmarsat submits that, rather than reallocating L-Band MSS spectrum for some other purpose, the Commission should fully open the L-Band for MSS competition. The Commission has long recognized that competition best serves to ensure that service providers meet the needs of the public in the most efficient manner.

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[8] AT&T at 15; CTIA at 2; Opposition of Cingular Wireless LLC ("Cingular") at 9.
[9] Inmarsat at 11.

1. MSS Is Not Dead

Several of the terrestrial wireless parties asserted in their oppositions that the allocation of L-Band and other spectrum to MSS has proven to be a failure.[10] They urge the Commission to initiate a rulemaking to examine whether the public interest would best be served by maintaining the allocation. Some of these parties cite as evidence not only Motient's claim that it has been unable to attract sufficient customers for its satellite service, but also the recent financial troubles of Iridium, ICO and Globalstar as well.[11]

The business troubles of individual MSS operators do not justify the extreme action these parties propose. Despite the hardships experienced by some companies, MSS is far from dead.

Inmarsat is a world leader in the provision of MSS, offering a wide variety of land, aeronautical and maritime services, including voice, fax, intranet and Internet access and other data services. As of April 2001, over 220,000 terminals were registered to access Inmarsat's services. Inmarsat currently is developing its next generation of broadband satellite services as well. Contrary to the assertion of some parties, MSS provides extremely valuable commercial and public safety services.

Furthermore, within the past year, five different parties have filed applications for no fewer than 30 authorizations to provide both traditional and innovative new Inmarsat

[10] Cingular at 9 ("...MSS Industry is not viable as indicated by the statements and recent bankruptcies of MSS carriers"); CTIA at 2 ("the precarious nature of the MSS industry"); AT&T at 13 ("MSS industry unlikely to survive whether or not the subsidy is provided").
[11] *See, e.g.* Cingular at 7.

services in the United States.[12] These applications remain pending. Inmarsat is confident that it can achieve the same success in the U.S. market that it enjoys elsewhere in the world.

Inmarsat is not alone in its belief that a market for MSS exists in the United States. For example, despite the problems suffered by some companies, interest in the Commission's 2 GHz proceeding remains intense. The Commission released its service rules for that spectrum in August, 2000.[13] In November, 2000, eight parties filed amendments to their pending applications or letters of intent to provide 2 GHz service.[14] These applications remain pending. Also, in the instant proceeding, KITComm Communications Ltd. ("KITComm"), another overseas MSS operator, strenuously urges the Commission to finally resolve the long-standing logjam in the lower L-Band and to allow it access to the U.S. market in that spectrum.[15]

Finally, the wireless parties are too quick to ignore the willingness and ability of MSS operators, like any other businesses, to learn from their mistakes and adjust accordingly. For instance, it appears that Iridium and Globalstar originally developed

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[12] *See* Stratos Mobile Networks (USA), LLC, File Nos. SES-AMD-20000426-00655, -00663, -00664 (April 26, 2000); Comsat Corporation, File Nos. SES-AMD-2000501-00695, 00699, -00701 through -00704, 00711, 00712, 00714, -00716 through –00723 (May 1, 2000); Comsat Corporation, File No. SAT-ITC-20000605-00103 (June 2, 2000); Comsat Corporation, File Nos. SES-LIC-20000609-00944, -00946 through –00949 (June 8, 2000); Marinesat Communications Network d/b/a Stratos Communications, File No. SES-LIC-20000426-00630 (April 26, 2000); Marinesat Communications Network d/b/a/ Stratos Communications, File No. SES-MSC-20000426-00861 (April 26, 2000); Honeywell, Inc., File No. SES-LIC-20000403-00534 (April 3, 2000); SITA Information Networking Computing Canada, Inc., File No. SES-MSC-20000209-01020 (February 9, 2000); Deere and Company, File No. SES-LIC-20010112-00051 (January 11, 2001).

[13] *See In the Matter of Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band*, IB Docket No. 99-81, Report & Order FCC 00-302 (August 25, 2000).

[14] Those applicants included Celsat America, Inc., Globalstar L.P., ICO Services Ltd., Iridium LLC, TMI Communications and Company LP, Mobile Communications Holdings, Inc., Constellation Communications Holdings, Inc., and the Boeing Company. *See* International Bureau Public Notice, Satellite Policy Branch Information: Amendments to 2 GHz Mobile Satellite Service Applications and Letters of Intent, Report No. SAT-00061 (November 29, 2000).

[15] *See* Opposition of KITComm at 2.

business plans based on the mistaken assumption that MSS terminals and services could be as popular as cellular telephones to the mass consumer market, despite substantial differences in size and price. Both of these operators are now attempting to address the markets in which Inmarsat has succeeded.[16]

As is shown in the comments filed in this proceeding and elsewhere, Inmarsat and other MSS operators are eager to enter the U.S. market. This demonstrates that, the problems of some service providers notwithstanding, the MSS industry is very much alive. The terrestrial wireless parties are mistaken in dismissing the entire MSS industry based on the fortunes of just a few companies.

2. The Public Interest Would Be Harmed By Reallocation

Far from being beneficial, reallocation of the L-Band would have significant harmful effects on the public interest. As Inmarsat noted in its initial pleading, the L-Band is crucial to the provision of international and domestic aeronautical and maritime safety services.[17] Reallocation of the band would have a devastating impact on such services, not just in the United States, but internationally as well. For instance, as Aeronautical Radio, Inc. ("ARINC") notes, terrestrial L-Band service has the potential to interfere with aeronautical MSS safety communications up to 300 miles offshore, thus raising major safety issues for international aeronautical traffic, including flights to and from the United States.[18]

Further, reallocation would have a disruptive effect on commercial MSS

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[16] *See, e.g.*, "Iridium Satellite LLC Launches Global Satellite Communications Services," (March 28, 2001) available on the web at http://www.iridium.com/corp/iri_corp-news.asp?newsid=15; "Globalstar Third Quarter Results Show Modest Growth, New Emphasis on Industrial Vertical Markets" (October 30, 2000), available on the web at http://www.globalstar.com/EditWebNews/174.html.

[17] Inmarsat at 6.

[18] Petition to Deny of ARINC at 6-7.

worldwide. As the Commission is aware, L-Band was allocated for MSS on a global basis – largely through the efforts of the United States. Global and regional systems have evolved in response to this allocation and have been able to take advantage of the global spectrum uniformity in order to maximize the efficiency of their operations while at the same time reaching the optimal area of coverage. A sudden change in the L-Band allocation in the United States would completely disrupt this global arrangement, effectively shutting the United States off from the rest of the world and, as noted above, having a debilitating impact on international operations as well. The public interest cannot be served by such destruction, even if those parties urging the reallocation believe that the spectrum could well serve terrestrial purposes.

Instead, the Commission should allow a competitive MSS industry to develop in the United States and globally. In its initial comments, KITComm cites the Commission's experience licensing the DBS service as a proper guide for action in the L-Band.[19] There, early competitors struggled to build a market for their service. Rather than interfering with this evolution either by protecting one competitor or doing away with the entire allocation, however, the Commission wisely left the market to sort itself out. The result was that the strongest and best survived while the weaker parties gradually fell away. Today, DBS is a vibrant, competitive service that offers an alternative to cable for millions of television viewers in the United States.[20] Inmarsat agrees with KITComm that the Commission should take the same approach with respect

[19] KITComm at 6-7.

[20] According to the Commission's most recent information, the number of DBS subscriber households grew from 10.1 million in June, 1999, to 13 million in June, 2000, an growth rate nearly three times that of cable subscribership. *See* Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Seventh Annual Report, CS Docket No. 00-132, FCC 01-1 (January 8, 2001).

to MSS by opening the L-Band spectrum, both upper and lower, to full competition. The Commission took the first step along this path when it authorized TMI to enter the U.S. market.[21] Inmarsat now urges the Commission to continue its liberalization trend by opening the market to full competition.

3. Conclusion

Inmarsat agrees with the wireless carriers that Motient's application represents an attempt to transmogrify itself into a terrestrial service provider in a manner not countenanced by the Commission's rules. But Inmarsat strongly disagrees with these parties' broader conclusion that Motient's troubles demonstrate that MSS is not viable and that the Commission should therefore reallocate L-Band MSS spectrum to them. The MSS industry is alive and well. Rather than reallocating the spectrum – which would cause tremendous hardship and upheaval – the Commission should instead open the spectrum to true MSS competition.

Respectfully submitted,

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May 7, 2001

[21] *TMI Communications and Company, L.P.*, Order and Authorization, 14 FCC Rcd 20798 (1999).

CERTIFICATE OF SERVICE

I, Maria Cabico, a secretary to the law firm of Powell, Goldstein, Frazer and Murphy LLP, certify that copies of the attached Reply Comments of Inmarsat Ventures plc were delivered May 7, 2001, via 1st class mail, postage prepaid, to the following parties:

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