

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

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MAY 21 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)
)
Motient Services Inc.)
and)
TMI Communications and Co., LP)
)
)
for Authority to Assign Their Earth Station,)
Space Station, 214, Special Temporary, and)
Pending Authorizations to)
Mobile Satellite Ventures Subsidiary LLC;)
and)
to Modify Their Earth Station and Space)
Station Authorizations as well as Their)
STAs and Pending Applications to permit)
MSV Sub to Use Canadian-Licensed)
Facilities; and)
to Launch and Operate a Next-Generation)
Mobile Satellite System.)

File Nos. SAT-ASG-20010302-00017

SES-ASG-20010116-00097

SES-ASG-20010116-00098

SES-ASG-20010116-00099

Received

MAY 23 2001

Satellite Policy Branch
International Bureau

To: Chief, International Bureau

CONSOLIDATED RESPONSE OF DEERE & COMPANY

Deere & Company ("Deere"), by its attorneys, hereby responds to the "Reply to Deere Petition and KITComm Opposition" filed by TMI Communications and Company, Limited Partnership ("TMI") and the "Consolidated Opposition To Petitions to Deny and Reply to Comments" filed by Motient Services, Inc. ("Motient") on May 7, 2001.¹ In its Petition to Deny, Deere demonstrated that Commission consent to the proposed merger between Motient and TMI would result in a reduction from two to one of the number of L-Band Mobile Satellite Service

¹ On May 11, 2001, the International Bureau granted the "Motion for Extension of Time" filed by Inmarsat Ventures plc ("Inmarsat") to change the response deadline from May 14, 2001 to May 21, 2001.

("MSS") providers and that such elimination of competition would be contrary to the public interest.

In their pleadings, Motient and TMI argue that (1) Deere has no interest in TMI as a provider of competitive service because Deere is not interested in TMI's service; (2) there will be no reduction in the services offered from the current Motient and TMI satellites as a result of the merger; and (3) the merger is essential for the financial future of L-band MSS. For the reasons discussed below, Motient and TMI miss the mark with all three arguments.

Deere agrees that in its Consolidated Opposition to Petitions to Deny,² filed on March 22, 2001, Deere explained that the TMI satellite is not available as a back-up in the event of an outage, because of the need to reprogram all of the receivers to receive the TMI signal. Clearly, the time it would take to for Deere to contact each of its customers and have them reprogram their receivers would exceed even a prolonged service outage. On the other hand, it is not impossible for Deere to have each of its customers reprogram their receivers if necessary for cost or quality reasons. It would merely take some time to get it done.

In their pleadings Motient and TMI fail to address the fundamental competitive principle of incipient competition – the existence of a competitor and the theoretical ability of a customer to switch service to that competitor makes it essential for a service provider to respond to the customer's needs or eventually lose the customer. Therefore, although it would not be easy for Deere to switch service providers from Motient to TMI, that Deere theoretically can switch service providers is expected to have some influence on the quality and price of service offered by Motient. Here, Motient, which had vigorously opposed TMI's authorization to enter the market, now expects to merge with TMI. Because Motient does not view TMI as a competitor, there is no threat of potential competition to provide an incentive to Motient to be responsive to customer needs with respect to service, repair, or price. Thus, Motient sees itself as having a

² Application of Deere & Company, File No. SES-LIC-20010112-00051.

monopoly, and its behavior is typical of a monopolist. Grant of the proposed TMI/Motient merger would perpetuate this anti-competitive *status quo*.

Similarly, Motient and TMI miss the point when they argue that even after their proposed merger, both the Motient and TMI satellites will continue to provide service, and, they assert, there will be no reduction in services offered by the combined entity. The critical issue missed by both Motient and TMI, however, is that there is a substantial difference between one service provider offering service over two different facilities and two unrelated service providers offering competitive service, each using a different facility. In the first case, the one service provider has a monopoly and is totally unresponsive to customer needs. In the second case, the two providers, although comprising a duopoly, can and likely would compete on rates, terms and service offerings, thereby providing better service to customers. Although anti-trust experts can differ over how many competitors are necessary to provide full competition in a market, there is no dispute that the reduction in the number of service providers from two to one is a substantial reduction in competition because it represents a change from some competition to no competition.

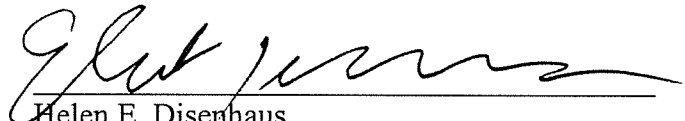
Lastly, Motient and TMI assert that their continued viability is contingent on the merger. As in their original applications, Motient and TMI provide no substantiation for their assertions. Rather, they make the assertions because they savor and want to continue to enjoy the privileged position of a monopolist. However, the Commission is under an obligation to make a public interest determination as to the merits of the proposed merger, not to guarantee the viability of Motient or TMI. The Commission's role is to protect competition and not to protect particular service providers. It cannot take at face value such unsupported assertions on the part of Motient and TMI when it is clear that the proposed merger would result in the elimination of competition and is thus contrary to the public interest.

Conclusion

For the reasons stated above, the Commission should deny the proposed merger of Motient and TMI until after at least some competitive service provider can offer L-Band MSS in the U.S. Such competition would be established when users are authorized to access Inmarsat for non-core services.

Respectfully submitted,

DEERE & COMPANY



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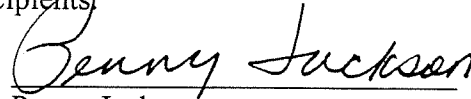
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May 21, 2001

CERTIFICATE OF SERVICE

I, Penny Jackson, hereby certify that on this 21st day of May 2001, I caused a copy of the foregoing Consolidated Response of Deere & Company to be sent served on the following by U.S. Mail or hand delivery to the attached list of recipients)


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