

## **EXHIBIT F**

### **DESCRIPTION OF TRANSACTION AND PUBLIC INTEREST STATEMENT (Response to Questions 43 & A21)**

Pursuant to Section 25.119 of the Commission's rules, EchoStar Satellite Operating Corporation ("ESOC," and together with its affiliates, "EchoStar") and SES Americom, Inc. ("SES Americom," and together with its affiliates, "SES") request Commission consent to the assignment of the license for the Ku-band operations of the AMC-16 satellite (Call Sign S2181) at 85° W.L. from SES Americom to ESOC. As discussed herein, grant of the requested assignment is consistent with Commission precedent and will serve the public interest.

#### **I. DESCRIPTION OF THE PARTIES AND THE TRANSACTION**

##### **A. EchoStar**

EchoStar is a diverse, dynamic U.S. company. Founded by Charlie Ergen in 1980, EchoStar is a home-grown U.S. satellite operator, services provider and technology company. Today EchoStar owns, leases, or operates a fleet of 24 satellites in the Broadcasting Satellite Service ("BSS"), Mobile Satellite Service ("MSS"), and Fixed-Satellite Service ("FSS") frequency bands to provide innovative, multi-channel video programming distribution (through DISH Network Corporation, or "DISH," and other third-party providers), and state-of-the-art fixed and mobile broadband, among other services. EchoStar's satellite network provides satellite television service (through DISH) to more than 14 million U.S. consumers and approximately two million Mexican consumers. EchoStar is also a leading satellite technology and services company, and employs more than 2,000 engineers focused on creating hardware and service solutions for cable, telecommunications, IPTV, and satellite companies worldwide.

## **B. SES Americom**

SES Americom is a pioneer and leading provider of satellite capacity in the United States. SES Americom has its headquarters in Princeton, New Jersey, and together with its affiliates provides U.S. and international satellite capacity through a fleet of over 50 geosynchronous communications satellites. SES Americom (then known as RCA American Communications, Inc.) launched its first domestic communications satellite in December 1975. Today, SES operates two dozen satellites with coverage of the United States, providing satellite capacity for broadcast and cable video distribution, VSAT data networks, remote communications, and government agencies.<sup>1</sup>

## **C. The Transaction**

Since launch of the AMC-16 satellite in 2004, EchoStar has been SES' sole customer for use of both the Ku- and Ka-band payloads on the satellite. Pursuant to a Satellite Service Agreement ("Agreement"), effective as of February 19, 2004 and as amended, between ESOC and SES Americom, SES Americom agreed to convey to ESOC the AMC-16 Ku-band license at the 85° W.L. orbital location, subject to FCC approval and certain other conditions.<sup>2</sup> As permitted under the Agreement, the parties are seeking FCC consent to assign the license for the Ku-band communications (including TT&C) payload on the AMC-16 satellite from SES Americom to ESOC.<sup>3</sup> After the transaction, ESOC, pursuant to the terms of the Agreement, will still be utilizing the entire communications capability of the AMC-16 satellite from SES

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<sup>1</sup> Government services are provided by SES Americom's wholly-owned subsidiary, SES Government Solutions, Inc.

<sup>2</sup> See Satellite Service Agreement between SES Americom and ESOC (Feb. 19, 2004), as amended.

<sup>3</sup> Specifically, the parties are seeking FCC consent to assign a portion of the AMC-16 license authorizing the 11.7-12.2 GHz and 14.0-14.5 GHz frequency bands from SES Americom to ESOC for Ku-band communications and TT&C communications and operations at the band edges. The AMC-16 satellite will be operating TT&C at the 11.70075 GHz, 12.19925 GHz, and 14.0015 GHz frequencies.

Americom, but ESOC will be operating the Ku-band portion as licensee and using the Ka-band portion as a customer.

## **II. THE PROPOSED ASSIGNMENT WILL SERVE THE PUBLIC INTEREST**

The proposed assignment will serve the public interest by allowing a commercial service arrangement that has existed for nearly a decade to evolve to better accommodate customer requirements for the Ku-band. Specifically, ESOC will gain ultimate control over the Ku-band payload and thus the operational flexibility that it requires to provide Ku-band services to consumers. The proposed assignment also will enhance competition in the satellite market by simplifying future commercial arrangements between the parties and affording ESOC greater flexibility to manage and adjust AMC-16's Ku-band operations in response to customer demand and competitive offerings. Through its control of the Ku-band payload, ESOC will be able to continue providing existing services to the United States as well as develop new services to new foreign markets. The Commission has found that the satellite licensee "is in a better position to determine how to tailor its system to meet the particular needs of its customers."<sup>4</sup> Grant of this application will place ESOC in this position.

Under the existing commercial arrangement between the parties, ESOC relies upon SES to direct and control the Ku-band operations. Following the assignment, ESOC will have ultimate control in deciding exactly where to provide its Ku-band services in response to marketplace opportunities, subject to receipt of any necessary FCC approvals. Moreover, each licensee will be able to make independent decisions about the design and timing of replacement capacity for its licensed frequencies.

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<sup>4</sup> *AMSC Subsidiary Corporation*, Order and Authorization, 13 FCC Rcd 12316, ¶ 8 (IB 1998) ("AMSC")(footnote omitted).

Additionally, the transaction is consistent with Commission precedent approving multiple licensees for a single satellite. The Commission has previously allowed multiple parties to hold joint licenses for the same payload on a single U.S.-licensed satellite.<sup>5</sup> It has also approved arrangements under which different parties operate different payloads (or parts of a payload) on a single spacecraft,<sup>6</sup> even when one of those payloads is authorized by a different administration.<sup>7</sup> Here, two parties will each hold a separate U.S. license for one of the two distinct payloads on the satellite – a scenario that is similar to but much simpler than other dual license arrangements that the Commission has approved.

### **III. THE PROPOSAL FOR CONTROL OF AMC-16 SATELLITE OPERATIONS IS CONSISTENT WITH FCC PRECEDENT AND INDUSTRY PRACTICE**

SES, as the FCC licensee of the entire AMC-16 satellite, currently directs and controls the operation of the spacecraft.<sup>8</sup> Following approval and consummation of the requested assignment, however, ESOC will acquire ultimate control over the Ku-band frequencies

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<sup>5</sup> See, e.g., *Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service and the Applications of GE American Communications, Inc. and Alascom, Inc.*, Memorandum Opinion, Order and Authorization, 15 FCC Rcd 23583, ¶ 1 (IB 2000) (jointly authorizing GE Americom and Alascom to launch and operate GE-8/Aurora III as a replacement satellite for Satcom C-5/Aurora II).

<sup>6</sup> *Dominion Video Satellite, Inc.*, Order and Authorization, 14 FCC Rcd 8182 (IB 1999) (authorizing Dominion Video's use of extra transponders on an EchoStar satellite).

<sup>7</sup> See, e.g., *Intelsat License LLC*, Stamp Grant, File No. SAT-RPL-20120216-00018 (IB Sat. Div. May 25, 2012) (granting Intelsat a license for a portion of the Ku-band payload aboard the Netherlands-licensed NSS-7 spacecraft); *Lockheed Martin Corp.*, Order and Authorization, 20 FCC Rcd 14558 (IB Sat. Div. 2005) (authorizing launch and operation of a radionavigation payload onboard the Canadian-licensed Anik-F1R satellite); *PanAmSat Licensee Corp.*, Order and Authorization, 18 FCC Rcd 19680 (IB Sat. Div. 2003) (authorizing launch and C-band operation of Galaxy 13, which also carries a Japanese-licensed Horizons I Ku-band payload); *EchoStar Satellite Corp.*, Order and Authorization, 18 FCC Rcd 15862 (IB Sat. Div. 2003) (authorizing the EchoStar 9 Ku- and Ka-band spacecraft and noting that the satellite also included the Telstar 13 C-band payload to be operated by Loral under authority granted by Papua New Guinea); *AMSC* ¶ 17 (authorizing AMSC to shift its L-band operations to Canadian-licensed MSAT-1 satellite).

<sup>8</sup> *SES Americom, Inc.*, Stamp Grant, File Nos. SAT-RPL-20040227-00024 & SAT-MOD-20040227-00022 (granted Sept. 2, 2004).

(including the TT&C). Under the Agreement, SES Americom will provide Ku-band TT&C services for the satellite, subject to ESOC's ultimate direction and control as the licensee.<sup>9</sup> SES Americom will continue to hold the license for the spacecraft's Ka-band payload and will retain the right to direct and control the operation of that payload.<sup>10</sup> ESOC will be responsible for coordination of the Ku-band frequencies (including TT&C) with respect to other satellite operators, while SES Americom will remain responsible for coordination of the Ka-band frequencies. Following the assignment, each licensee will be responsible for its proportionate share of annual regulatory fees payable for the satellite.<sup>11</sup>

These arrangements for control are consistent with: (a) the Commission's "totality of the circumstances" test for control; (b) the contractual arrangements for control previously approved by the Commission; and (c) common practice in the satellite industry. For satellite services, the Commission considers multiple factors in assessing "control" questions, including the criteria in *Intermountain Microwave*.<sup>12</sup> In this case, pursuant to the contractual arrangements between the parties and following consummation of the proposed assignment, ESOC will have full authority and control over the Ku-band payload and its day-to-day operations, will make and execute policy decisions including making necessary Commission filings, will employ the personnel involved in the payload's operations, and will bear the financial costs and receive the financial

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<sup>9</sup> As discussed below, it is common in the satellite industry for space station licensees to contract with a third party to provide TT&C.

<sup>10</sup> Grant of this application will require that the existing AMC-16 satellite license (and associated FCC call sign) be split into two licenses, with the Ku-band payload license assigned to ESOC, and the Ka-band payload license remaining with SES Americom.

<sup>11</sup> The Commission's fee collection process permits a division of regulatory fees between SES Americom and ESOC. For example, the AMC-8/Aurora II satellite is jointly licensed to SES Americom and AT&T Alascom, and each of the licensees is routinely charged a proportional share of the total space station regulatory fee for that satellite when the annual Fee Filer becomes available.

<sup>12</sup> See *Intermountain Microwave*, Public Notice, 12 FCC 2d 559 (1963).

benefits of the Ku-band operations. SES Americom will retain all rights and control with respect to the Ka-band payload. Because the contractual arrangements delineate clearly that each of SES and ESOC is to have ultimate control over its licensed payload, including the right to cause the payload to be switched off, each licensee will be able to comply with any Commission directions.<sup>13</sup>

As discussed above, the Commission has previously approved dual licensing arrangements reflecting a similar split in responsibility with respect to different payloads on a single spacecraft.<sup>14</sup> However, unlike past precedent, the contractual arrangements here are much simpler and less administratively burdensome. In this case, both licensees will be under Commission jurisdiction, and no foreign administration will be involved.

It is also quite common in the satellite industry for a licensee to contract with a third party to provide TT&C services.<sup>15</sup> Such arrangements raise no regulatory control concerns

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<sup>13</sup> Following the assignment, any Commission directions or inquiries regarding the Ku-band payload should be directed to:

ESOC Control Center  
(877) 358-2263

Commission directions or inquiries regarding the Ka-band payload should continue to be directed to:

SES Payload Management Operations Center  
(410) 970-7570  
(800) 772-2363

<sup>14</sup> *See supra* nn. 5-6.

<sup>15</sup> For example, in addition to managing their own fleets, both Intelsat and Telesat provide TT&C support for other satellite operators and actively market those services on their websites. *See* Intelsat, Satellite & Payload Operations, <http://www.intelsat.com/services/satellite-related/satellite-payload-operations/> (Intelsat has been “flying and operating third-party satellites longer than any other commercial satellite operator”) (last visited Oct. 15, 2014); Telesat, Who We Are, <http://www.telesat.com/about-us/who-we-are> (Telesat “manages the operations of additional satellites for third parties”) (last visited Oct. 15, 2014).

provided that the licensee, consistent with FCC precedent, retains ultimate direction and control over the satellite under its contract with the third party TT&C provider, as is the case here.<sup>16</sup>

Finally, the proposed assignment raises no trade, national security, or other Executive Agency concerns. Accordingly, the parties urge expeditious grant of this application.

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<sup>16</sup> See, e.g., *Volunteers in Technical Assistance*, Order and Authorization, 11 FCC Rcd 1358, 1366 ¶ 24 (IB 1995) (finding that VITA, the licensee, retained *de facto* control where a third party was to perform TT&C “under VITA’s direction, and in accordance with VITA’s specifications”).